

VENDOR

PURCHASE ORDER

TEXAS A&M FOREST SERVICE

PURCHASING DEPARTMENT

Order Date
06/26/2020

Page 01

200 Technology Way, Suite 1120, College Station, TX 77845-3424; Phone 979-458-7380, FAX 979-458-7386

Purchase Order No.	(Include this number on all correspondence and packages)
P000388	

VENDOR GUARANTEES
MERCHANDISE DELIVERED ON
THIS ORDER WILL MEET OR
EXCEED SPECIFICATIONS IN
THE BID INVITATION.

INVOICE TO:

TEXAS A&M FOREST SERVICE
FRP--ASSOCIATE DIRECTOR
200 TECHNOLOGY WAY, SUITE 1162
COLLEGE STATION TX 77845-3424

VENDOR
14610332050 SYNOPTIC DATA PBC SYNOPTIC DATA AND SYNOPTIC 3267 E 3300 S # 120 SALT LAKE CITY, UT 84109-2246

ALL TERMS AND
CONDITIONS SET
FORTH IN OUR BID
INVITATION BECOME
A PART OF THIS
ORDER.

SHIP TO:

TEXAS A&M FOREST SERVICE
FRP--ASSOCIATE DIRECTOR
200 TECHNOLOGY WAY, SUITE 1162
COLLEGE STATION TX 77845-3424

ANY EXCEPTIONS TO PRICING OR DESCRIPTION CONTAINED HEREIN MUST BE APPROVED
BY THE TEXAS A&M FOREST SERVICE PURCHASING DEPARTMENT **PRIOR** TO SHIPPING.

PLEASE NOTE: IF YOUR INVOICE IS NOT ADDRESSED AS INSTRUCTED
PAYMENT WILL BE DELAYED.

Item	Description	Quantity	UOM	Unit Price	Ext Price
	USER REF: 000000-LNM				
1	Year 1: Real-time data for 46 stations per year	1	EA	1,870.000	1,870.00
2	Archived historical data for the 46 stations subset, one time fee	1	EA	8,480.000	8,480.00
3	Year 2: Real-time data for entire network cost per year	1	EA	5,000.000	5,000.00
4	Year 3: Real-time data for entire network price per year	1	EA	7,200.000	7,200.00
				TOTAL	22,550.00
	***** NET 30 *****				
	NOTE TO VENDOR: "SHIP TO" AND "INVOICE TO" ADDRESSES MAY DIFFER. FAILURE TO SUBMIT INVOICE TO PROPER ADDRESS MAY RESULT IN DELAYED PAYMENT.				
	SOLE SOURCE PROVIDER OF WEATHER DATA IN WEST TEXAS. VENDORS CONTRACT AGREEMENT IS ATTACHED.				
	VENDOR QUOTE: 06/15/2020 VENDOR REF: ELIZABETH WILSON				

AJD

Texas A&M Forest Service cannot accept collect freight shipments.

FOB: DESTINATION FRT INCLUDED

Terms:

FAILURE TO DELIVER - If the vendor fails to deliver these supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications, the State reserves the right to purchase specified supplies elsewhere, and charge the increase in price and cost of handling, if any, to the vendor. No substitutions nor cancellations permitted without prior approval of Purchasing Department.

IN ACCORDANCE WITH YOUR BID, SUPPLIES/EQUIPMENT MUST BE PLACED IN THE
DEPARTMENT RECEIVING ROOM BY

The State of Texas is exempt from all Federal Excise Taxes.

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Texas Tax Code, Section 151.309 (4), for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.

The Terms and Conditions of the State of Texas shall prevail.

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT

Alan J. Degehan
PURCHASING AGENT FOR

TEXAS A&M FOREST SERVICE



RESTRICTED DATA USAGE LICENSE AGREEMENT

This Agreement (the "Agreement") is made and entered into as of June 15, 2020 (the "Effective Date") by and between Texas A&M Forest Service, an agency of the state of Texas and member of The Texas A&M University System, whose principal place of business is at 200 Technology Way, Suite 1120, College Station, TX 77845 ("Licensee"), and Synoptic Data PBC, a Delaware Public Benefit Corporation with a place of business at 3267 East 3300 South #120 Salt Lake City, UT 84109 ("Synoptic"), each a "Party," and collectively the "Parties".

