



Amendment No. 1  
to  
Contract No. NS200000013  
For  
Dio Mi Subscription Data Tool for Aviation  
Between  
Reed Business Information, Inc.  
dba RBI, Inc. and the  
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
<b>Vendor Name</b>	Reed Business Information, Inc. dba RBI, Inc.	LNRS Data Services, Inc. dba Cirium
<b>Vendor Code</b>	V00000936513	V00000936513
<b>FEIN</b>	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

**BY THE SIGNATURE** affixed below, this Amendment No. 1 is hereby incorporated into and made a part of the Contract.

Matthew  
Duree

Digitally signed by  
Matthew Duree  
Date: 2021.10.05  
08:25:29 -05'00'

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Linell Goodin-Brown  
Procurement Supervisor  
City of Austin, Purchasing Office

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Date



Purchase Order - Vendor Single

Reference Number	P.O. Date	Price Agreement #	Requestor	Buyer
DO 8100 20033107900 - 1	03/31/20	MA 8100 NS200000013	Cedric Zachary, 512-322-6215	See Solicitation, 512-974-2500

VENDOR	SHIP TO	BILL TO
TOMMY EDWARDS V00000936513 REED BUSINESS INFORMATION INC 3355 WEST ALABAMA STE 700  HOUSTON, TX 77098	Aviation Department  ATTN: ACCOUNTS PAYABLE STE 411 3600 PRESIDENTIAL BLVD Austin, TX 78719	Aviation Dept ABIA.Invoices@austintexas.gov ATTN: ACCOUNTS PAYABLE STE 411 3600 PRESIDENTIAL BLVD Austin, TX 78719

The City's standard purchase terms and conditions are hereby incorporated into this order by reference, with the same force and effect as if they were incorporated in full text. The full versions are available at [https://assets.austintexas.gov/purchase/downloads/standard\\_purchase\\_terms\\_and\\_conditions.pdf](https://assets.austintexas.gov/purchase/downloads/standard_purchase_terms_and_conditions.pdf) or call the Purchasing Office at (512) 974-2500. Please include above reference number on all packages, deliveries, and invoices.

Line	Quantity	Unit	Comm Code	Commodity Line Description	Unit Price	Extended Amount
1	0.00		95635	Diio Mi Aviation Data Tool	0.000000	\$18,000.00

**Extended Description**  
Reed Business Information/ Cirium for subscription services to Diio Mi Aviation Data Tool for Aviation.

Order Total: \$ 18,000.00

- VENDOR INSTRUCTIONS:**
- 1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED
  - 2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
  - 3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

Authorized Agent for City Manager

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

Date



# Order Agreement

## 1) Check the details below:

Please initiate the following subscription:

Product	Quantity	Start Date	Net Price
Diio Mi	Number Of Users: 4	March 31, 2020	18,000.00
<b>Total Annual Fee</b>			<b>USD 18,000.00</b>
<b>Contract Term:</b> 3 Year(s) 0 Month(s) 0 Day(s)			
<b>Billing Frequency:</b> Yearly			

### Special Instructions:

**IMPORTANT.** This order is subject to the terms and conditions attached hereto as Attachment 1 ("Terms" or "Contract"). These Terms shall prevail in the event of any conflict between the Terms and any purchase order proffered by Customer, even if such purchase order is accepted by Cirium. Standard payment terms are 30 days from the invoice date. The term of this order will commence on the Start Date and end three years thereafter. This order shall only renew on mutual written agreement of the parties.

If Customer receives U.S. Department of Transportation ("DOT") Origin and Destination ("O&D") Data ("DB1B Data") via the Cirium Product, the following additional requirement shall apply: All U.S. users must complete their Certification to Protect Restricted Release Aviation Economic Information, which is available from Cirium or the Office of Airline Information at the DOT's Bureau of Transportation Statistics. It should be noted that Non-U.S. users do not have access to international O&D data but may access U.S. domestic O&D data.

