

CONTRACT ROUTING FORM

1. Complete the information below BEFORE printing and completing items 2 through 7. Items in red are required.

Department: Tax

Department contract file name (use effective date): Eagleview_Tax_20181015

Project Code: Click here to enter text.

PICTOMETRY INTERNATIONAL CORP.

Contract type: Agreement

Contracted Services/Goods: oblique imagery and access to software

Contract Component: Master

Change Order Number/Addendum Number: Click here to enter text.

Vendor Name: Eagleview PICTOMETRY INTERNATIONAL CORP.

Effective Date: 10/15/2018

Approved by: Commissioners

Commissioner Approval Date: 10/15/2018

Ending Date: Click here to enter a date.

Total Amount: 112,532.00

Is this contract funded by federal dollars? Yes No

2. Department Head or his/her designee has read the contract in its entirety.

By: Kim Mett (Department Head signature required)

3. County Attorney has reviewed and approved the contract

County Attorney has reviewed and rejects the contract Reason: _____

This is an automatic renewal and does not require approval from the County Attorney: Yes No



If this box is checked the County Attorney's Office has reviewed the contract but has not made needed changes to protect the County because the contract is a sole source contract and the services required by the County are not available from another vendor.

4. Technical/MIS Advisor has reviewed the contract if applicable. Yes No N/A

5. Vendor has signed the contract. Yes No

6. A budget amendment is necessary before approval. Yes No
If budget amendment is necessary, please attach to this form.

7. Approval

Requires approval by the BOC - contracts over \$100,000.00, contracts longer than three years and leases longer than one year. Follow Board submission guidelines.

Requires approval by the Manager - contracts \$100,000 or less.

8. Submit to Clerk.

Clerk's Office Only

Finance Officer has signed the contract

The Finance Officer is not required to sign the contract

**AGREEMENT BETWEEN
 PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND
 CHATHAM COUNTY, NC (“CUSTOMER”)**

1. This order form (“Order Form”), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Online Services General Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

(all of which, collectively, constitute this “Agreement”) set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Non-Standard Terms and Conditions; Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading ‘Section B: License Terms’; and Order Form.

3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS	PICTOMETRY NOTICE ADDRESS
12 East Street	25 Methodist Hill Drive
Pittsboro, NC 27312	Rochester, NY 14623
Attn: Ken McArtor, Acting Tax Administrator	Attn: General Counsel
Phone: (919) 542-8250	Phone: (585) 486-0093 Fax: (585) 486-0098


Either party may change their respective notice address by giving written notice of such change to the other party at the other party’s then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS. EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

9. Pictometry shall not be responsible for any failure on its part to perform due to unforeseen circumstances or to causes beyond Pictometry's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, weather, floods, accidents, strikes, failure to obtain export licenses or shortages or delays of transportation, facilities, fuel, energy, supplies, labor or materials. In the event of any such delay, Pictometry may defer performance for a period of time reasonably related to the time and nature of the cause of the delay.
10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

PARTIES:

CUSTOMER	PICTOMETRY
CHATHAM COUNTY, NC	PICTOMETRY INTERNATIONAL CORP.
(entity type)	a Delaware corporation
SIGNATURE:	SIGNATURE: 
NAME:	NAME: Brian Brockmann
TITLE:	TITLE: Corporate Vice President
DATE:	EXECUTION DATE: 9/27/2018
	DATE OF RECEIPT (EFFECTIVE DATE): Date Customer Signs

SECTION A

PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS

Pictometry International Corp.
 25 Methodist Hill Drive
 Rochester, NY 14623

ORDER #
C3017935

BILL TO
Chatham County, NC
Ken McArtor, Acting Tax Administrator
12 East Street
Pittsboro, NC 27312
(919) 542-8250
ken.mcartor@chathamnc.org

SHIP TO
Chatham County, NC
Ken McArtor, Acting Tax Administrator
12 East Street
Pittsboro, NC 27312
(919) 542-8250
ken.mcartor@chathamnc.org