WHEREAS, Synoptic operates a data hub service providing data input, output, storage, archiving, manipulation, display, quality control, and other services, and

WHEREAS, Licensee wishes to make use of Synoptic's data hub services to access data from 46 surface stations from Texas Tech University's West Texas Mesonet ("Data Owner") for Year 1 and the entire network in Years 2 and 3, and

NOW, THEREFORE, based upon the foregoing premises, the Parties agree as follows:

SECTION 1: TERM OF AGREEMENT

1.1 The term of this Agreement (the "Term") shall begin on the Effective Date and continue for a period of three years with pricing as established in Section 4, unless terminated under the conditions set forth in Section 11.

SECTION 2: DESCRIPTION OF DATA SET AND ASSOCIATED SERVICE

2.1 Under this Agreement, Synoptic shall redistribute data provided by the Data Owner to the Licensee for the Licensee's use in accordance with the instructions and limitations provided by the Data Owner as articulated below, and subject to the provisions included in the remainder of this Agreement.

2.2 The data set to be provided is the real-time and archived observational data (all parameters) obtained from 46 surface stations (see Appendix A) from the West Texas Mesonet. For Years 2 and 3, the data set provided will be real-time observational data for the entire network. The data shall be delivered by Synoptic via its Application Program Interface (API).

SECTION 3: ACKNOWLEDGEMENT OF THE RESTRICTED NATURE OF LICENSED DATA

3.1 Subject to the restrictions set forth below, Synoptic hereby grants to Licensee a worldwide, nonexclusive, royalty-free, paid up right and license to use the licensed data in its operations, to

include internal processes, generation of product or services for sale, and the provision of said products and services to the Licensee's customers or users.

3.2 Licensee shall not have the right to sublicense the licensed data to any entity.

3.3 The following limitations govern the use of the data by Licensee:

Redistribution of any of the Data Owner's raw data (either real-time or archive) by Licensee is strictly prohibited. Licensee may post related summary statistics, summary plots, summary maps, etc. in published or electronic form, so long as the licensed raw data cannot be decompiled, reverse engineered, or otherwise extracted from the Licensee's Derivative Work. Licensee shall not have the right to distribute the licensed data in any other manner, except as described in Section 3.5 below.

3.4 Licensee hereby acknowledges that the data licensed under this Agreement is restricted by its owner in its use and distribution. Licensee commits to honoring those restrictions as indicated in Section 3.3 above and to handle the licensed data in a manner reflecting those restrictions. Should the Licensee or anyone on its behalf knowingly and willfully handle significant quantities of the licensed data (defined as more than a month's worth of data) in a manner in which that data is subsequently placed into the public domain and in a manner that is not conforming with the restrictions listed above and below, Licensee shall notify Synoptic as soon as practical, and in any case, no later than 48 hours after Licensee learns of such deviation. Licensee acknowledges that such mishandling of the licensed data is cause for cancellation of its license as well as a fee equal to the data's redistribution potential.

3.5 It is understood that Licensee will place the data into the Weather Information Management System (WIMS) for real-time use by official personnel working for and with the Licensee. Because the WIMS data archives are currently accessible by the public, Licensee will contact the database managers at WIMS to ensure the identified stations in Appendix A are not archived into the public domain. Redistribution of data (including backfilled data to be provided by Synoptic) to the WIMS archive for use by researchers and other official personnel will be allowed once the WIMS archive has implemented user name and password controls and the archive is no longer accessible by the public. When that password protection has been implemented, Licensee shall notify Synoptic and confirm Synoptic's permission to redistribute the data to the WIMS archive.