## 2) Your company and your details:

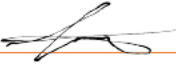
<b>Ship To Company</b>	City of Austin Dept of Aviation ("Customer")	<b>Name</b>	Accounts Payable
<b>Street Address</b>	3600 Presidential Blvd Dept of	<b>Title</b>	Accounts Payable
<b>City, State, Post/Zip Code</b>	Austin TX 78719-2363	<b>Dept.</b>	
<b>Country</b>	United States	<b>Phone</b>	512-530-2242
		<b>Email</b>	<a href="mailto:abia.invoices@austintexas.gov">abia.invoices@austintexas.gov</a>

## 3) Your Invoice address

<b>Bill To Company</b>	City of Austin Dept of Aviation	<b>Name</b>	Accounts Payable
<b>Street Address</b>	3600 Presidential Blvd Ste 411	<b>Title</b>	Accounts Payable
<b>City, State, Post/Zip Code</b>	Austin TX 78719-2510	<b>Dept.</b>	
<b>Country</b>	United States	<b>Phone</b>	512-530-2242
		<b>Email</b>	<a href="mailto:abia.invoices@austintexas.gov">abia.invoices@austintexas.gov</a>

**Purchase Order No.**  
**Sales Tax Exemption Number** 1-74-6000085-8

**4) Your name and signature**

<b>Your Name</b>	Cedric Zachary	<b>Job Title</b>	Procurement Specialist II
<b>Signed</b>	 <small>Digitally signed by Cedric Zachary Date: 2020.03.30 17:08:09 -05'00' Adobe Acrobat version: 2019.021.20061</small>	<b>Date</b>	3-30-20
	Ruben Kempeneer	<b>VP Sales</b>	30-Mar-2020

**5) Please send your Order Form to:****Office Use Only**

**Sales Contact:** Samantha Rocheleau  
**Email:** [samantha.rocheleau@cirium.com](mailto:samantha.rocheleau@cirium.com)  
**Telephone:**  
**Post:** Reed Business Information Inc, Registered in Texas, USA  
**Number:** 76-0199035.  
**Registered Office:** 3355 West Alabama, Suite 700, Houston TX  
 77098 USA  
**Payment Terms:** 30 Days

**For reference:** Invoices corresponding to this order confirmation  
 will be submitted from Reed Business Information and addressed to  
 your Accounts Payable Department.

**Order Mode:** New Business**Opportunity Number:** 200027**Contract Number/Prior Contact:**

## ATTACHMENT 1

# Subscriptions (RBI Inc)

## Cirium Terms and Conditions (“Terms” or “Contract”)

### 1 General

1.1 These Terms apply to all Cirium Products supplied by or on behalf of Reed Business Information Inc., doing business as Cirium, (“**Cirium**”) as may be ordered by the City of Austin, a home-rule municipality incorporated by the State of Texas (“Customer”) from time to time via a signed order as accepted and fulfilled by Cirium (“Order Form”).

1.2 Each Order Form identifies specific Cirium Product(s) that Customer orders, fees due and any specific amendments to these Terms. All Order Forms are subject to and incorporate these Terms. In the event that an Order Form amends any of the provisions in these Terms, the provision in the Order Form shall control.

1.3 Except as specifically authorized on an Order Form, the license granted under these Terms shall not extend to any of Customer’s Affiliates, and Customer shall not make any Cirium Product available to any of its Affiliates except with Cirium’s express prior written approval.

1.4 Where Cirium expressly permits the use of a Cirium Product by one or more Customer Affiliate(s), each such Customer’s Affiliate shall be added to the applicable Order Form as a Permitted Affiliate. Customer shall ensure that each Permitted Affiliate complies with the Terms (other than as to payment obligations, for which Customer remain solely liable) including any restrictions on access to or use of any Cirium Product;

1.5 Customer will be responsible and liable for the acts and omissions of any of Customer’s Permitted Affiliate(s); and Customer agrees that any changes to its corporate structure, employee or user numbers entitles Cirium to charge additional fees. Customer shall be liable for all access to and use of the Licensed Material by any of its Affiliates.

1.6 Cirium Products may be provided by an Affiliate of Cirium.

### 2 License Terms and Use Restrictions

2.1 Subject to Customer fulfilling its obligations under these Terms and prompt payment of all fees, Cirium grants Customer a non-exclusive, non-transferable, non-sublicensable, limited term, revocable license for the Customer and its Licensed Users to access and use the Cirium Products and the Licensed Material for the Permitted Purposes only, and only as permitted by the relevant License Type, and at all times subject to and in accordance with these Terms. All other uses are expressly reserved and prohibited.

2.2 Unless otherwise specified in the Order Form, the License Type shall be a Per User License.

2.3 Subject to the above, Customer and its Licensed Users may: (i) search, interrogate, and display the data accessed through the Licensed Material on screen; (ii) make a limited number of printouts of items included in the Licensed Material using the printing commands contained in the Cirium Product; (iii) download and store in machine readable format a single copy of insubstantial portions of the Licensed Material; and (iv) download and store a single copy of relevant Licensed Material for the Customer’s audit and regulatory purposes but not for any other purpose.

2.4 The following is not permitted in this license but would be subject to a separate additional license or agreement and additional or different fees or payment arrangements:

2.4.1 the creation of Derived Materials

2.4.2 hosting services

2.4.3 resale or distribution to third parties.