CUSTOMER ID	SALES REP	FREQUENCY OF PROJECT
A119907	EFord	Biennial

FIRST PROJECT					
QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT
628	IMAGERY - COMMUNITY - 4-way (C5) (9in) - Per Sector	Product includes 9-inch GSD oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$75.00	\$67.50 (10% - Long Term Incentive Discount)	\$42,390.00
155	IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector	Product includes 6-inch GSD oblique frame images (4-way), 6-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.5 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.46 feet/pixel, Middle Line: 0.51 feet/pixel, Back Line: 0.60 feet/pixel. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$250.00	\$225.00 (10% - Long Term Incentive Discount)	\$34,875.00
32,000	Pictometry Sketch Check	Customer's electronic CAMA sketch vector data will be converted to a GIS polygon shapefile (also stored in a File Geodatabase) where the sketch data for each parcel is "fitted" to the structures viewable in the orthophotography source listed in the Product Parameters and categorized accordingly. AccuPLUS tiles will be used by default if purchased with the associated data source indicated within the Product Parameters. Final improved parcel count is calculated based on the number of parcel records linked to a delivered sketch polygon shapefile record. Customer will be invoiced for any additional costs based on the final number of improved parcels, including any changes in tiered pricing as a result of a change in volume, at the time of shipment of the deliverable. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$0.82		\$26,240.00
628	Tiles - Standard (9in GSD, JPG format) Per Sector	Available with corresponding 9" GSD imagery purchase. 9-inch GSD Mosaic Tiles in JPG Format. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$10.00	\$5.00 (50%)	\$3,140.00
2	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement	\$2,200.00	\$1,100.00 (50%)	\$2,200.00

155	Tiles - Standard (6in GSD; JPG format) Per Sector	Available with corresponding 3", 4", or 6" GSD imagery purchase. 6-inch GSD Mosaic Tiles in JPG Format. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$20.00	\$10.00 (50%)	\$1,550.00
1	Sketch Conversion Fee	Cost associated with converting proprietary sketch file format exported from a Customer's CAMA system into a generic sketch vector format that can be used for Pictometry Sketch Check. Customer will be invoiced for any additional costs based on the final number of improved parcels or sketches, including any changes in tiered pricing as a result of a change in volume, at the time of shipment of the deliverable. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$1,000.00		\$1,000.00
628	Mosaic - Area Wide (9in GSD; MrSID format, combined) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing of MrSID area-wide mosaics of 9-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$0.50		\$314.00
628	Mosaic - Area Wide (9in GSD; MrSID format; individual) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing to MrSID of individual tiles of 9-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$0.50		\$314.00
1	Media Drive Capacity 931G - Drive Model 1T - EXTPOWER	External USB 2.0 / eSATA Externally Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately. Applicable Terms and Conditions: Order Form	\$199.00		\$199.00
155	Mosaic - Area Wide (6in GSD; MrSID format; individual) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing to MrSID of individual tiles of 6-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$1.00		\$155.00
155	Mosaic - Area Wide (6in GSD; MrSID format, combined) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing of MrSID area-wide mosaics of 6-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$1.00		\$155.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program Applicable Terms and Conditions: Order Form	\$0.00		\$0.00
1	Oblique Imagery Bundle with Two (2) Years of EFS Maintenance & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$0.00		\$0.00
SUBTOTAL – FIRST PROJECT					\$112,532.00

SECOND PROJECT

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT
628	IMAGERY - COMMUNITY - 4-way (C5) (9in) - Per Sector	Product includes 9-inch GSD oblique frame images (4-way), 9-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.75 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.74 feet/pixel, Middle Line: 0.85 feet/pixel, Back Line: 1.00 feet/pixel.	\$75.00	\$67.50 (10% – Long Term Incentive Discount)	\$42,390.00

		Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use			
155	IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector	Product includes 6-inch GSD oblique frame images (4-way), 6-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.5 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.46 feet/pixel, Middle Line: 0.51 feet/pixel, Back Line: 0.60 feet/pixel. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$250.00	\$225.00 (10% – Long Term Incentive Discount)	\$34,875.00
2	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement	\$2,200.00		\$4,400.00
628	Tiles - Standard (9in GSD; JPG format) Per Sector	Available with corresponding 9" GSD imagery purchase. 9-inch GSD Mosaic Tiles in JPG Format. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$10.00	\$5.00 (50%)	\$3,140.00
155	Tiles - Standard (6in GSD; JPG format) Per Sector	Available with corresponding 3", 4", or 6" GSD imagery purchase. 6-inch GSD Mosaic Tiles in JPG Format. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$20.00	\$10.00 (50%)	\$1,550.00
628	Mosaic - Area Wide (9in GSD; MrSID format; combined) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing of MrSID area-wide mosaics of 9-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$0.50		\$314.00
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1	Media Drive Capacity 931G - Drive Model 1T - EXTPOWER	External USB 2.0 / eSATA Externally Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately. Applicable Terms and Conditions: Order Form	\$199.00		\$199.00
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1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program. Applicable Terms and Conditions: Order Form	\$0.00		\$0.00
1	Oblique Imagery Bundle with Two (2) Years of EFS Maintenance & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated	\$0.00		\$0.00

		versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement			
SUBTOTAL – SECOND PROJECT					\$87,492.00