3.6 Data Owner will provide an annual maintenance report to Synoptic for each station as it comes available, no later than June 1st of the following year in which service was rendered. Synoptic will then forward these on to the Licensee. This is required by Licensee as a state agency to ensure the data and stations meet National Fire Danger Rating System (NFDRS) requirements and specifications.

SECTION 4: FINANCIAL CONSIDERATIONS

4.1 The fee to Licensee at the initiation of the agreement is as follows:

Year 1: Real-time data for 46 stations: \$1,870 per year

Archived historical data for the 46 station subset: \$8,480 one-time fee

Year 2: Real-time data for entire network: \$5,000 per year

Year 3: Real-time data for entire network: \$7,200 per year

The real-time pricing indicated above in Year 1 reflects a level of fractional pricing that is being eliminated in the first quarter of 2020. This price will be honored for a period of one year from the Effective Date of this Agreement. At that point, licensing data from the indicated 46 stations will require licensing of the full network real-time package, which is currently priced at \$7,200 per year. However, we will price the dataset according to the above, reaching the \$7,200 threshold in Year 3.

4.2 Synoptic shall invoice Licensee annually at the beginning of the year for which service is delivered. Payment is due 45 days from receipt of such invoice.

4.3 In the event of termination, Synoptic shall invoice Licensee on a pro-rata basis for the services rendered up to the date of termination.

SECTION 5: NOTICES

5.1 Any notices required to be given hereunder shall be given in writing at the address of each Party herein set forth or to such other address as either Party may substitute by written notice to the other. All legal notices shall be sent via a means that provides tracking and requires a signature for receipt.

If to Synoptic:
Synoptic Data PBC
3267 East 3300 South #120
Salt Lake City, UT 84109
Attn: Kathy Pedersen

If to Licensee:
Texas A&M Forest Service
200 Technology Way, Suite 1120
College Station, TX 77845
Attn: Terry Smith

SECTION 6: CONTACTS

6.1 The following representatives shall be the primary Points of Contact for the Parties:

For Synoptic:
Business: Elizabeth Wilson, elizabeth.wilson@synopticdata.com, 919-758-5689

Billing: Kathy Pedersen, kathy.pedersen@synopticdata.com, 831-438-9742
Technical: support@synopticdata.com

For Licensee:

Business: Mike Dunivan, mdunivan@tfs.tamu.edu 979-220-0718

Billing: Brad Smith, bsmith@tfs.tamu.edu 979-220-1398

Technical: Brad Smith, bsmith@tfs.tamu.edu 979-220-1398

SECTION 7: CONFIDENTIALITY

7.1 If a separate Confidentiality Agreement has been executed by the parties, it is incorporated herein by reference. If confidential or proprietary information will be exchanged that is outside the scope of a previously executed Confidentiality Agreement, or if no such Confidentiality Agreement has been executed, such information exchange shall be governed by a separate agreement and incorporated into this Agreement through written modification to this Agreement.

7.2 Information that is Confidential or Proprietary to either Party shall be clearly marked as is reasonably required in all correspondence or exchange of information. All data provided under this Agreement is Proprietary and shall be treated by the Licensee as such.

7.3 All parties shall protect the Confidential or Proprietary information of the other as if it were their own. All parties agree to keep in such Confidential and/or Proprietary information in confidence, prevent the disclosure to any person(s) outside their respective organizations or any person(s) within their organizations not having a need to know, and to use such information only in connection with their obligations under this Agreement, associated Task Orders, or other governing documents.

7.4 The above provisions notwithstanding, neither Party shall be liable for the disclosure or use of such information if such information is:

a. in the public domain at the time of disclosure, or is subsequently made available to the general public without restriction by the Disclosing Party;

b. at the time of its disclosure, independently known by the Receiving Party or independently developed by the Receiving Party without restrictions on its use, and there is adequate documentation to demonstrate either condition;

c. used or disclosed inadvertently despite the exercise of the same degree of care that each Party takes to preserve or safeguard its own Confidential or Proprietary Information.

d. used or disclosed with the prior written approval of the Disclosing Party;

e. disclosed without restriction to the Receiving Party from a source other than the Disclosing Party;

f. used or disclosed after a period of time mutually agreed upon in writing by the Parties; or

g. disclosed as required by court order.