2.5 The Customer may not:

2.5.1 abstract, download, store, reproduce, transmit, display, copy or use the Licensed Material other than as expressly permitted in these Terms or Order Form;

2.5.2 lend, sell, resell, license, sublicense, distribute, make available, rent or lease any Cirium Product or any parts of the Licensed Material or include it in a service bureau or outsourcing offering;

2.5.3 modify the Cirium Product or the Licensed Material without Cirium 's express written permission;

2.5.4 use any algorithm, application, device, method, system or software to: (i) access, use, search, copy, monitor, mine, extract or scrape data or other Licensed Material from the Cirium Products; or (ii) disable or incapacitate any part of the Cirium Products or any usage tracking application or program used by Cirium

2.5.5 make multiple printouts or copies of Licensed Material for distribution to any party other than Licensed Users (with the exception of Section 2.7 – on ad hoc inclusion in presentations below);

2.5.6 make the Cirium Product or any Licensed Material available to any party other than Licensed Users on a local area network, a wide area network or on any intranet or extranet except as may be otherwise agreed;

2.5.7 use or authorize the use of software incorporated in the Cirium Product other than as part of the Cirium Products;

2.5.8 use or access any Cirium Product for the purposes of monitoring its availability, performance or functionality, or for any other benchmarking, comparison with products not supplied by Cirium or other competitive purposes;

2.5.9 use the Cirium Product or Licensed Material therein for or in conjunction with any unlawful purpose;

2.5.10 interfere with or disrupt the integrity or performance of any Cirium Product or third-party data contained therein;

2.5.11 remove any copyright or other proprietary rights notice contained or included in the Cirium Product or Licensed Material;

2.5.12 permit or seek to obtain direct or indirect access to or use of any Cirium Product in a way that circumvents a contractual usage limit;

2.5.13 except as permitted by applicable law, copy, reverse engineer, decompile or modify any software incorporated in any Cirium Product or any part, feature, function or user interface thereof or make any other attempt to discover the source code or scripts used to provide the Cirium Product;

2.5.14 use the Cirium Product in any way that may infringe any intellectual property right of Cirium, its Affiliates, any of Cirium 's third-party data providers and/or any other third parties;

2.5.15 do anything that could reasonably be assumed to jeopardize Cirium's or any of Cirium's Affiliates' relationships with any of its or their third party providers, or any other third party;

2.5.16 use the Cirium Product and any Licensed Material in any way not expressly authorized in these Terms.

2.6 Notwithstanding the foregoing, Customer may include small extracts of Licensed Material in presentations to customers and prospects on an ad-hoc basis, provided always that the Customer acknowledges Cirium as a data source, and further provided that Customer accompanies the extract with the following disclaimer in all such presentations:

*“This information has been extracted from a Cirium product. Cirium has not seen or reviewed any conclusions, recommendations or other views that may appear in this document. Cirium makes no warranties, express or implied, as to the accuracy, adequacy, timeliness, or completeness of its data or its fitness for any particular purpose. Cirium disclaims any and all liability relating to or arising out of use of its data and other content or to the fullest extent permissible by law.”*

2.7 Cirium accepts no liability or responsibility to any third party who benefits from, uses or relies on the Cirium Products or gains access to the Licensed Material.

2.8 The use of and access to Cirium Products are subject to usage limits, including the quantities specified in the Order Form and where a quantity in the Order Form refers to Licensed Users, the Cirium Product may not be accessed by more than that number of Licensed Users. If Customer exceeds a contractual usage limit, Cirium may charge for uses above the contractual limits.

2.9 Customer grants to Cirium and its Affiliates:

2.9.1 a royalty-free, non-exclusive, worldwide license to host, copy, transmit, amend, adapt, translate, co-mingle with other data and display Customer Data as reasonably necessary for Cirium to produce and supply Cirium Products; and

2.9.2 a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Cirium 's and/or its Affiliates' services and products (including the Cirium Products) Customer Data as well as any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of or other attributes of any Cirium or its Affiliates' services and products.

### **3 Fees**

3.1 Customer shall pay all applicable fees, and agrees that its access to and use of Cirium Products and Licensed Materials is contingent on Customer paying all applicable fees.

3.2 Payment obligations are non-cancellable, and fees paid are non-refundable except as otherwise expressly foreseen in these Terms.

3.3 Quantities or levels of usage licensed cannot be decreased during any Contract Year.

3.4 Invoiced charges are due thirty (30) calendar days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Cirium and notifying Cirium of any changes to such information.