THIRD PROJECT					
QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT
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155	IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector	Product includes 6-inch GSD oblique frame images (4-way), 6-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.5 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.46 feet/pixel, Middle Line: 0.51 feet/pixel, Back Line: 0.60 feet/pixel. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use	\$250.00	\$225.00 (10% – Long Term Incentive Discount)	\$34,875.00
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1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program. Applicable Terms and Conditions: Order Form	\$0.00		\$0.00
1	Oblique Imagery Bundle with Two (2) Years of EFS Maintenance & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$0.00		\$0.00
SUBTOTAL - THIRD PROJECT					\$87,492.00

Thank you for choosing Pictometry as your service provider.	TOTAL	\$287,516.00
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*Amount per product = ((1-Discount %) * Qty * List Price)

FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement ("Fees") are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts due under this Agreement including, but not limited to, attorneys' fees and court costs.

FIRST PROJECT

Due at Signing	\$14,066.50
Due at Initial Shipment of Imagery	\$42,199.50
Due at First Anniversary of Shipment of Imagery	\$56,266.00
Total Payments	\$112,532.00

SECOND PROJECT

Due at Initial Shipment of Imagery	\$43,746.00
Due at First Anniversary of Shipment of Imagery	\$43,746.00
Total Payments	\$87,492.00

THIRD PROJECT

Due at Initial Shipment of Imagery	\$43,746.00
Due at First Anniversary of Shipment of Imagery	\$43,746.00
Total Payments	\$87,492.00

PRODUCT PARAMETERS

FIRST PROJECT

IMAGERY

Product: IMAGERY - COMMUNITY - 4-way (C5) (9in) - Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

Product: IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

CONNECT

Product: Pictometry Connect - CA - 50

Admin User Name: Ken McArtor
Admin User Email: ken.mcartor@chathamnc.org
Geofence: NC Chatham (Primary Geofence)

SKETCH CHECK

Product: Pictometry Sketch Check
Data Source – Base: Pictometry Imagery
Imagery Capture Year – Base: 2019

SECOND PROJECT

IMAGERY

Product: IMAGERY - COMMUNITY - 4-way (C5) (9in) - Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

Product: IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

CONNECT

Product: Pictometry Connect - CA - 50
Admin User Name: Ken McArtor
Admin User Email: ken.mcartor@chathamnc.org
Geofence: NC Chatham (Primary Geofence)

THIRD PROJECT

IMAGERY

Product: IMAGERY - COMMUNITY - 4-way (C5) (9in) - Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

Product: IMAGERY - NEIGHBORHOOD - 4-way (N5) (6in) Per Sector
Leaf: Leaf Off: Less than 30% leaf cover

CONNECT

Product: Pictometry Connect - CA - 50
Admin User Name: Ken McArtor
Admin User Email: ken.mcartor@chathamnc.org
Geofence: NC Chatham (Primary Geofence)

STANDARD ORTHO MOSAIC PRODUCTS

Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible cutlines along mosaic seams resulting from the following types of artifacts:

- i. Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- ii. Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- iii. Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- iv. Seasonal variations caused by images taken at different times during a season, or during different seasons;
- v. Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- vi. Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- vii. Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- viii. Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

RapidAccess—Disaster Response Program (“DRP”)

Customer is eligible for DRP described below from the Effective Date through the second anniversary of the initial Project delivery. Following payment to Pictometry of amounts due with respect to each subsequent Project, Customer will be eligible for the then-current DRP for a period of two years from delivery of such subsequent Project. Customer must be in good-standing with Pictometry to maintain eligibility for DRP.

- A. **Disaster Coverage Imagery at No Additional Charge** – Pictometry will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for DRP:
- Hurricane:** areas affected by hurricanes of Category 2 and higher.
 - Tornado:** areas affected by tornados rated EF4 and higher.
 - Terrorist:** areas affected by damage from terrorist attack.
 - Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.

☐ **Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis.

- B. Discounted Rate** – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates.
- C. Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

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[END OF DELIVERED CONTENT TERMS AND CONDITIONS]

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 - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
 - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.