7.5 No sheet or page of any written or electronic material will be labeled Confidential or Proprietary which is not, in good faith, believed to contain such information.

SECTION 8: PUBLICITY, NEWS RELEASES, AND ADVERTISEMENT

8.1 Neither Party will use the name or marks of the other, nor the name of any member of the other's staff, in any publicity, advertising, or news releases without the prior written approval of an authorized representative of the other Party.

SECTION 9: COMPLIANCE WITH LAWS

9.1 Both Parties shall comply with all applicable laws, rules, and regulations which deal with or relate to data privacy or performance in accord with the terms of this Agreement.

SECTION 10: ASSIGNMENT

10.1 This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may assign, sublicense or otherwise transfer the rights under this Agreement, including any licenses granted hereunder, without the other Party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, Data Owner and Synoptic will have the right to assign or sublicense any or all of its rights and obligations to an affiliated company or acquiring company in a change of control transaction upon notice to the other Party, but without first requiring the other Party's consent.

SECTION 11: TERMINATION

11.1 Either Party may terminate this Agreement by giving sixty (60) days' notice to the other Party.

11.2 In the event that either Party shall commit any breach of or default in any of the terms and conditions of this Agreement, and shall fail to remedy the default or breach within thirty (30) days after receipt of written notice thereof from the other Party, the Party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, immediately terminate this Agreement by sending notice of termination in writing to the other

Party to that effect, and the termination shall be effective as of the date of the receipt of the notice.

11.3 Either Party may immediately terminate this Agreement by sending notice of termination in writing to the other Party upon the occurrence of any of the following events: (i) a receiver is appointed for either Party or its property; (ii) either Party makes a general assignment for the benefit of its creditors; (iii) either Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, if such proceedings are not dismissed within 60 Days; or (iv) either Party is liquidating, dissolving, or ceasing to do business in the ordinary course.

11.4 Termination of this Agreement by either Party for any reason shall not affect the rights and obligations of the Parties accrued prior to the effective date of termination of this Agreement, which shall survive the termination of this Agreement.

SECTION 12: INDEPENDENT CONTRACTOR

12.1 In the performance of all services hereunder, the Parties shall be deemed to be and shall be independent contractors and, as such, neither shall be entitled to any benefits applicable to employees of the other.

12.2 Neither Party is authorized or empowered to act for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, and/or representation as to any matter. Neither shall be bound by the acts or conduct of the other.

12.3 Nothing herein should be construed to represent an exclusive relationship between the parties. If exclusivity is required or desired by any Party, the Parties shall establish such exclusivity via a separate agreement, or an appropriate amendment to this Agreement.

SECTION 13: WARRANTIES

13.1 **Data Owner Warranties.** Data Owner represents and warrants that it is the owner of all intellectual property rights in the data provided to Synoptic and the format in which such data is provided to Synoptic. All datasets are provided "as is" or "as available" to users. The Data Owner as well as Synoptic shall not be liable for any costs, claims, and suits arising from the use of any real-time or archive data collected from the above stations. These entities do not make any warranties, either expressed or implied, as to the quality and accuracy of the data.

13.2 **Mutual Warranties.** Each Party represents and warrants to the other that it has the full power to enter into this Agreement and to carry out its obligations under this Agreement.

13.3 **No Other Warranties.** NO OTHER WARRANTIES ARE MADE BY SYNOPTIC OR THE DATA OWNER, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR OTHER IMPLIED WARRANTIES ARISING FROM THE CUSTOM OR USAGE OF THE TRADE.