3.5 If payment is not timely made, (per paragraph 3.4), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.6 Cirium 's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes") except as expressly set out in an invoice. Customer is responsible for paying all Taxes associated with Customer's purchases and use hereunder. If Cirium has a legal obligation to pay or collect Taxes, Cirium will invoice Customer, and Customer will pay that amount unless Customer provide Cirium with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Cirium is solely responsible for taxes assessable against Cirium based on its income, property and employees.

3.7 Invoices

Cirium's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the Customer. Unless otherwise instructed in writing, the Customer may rely on the remittance address specified on Cirium's invoice.

## **4 Access to Cirium Products; Security**

4.1 The Customer shall comply with all of Cirium's instructions relating to the security of the Cirium Products and the Licensed Material. Customer shall have in place and maintain appropriate and up-to-date technical and organizational measures designed to protect all Licensed Material against unauthorized access, disclosure, copying or distribution, and Customer shall comply with Customer's reasonable instructions from time to time in any matters relating to the protection of and the prevention of piracy of Licensed Material.

4.2 A specially designated username and password may be allocated by Cirium to the Customer and to Licensed Users for the sole use of the Customer or Licensed Users to access the Products and the Licensed Material. Where usernames are issued, they are unique to the named individual Licensed User and must not be shared or transferred. Cirium may alter usernames and/or passwords from time to time in accordance with its standard security procedures and shall inform the Customer accordingly.

4.3 The Customer shall notify Cirium promptly if it becomes aware or suspects that any unauthorized person has obtained a password. Cirium will alter the password and inform the Customer accordingly.

4.4 Customer shall inform Cirium immediately if any Licensed User no longer requires access to the Cirium Products to perform their work for Customer for any reason so that such Licensed User's access to the Cirium Products and related documentation can be disabled promptly.

4.5 If Cirium suspects that a password is being used by more than one person or by anyone other than the Licensed User for whom it was issued, or if Cirium detects use of the Licensed Material in excess of licensed usage specified on the applicable Order Form, it may immediately suspend access by Customer and/or Licensed User or cancel the relevant password.

## **5 Intellectual Property Rights**

5.1 Customer agrees that the Intellectual Property Rights comprised in or relating to all Cirium Products, Licensed Material, and Licensed Material within any Derived Materials and all compilations thereof and in documentation supplied by Cirium are and shall remain the sole property of Cirium or (as applicable) their third party licensors.

5.2 No rights in any Cirium Product or Licensed Material are granted or conveyed by Cirium other than the limited license to use them as set forth in these Terms, and nothing in these Terms will be deemed to grant any license, sub-license, Intellectual Property Right or other claim against or interest in Cirium 's Intellectual Property Rights.

5.3 In the event that Customer were to own any rights in any Cirium Product or Licensed Material, Customer shall assign to Cirium, with full title guarantee for all purposes, applications and field of use (including by way of assignment of future Intellectual Property Rights) all such Intellectual Property Rights including the right to take action for any past, present and future damages and other remedies in respect of any infringement. Customer must execute, and will procure that any Affiliates and Customer Representatives execute, such documents and do such things as Cirium may consider reasonably necessary to give effect to this Clause.

5.4 Where the Licensed Material contains data and/or other material licensed by third party licensors, such Licensed Material is made available on the terms and conditions of such third party licensors as communicated to Customer from time to time.

RELX and the RE symbol are trade marks of RELX Group plc, used under license.

## **6 Changes to the Product; Discontinuation**

6.1 Cirium shall be entitled to update, enhance, withdraw or otherwise change the Cirium Products from time to time, at any time without notice.

6.2 Where such change will lead to a material decrease in functionality, Cirium shall provide thirty (30) calendar days' notice.

6.3 During a period of thirty (30) days starting on the day that Cirium provided the notice, Customer may terminate the license relating to the affected Cirium Product, by giving notice, and may request a refund of unused portions of time of the remaining term for that Cirium Product. If Customer does not exercise this right to terminate within thirty days from Cirium 's notice, Customer has accepted the changed product, and may no longer exercise this termination right.



6.4 In the event that Cirium discontinues any Cirium Product, Cirium may choose to offer Customer a refund of the unused portion of any prepaid fees for the applicable Contract Year, or may make available an alternative product.

## **7 Changes to the Terms**

7.1 These Terms can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any Cirium invoice shall have any force or effect to change the terms, covenants, and conditions of the Terms.

## **8 Availability of Products**

8.1 Cirium shall use reasonable endeavors to ensure that Cirium products are available to Customers and Licensed Users excluding downtime for regular or emergency maintenance which shall be kept to a minimum.