- F. **Force Majeure.** Neither party will be liable for any costs or damages due to nonperformance under this License arising out of any cause not within the reasonable control of such party and without its fault or negligence. Neither party will be liable for any delay or failure in the performance of its obligations under this License that directly results from any failure of the other party to perform its obligations as set forth in this License.
- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

[END OF SOFTWARE LICENSE AGREEMENT]

SECTION C

NON-STANDARD TERMS AND CONDITIONS

1. Online Services Eligible Users: Notwithstanding anything in the Online Services General Terms and Conditions incorporated in this Agreement to the contrary, the terms 'Eligible User' and 'Eligible Users' as defined in those Online Services General Terms and Conditions shall, for the purposes of this Agreement, also include each 'Authorized User' as that term is defined in the Delivered Content Terms and Conditions of Use incorporated in this Agreement.
2. Applicable Law: Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of North Carolina, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of North Carolina in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.
3. Non-appropriation of Funds: Notwithstanding anything herein to the contrary, in the event that the funds due for subsequent projects and related deliverables under the terms and conditions of this Agreement are not lawfully appropriated, the following provisions shall apply:
 - a. Customer shall provide Pictometry with written documentation of non-appropriation of funds from its funding source prior to commencement of a subsequent project;
 - b. This Agreement shall remain in full force and effect, however commencement of the subsequent project shall be deemed postponed until such time as funds for the subsequent project have been appropriated and all other sums due under the terms and conditions of this Agreement have been paid by Customer. In the event that the postponement exceeds eighteen months, Pictometry reserves the right to terminate any and all obligations with respect to the postponed project and all subsequent projects included in this Agreement; and
 - c. If Customer, or any party authorized under the terms and conditions of this Agreement to use the licensed products set forth in Section A, is in possession of licensed products for which Pictometry has not been fully compensated in accordance with the payment terms of this Agreement, Customer or such authorized party shall immediately cease use of those licensed products, purge those licensed products from all Customer and authorized party computers, and return those licensed products to Pictometry.
4. Pictometry Sketch Check: The following language is amended in its entirety from the Pictometry Sketch Check Product Description set forth in Section A:
"Customer will be invoiced for any additional costs or reduction in costs, based on the final number of improved parcels, including any changes in tiered pricing as a result of a change in volume, at the time of shipment of the deliverable."
5. Sketch Conversion Fee: The following language is amended in its entirety from the Sketch Conversion Fee Product Description set forth in Section A:
"Customer will be invoiced for any additional costs or reduction in costs, based on the final number of improved parcels, including any changes in tiered pricing as a result of a change in volume, at the time of shipment of the deliverable."
6. The last sentence found in the last paragraph of Section 1 to the Order Form is deleted in its entirety and replaced with the following:
"Any purchase order or similar document issued by a party in connection with this Agreement is issued solely for that party's internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties."
7. Subsection (ii) to Section 4 of the Order Form is deleted in its entirety and replaced with the following:
"(ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement and Pictometry has obtained Customer's prior written consent. Notwithstanding the foregoing, any merger, consolidation, spin-off, acquisition or change-in-control will not be deemed an assignment."
8. Section 6 of the Order Form is deleted in its entirety and replaced with the following:
"With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to two-times the aggregate amount received by Pictometry pursuant to this Agreement."

9. Section 9 of the Order Form, delete the words "failure to obtain export licenses" in their entirety.
10. Section 7.2 in the Pictometry Delivered Content Terms and Conditions of Use is deleted in its entirety
11. Section 5.3 in the Online Services General Terms and Conditions is deleted in its entirety and replaced with the following:
"TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR TWO-TIMES THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY."
12. Section 6.1 to the Online Services General Terms and Conditions is deleted in its entirety and replaced with the following:
"The terms and conditions of this License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Eligible Users but will apply to all similarly situated Pictometry customers using the Online Services. You may terminate this License Agreement upon written notice to Pictometry if any change to the terms and conditions of this License Agreement is unacceptable to you and receive a prorated refund for any amount prepaid up until the time of termination. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated."
13. Section 6.6 of the Online Services General Terms and Conditions is deleted in its entirety.
14. Section 6.1 to the Software License Agreement is deleted in its entirety and replaced with the following:
"LIMITATION OF LIABILITY. IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED. REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED TWO-TIMES THE AMOUNT PAID UNDER THE AGREEMENT. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE."
15. Section 7C to the Software License Agreement is deleted in its entirety.

[END OF NON-STANDARD TERMS AND CONDITIONS]

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