SECTION 14. ARBITRATION

14.1 If the parties are unable to resolve a dispute after a 14-day escalation period, the dispute will be settled by binding arbitration at a location mutually agreed to by the Parties under the Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes) (the "Rules") of the American Arbitration Association ("AAA") then in effect and in accordance with the Rules. The Parties will mutually agree to one arbitrator within 30 Days of the filing of the written submission to arbitrate in accordance with Rule R-11. The arbitrator will be knowledgeable and experienced in the subject matter of this Agreement. If the Parties cannot agree upon an arbitrator within the time provided, the Parties agree to permit the AAA to appoint an arbitrator under the Rules meeting the foregoing qualifications from the National Roster. The arbitrator will set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing the Parties an adequate opportunity to discover relevant information regarding the subject matter of the dispute. The arbitrator will rule upon motions to compel or limit discovery and will have the authority to impose sanctions, including attorney's fees and costs, if the arbitrator determines that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The arbitrator will render a decision in writing within 120 Days of the commencement of the arbitration proceeding, and in no event will such a decision be in the form of a reasoned award. The arbitrator's decision shall be final and binding on the parties. Judgment upon any award rendered by the arbitrator may be entered in any court having jurisdiction.

14.2 The non-prevailing Party, as determined by the arbitrator, will pay the fees of the arbitrator, the administrative fee of the AAA, and the expenses (including reasonable attorneys' fees) of the prevailing Party incurred in connection with the arbitration.

14.3 Notwithstanding anything to the contrary, the arbitrator will not award damages inconsistent with Sections 15 (Indemnification) and 16 (Limitation of Liability), or any other relevant portions of this Agreement, and the Parties irrevocably waive the award of any such damages.

SECTION 15. INDEMNIFICATION

15.1 Cross-Indemnification. Each Party (the "Indemnifying Party") will defend, indemnify and hold the other Party (the "Indemnified Party") harmless from and against any and all third-party claims, losses, damages, liabilities, settlement, costs, or expenses (including legal expenses and the expenses of other professionals) (collectively "Claims") as incurred, arising out of or in connection with any actual or alleged:

- a. Act or omission of the Indemnifying Party (including its subcontractors) in the performance of this Agreement;
- b. Negligent or willful acts or omissions of the Indemnifying Party within the scope of this Agreement which result in personal injury (including death) or damage to property; or
- c. Infringement of a third party's intellectual property rights or any other rights.

15.2 Indemnification Procedure. The Indemnified Party will provide the Indemnifying Party with prompt written notice of a Claim and permit the Indemnifying Party to control the defense, settlement, adjustment or compromise of any Claim. The Indemnified Party may employ counsel at its own expense to assist it with respect to any Claim. The Indemnified Party will have no authority to settle any Claim on the Indemnifying Party's behalf.

15.3 No Limitation of Remedy. Nothing in this Section will limit any other remedy of the Parties.

SECTION 16: LIMITATION OF LIABILITY

EXCEPT FOR A PARTY'S LIABILITY TO THE OTHER PARTY FOR BREACHES OF ANY CONFIDENTIALITY (SECTION 6), AND FOR ITS INDEMNIFICATION OBLIGATIONS (SECTION 14), AND NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, NEITHER PARTY WILL BE LIABLE TO THE OTHER WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY AMOUNTS IN EXCESS OF THE DIRECT LOSSES AND DAMAGES SUFFERED BY THE OTHER PARTY (EXCLUDING INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND SUCH AS LOSS OF PROFITS, BUSINESS REVENUE, GOODWILL OR CONTRACTS) AND SHALL NOT EXCEED THE FEES PAID BY LICENSEE TO SYNOPTIC FOR THE LAST TWELVE MONTHS PRIOR TO THE DATE OF THE CLAIM. THIS LIMITATION WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. THIS SECTION DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO PROPERTY.

SECTION 17: INSURANCE

17.1 Each Party will, at its own expense, provide and maintain in effect all insurance coverage required by law or regulation, to include, but not limited to: Worker's Compensation, Employer's Liability Insurance, Commercial General Liability Insurance, and Umbrella or Excess Liability Insurance.

SECTION 18: NON-WAIVER OF RIGHTS

18.1 The failure of either Party to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms or conditions at any time thereafter.

SECTION 19: SEVERABILITY

19.1 If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable, that provision will be enforced to the fullest extent possible in accordance with the Parties' intent as of the Effective Date, and without effect on the remaining provisions of this Agreement, which shall remain in full force and effect.

SECTION 20: GOVERNING LAW

20.1 This Agreement shall be governed by the laws of the State of Utah, without giving force and effect to its choice of law provisions.

SECTION 21: FORCE MAJEURE

21.1 Neither Party shall be liable to the other for delays or failures in performance resulting from causes beyond the reasonable control of that Party, including, but not limited to, acts of God, labor disputes or disturbances, material shortages or rationing, riots, acts of war, governmental regulations, communication or utility failures, or casualties. Each Party will notify the other of any factor, occurrence, non-occurrence or event which is likely to cause a material delay in performance of the Party's obligations under this Agreement or that is likely to adversely affect the Party's ability to meet any obligation under this Agreement.

SECTION 22: MODIFICATION AND WAIVER

22.1 Any modifications to this Agreement must be in writing and be signed by an authorized representative of each Party. A Party's decision not to insist on strict performance of any requirement of this Agreement shall not operate or be construed to waive any future omission or breach, or any other provision of this Agreement.

SECTION 23: FINAL AND ENTIRE AGREEMENT

23.1 This Agreement represents the entire agreement between the Parties, supersedes all previous agreements and understandings, where oral or written, with respect to the subject matter of this Agreement.


SECTION 24: EXECUTION OF AGREEMENT IN COUNTERPARTS

24.1 This Agreement may be executed in counterpart with the same effect as if both parties signed the same document. The counterparts shall be construed together and shall constitute one and the same original Agreement. A signature on this agreement by one Party communicated to the other by facsimile transmission or email will constitute execution of this Agreement.


[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first written above.

For Licensee:

 06/12/20
Robby DeWitt
Associate Director for Finance and Administration
Texas A&M Forest Service

For Synoptic:



Elizabeth Wilson
Director of Weather Programs
Synoptic Data PBC
Date: June 15, 2020

Appendix A

List of Stations

Station Name	Station Identifier
Fort Lancaster	XLAI
Menard	XMD1
Canadian	XCA1
Stinnett	XST3
Pampa	XPMS
Clarendon	XCES
Boys Ranch	XBY1
Bootleg	XBO1
Adrian	XAD1
Umbarger	XUM1
Dozier	XDO1
Quitaque	XQU1
Muleshoe	XMUS
Tulia	XTIS
Roaring Springs	XRRS
Jayton	XJTS
Levelland	XLDS
White River Lake	XWVS
Gail	XGGS
Seminole	XSMS
Sweetwater	XSW1
St. Lawrence	XST1
Goodlet	XGDS
Odell	XOD1
Knox City	XKN1
Van Horn	XVA1
McKavett	XMC1
Clyde	XCL2
Big Lake	XBI1
Mertzon	XME1
Crowell	XCR1
Seymour	XSE1
Palo Duro Reservoir	XP4D
Estelline	XES1
Claude	XCL1
Guthrie	XPFS
Post	XPTS

Snyder	XSYS
Dell City	XDC1
Throckmorton	XTH1
Kent	XKE1
Sterling City	XSC1
Stamford	XST2
Fort Chadbourne	XCH1
Panhandle	XPA1
Lake McClellan	XMC5

Restricted Data Usage License Agreement Addendum

This Restricted Data Usage License Agreement Addendum ("Addendum") is between Texas A&M Forest Service ("TFS"), a member of The Texas A&M University System ("TAMUS"), an agency of the State of Texas and Synoptic Data PBC ("Contractor") and is incorporated by reference into the Restricted Data Usage License Agreement between TFS and Contractor (the "Agreement"). TFS and Contractor may be referred to singularly as a "Party" and collectively as the "Parties." If there is any conflict or contradiction between the provisions of the Agreement, including any attachments, exhibits or addenda thereto, and those in this Addendum, this Addendum will control and Contractor waives any claim to the contrary.

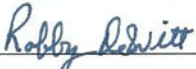
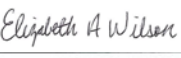
1. **Payment Terms.** Payment terms for amounts due from TFS to Contractor under the Agreement (including due dates and late fees) are governed by Chapter 2251 of the *Texas Government Code*.
2. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debts or delinquencies that Contractor owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
3. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the Contractor certifies that the individual or business entity name in the Agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate."
4. **Certification Concerning Financial Participation.** Pursuant to Section 2155.004, *Texas Government Code*, the Contractor certifies that it is not ineligible to receive the contract or payments under the Agreement and acknowledges that the Agreement may be terminated and/or payments may be withheld if this certification is inaccurate.
5. **Tax Certification.** If Contractor is a taxable entity as defined by Chapter 171, *Texas Tax Code*, then Contractor certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that Contractor is exempt from the payment of franchise (margin) taxes.
6. **Tax Exemption.** TFS will not be required to pay any taxes for which it can demonstrate an exemption.
7. **Indemnification.** Contractor agrees to indemnify and hold harmless TFS from any claim, damage, liability, expense or loss to the extent arising out of Contractor's negligent or willful errors or omissions under the Agreement.
8. **Independent Contractor.** Contractor is an independent contractor, and neither Contractor nor any employee of Contractor shall be deemed to be an agent or employee of TFS. TFS will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Contractor shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of TFS relative to conduct on its premises (if applicable).
9. **Previous Employment.** Contractor acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits TAMUS from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by TFS within the past twelve (12) months. Contractor certifies that no TAMUS member has previously designated the Contractor's employees or officers performing under the Agreement as Not Eligible for Rehire. If Contractor is an individual, by signing this Addendum, Contractor certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations in the Agreement.
10. **Representations and Warranties by Contractor.** If Contractor is a corporation or a limited liability company, Contractor warrants, represents, covenants, and agrees that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization; (ii) it is duly authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and deliver the Agreement; and (iv) the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
11. **Breach of Contract Claims.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to the Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by the Parties to attempt to resolve any claim for breach of contract made by Contractor against TFS that cannot be resolved in the ordinary course of business. The Associate Director for Finance and Administration of TFS shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The Parties hereto specifically agree that (i) neither the execution of the Agreement and/or this Addendum by TFS nor any other conduct, action or inaction of any representative of TFS relating to the Agreement and/or this Addendum constitutes or is intended to constitute a waiver of TFS's or the State's sovereign immunity to suit; and (ii) TFS has not waived its right to seek redress in a court of law.
12. **Loss of Funding.** Performance by TFS under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The Texas A&M University System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then TFS will issue written notice to Contractor and TFS may terminate the Agreement without further duty or obligation hereunder. TFS will be required to pay for services up to the date of termination/loss of appropriated funds. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of TFS.
13. **Audit.** Contractor understands that acceptance of funds under the Agreement constitutes Contractor's acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor") to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
14. **Inapplicable Provisions.** None of the following provisions, if they appear in the Agreement, shall have any effect or be enforceable against TFS: (i) requiring TFS to maintain any type of insurance beyond the coverage outlined in the attached letter from The Texas A&M University System Director of Risk Management, either for TFS's benefit or for Contractor's benefit; (ii) renewing or extending the initial Agreement term or automatically continuing or renewing the original Agreement term; (iii) binding TFS to any arbitration, to the decision of any arbitration board, commission, panel or other entity, or to any other alternative dispute resolution other than is provided herein; (iv) requiring TFS to indemnify Contractor from/against any claims, damages, suits, penalties, fines and/or costs resulting from the negligence or intentional acts of Contractor or Contractor's employees, representatives or agents; (v) limiting the time within which TFS may file a lawsuit based on a claim that the contractor/vendor has breached the contract's terms and conditions.
15. **Limitations.** As a state agency, TFS is subject to constitutional and statutory limitations on its ability to enter into certain contractual terms and conditions, including but not limited to: those related to TFS's indemnification of other parties; liability for other parties' acts or omissions; disclaimers and limitations on other parties' liability; earnest money/deposits; liens on TFS property; liquidated damages; cancellation penalties, waivers, disclaimers, and limitations on legal rights and remedies; granting of control of litigation or settlement to other parties; payment of other parties' attorney fees or court costs; and those addressed elsewhere in this Addendum (collectively "Limitations"). Terms and conditions of the Agreement relating to the Limitations will only be binding on TFS to the extent permitted by the Constitution and the laws of the State of Texas.
16. **Force Majeure.** Neither Party is required to perform any term, condition, or covenant of the Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of a Party and which by due diligence it is unable to prevent or overcome.
17. **Governing Law, Venue & Statute of Limitations.** The Agreement and the applicable statute of limitations for any cause of action brought by or against TFS pursuant to the Agreement will be governed by the laws of the State of Texas without regard to choice of law principles. Pursuant to Section 85.18, *Texas Education Code*, Brazos County is the mandatory place of venue for suit on or in respect of the Agreement.

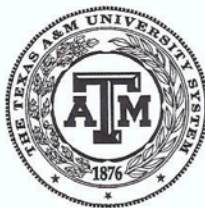
18. **No Financial Interest.** Neither Party nor its employees, agents, representatives or consultants will assist or cause any TFS employee to violate TFS's Conflicts of Interest Policy or applicable state ethics laws or rules. To the best of Contractor's knowledge, no member of the TAMUS Board of Regents has a direct or indirect financial interest in the transaction that is the subject of this Agreement.
19. **Public Information Act.** A.) Contractor acknowledges that TFS is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. B.) Upon TFS's written request, Contractor will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, *Texas Government Code*, to TFS in a non-proprietary format acceptable to TFS. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which TFS has a right of access. C.) Contractor acknowledges that TFS may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
20. **Records Retention.** Contractor will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
21. **Conflict of Interest.** By executing this Agreement, Contractor and each person signing on behalf of Contractor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in

whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

22. **Prohibition on Contracts with Companies Boycotting Israel.** Prohibition on Contracts with Companies Boycotting Israel. To the extent that Texas Government Code, Chapter 2270 applies to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
23. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated if this certification is inaccurate.
24. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
25. **Counterparts/Electronic Signatures.** The Agreement and this Addendum may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of the Agreement and this Addendum, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

AGREED AND ACCEPTED this 15th day of June, 2020.

Texas A&M Forest Service	Synoptic Data PBC
By: <u></u>	By: <u></u>
Printed Name: Robby DeWitt	Printed Name: Elizabeth A Wilson
Title: Associate Director for Finance and Administration	Title: Director of Weather Programs



THE TEXAS A&M UNIVERSITY SYSTEM
System Risk Management

6/12/20

Texas A&M Forest Service

To Whom It May Concern:

The above-mentioned Member of The Texas A&M University System has requested we provide you with information regarding the insurance provisions of The Texas A&M University System.

The Texas A&M University System is self-insured for Workers' Compensation Insurance provided by Chapter 502 of the Texas Labor Code. Benefits are provided in accordance with the provisions of that law.

State-owned vehicles of universities and agencies of the Texas A&M University System are exempt from compulsory liability insurance requirements of the State of Texas. This exemption appears in Subtitle D Motor Vehicle Safety Responsibility; Chapter 601 Motor Vehicle Safety Responsibility Act; Subchapter A General Provisions; Section 007 Applicability of Chapter to Government Vehicle.

The liability of The Texas A&M University System for personal injury and property damage is controlled by the Texas Tort Claims Act, V.T.C.A. Civil Practice and Remedies Code, Chapter 101, Section 101.021. The limits of liability are \$250,000 for each person, \$500,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property. Following this limited exposure, the System as a state agency, is protected by the doctrine of sovereign immunity, and as such, is self-insured up to the aforementioned limits.

We trust the above information will provide the necessary insurance information needed by your organization. If we can be of any further assistance, please let us know.

Sincerely,

Henry D. Judah, CPCU CLU ChFC
Director of Risk Management