8.2 Time is not of the essence in respect to the delivery of any particular Cirium product or Licensed Material, and Cirium's sole obligation and Customer's sole and exclusive remedy is to request that Cirium reinstate service as soon as is practically possible.

## **9 Indemnities**

9.1 Cirium will indemnify, defend and hold the Customer harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable legal costs) payable to a third party resulting from any claim that the Licensed Material as provided by Cirium to Customer infringes any copyright or trademark of such third party (a "Claim").

9.2 This indemnity shall only apply where the Licensed Material subject to the Claim were infringing as provided by Cirium and such Licensed Materials have not been modified, amended, adjusted, altered, combined or co-mingled with or used in combination with any materials or data not furnished by Cirium.

9.3 This indemnity is further subject to (i) Customer giving Cirium prompt, written notice of any such claim; (ii) Cirium having the sole right to control and direct the investigation, the defense and settlement of each such Claim; and (iii) Customer reasonably cooperating with Cirium, at Cirium's expense, in connection with the foregoing, and making no admission or offer of settlement without the prior written authority of Cirium.

9.4 Should the Licensed Material, become, or in Cirium's opinion are likely to become, the subject of a Claim, Customer shall permit Cirium, at Cirium's option and expense, and as Customer's sole and exclusive remedy, either: (i) to procure for the Customer the right to continue using the Licensed Material; (ii) to replace or modify the Licensed Material so that they become non-infringing; or (iii) to grant the Customer a refund of the unused portion of the fees paid by the Customer in relation to the relevant Licensed Material subject to the Claim.

## **10 Use of the Products**

10.1 The Customer shall use the Cirium Products and the Licensed Material in accordance with all laws and regulations applicable to the Customer.

10.2 It shall be the responsibility of the Customer to ensure that its computing environment, network, connectivity, terminals and other associated equipment are compatible with the requirements of the Cirium Products, and the Customer shall pay all relevant charges associated with such hardware, equipment or other network components of Customer.

## **11 Verification and Audit**

11.1 The Customer shall, within seven days of a written request from Cirium provide (i) a list of all individuals who have access to the Cirium Product; and (ii) an explanation of how the Cirium Product and Licensed Material are used by Customer and its Licensed Users.

11.2 Upon providing Customer with reasonable prior written notice, Cirium (including its representatives and its Affiliates or representatives or any regulators) ("Audit Representative(s)") shall have the right, either directly or through a third party auditor and not more than once every 12 months, to conduct an audit during Customer's normal business hours to verify that Cirium Products are being used in a manner consistent with the provisions of these Terms and the Order Form.

11.3 Customer shall co-operate with, and provide information as is reasonably requested by any Audit Representative.

11.4 Without prejudice to Cirium's other rights or remedies, if Cirium, determines that Customer, Customer's Affiliates, Customer's Representatives and/or any Licensed Users are using the Cirium Product or Licensed Materials in a manner inconsistent with these Terms, Customer shall: (i) at Cirium's option, immediately cease such inconsistent use and pay Cirium the additional fees sufficient to permit such use; and (ii) reimburse Cirium for the fees due for the unlicensed use of the Licensed Materials and the cost of such audit.

11.5 Cirium shall treat as confidential all information relating to the Customer's business that it acquires in the course of such verification or audit.

11.6 The rights of Cirium under this Section shall continue for the term and for six (6) months thereafter.

11.7 Cirium agrees that on reasonable advance written request the representatives of the Office of the City Auditor or other authorized representatives of the Customer shall have access to, and the right to examine the relevant records of Cirium related to the invoicing for the fees required for the licenses procured under this Contract. Cirium shall retain all such records for a period of one (1) year after the termination or expiration of this Contract. Cirium agrees to refund to the Customer any overpayments verified and evidenced by any such examination; provided Cirium has a reasonable opportunity to review all of such evidence prior to any obligation to make any such refund and such refund is offset by any amounts due and owing to Cirium.. Per City Code § 2-11-15(E) - OWNERSHIP OF CITY INFORMATION. ("Information created by the City and provided to the contractor to perform the contract obligations set forth hereunder, except information specifically relating only to the contractor's internal administration, is the property of the City. The contractor may not dispose of or destroy information that is City property.

## **12 Warranties; Limitations on Liability**

12.1 The Cirium Products and Licensed Material are provided by Cirium on an 'as is' and 'as available' basis. To the extent permitted by the law, Cirium all implied warranties relating to fitness for a particular purpose, merchantability, accuracy, correctness, timeliness, and completeness of Cirium Product and Licensed Material. Cirium is not responsible for errors and omissions in the Licensed Materials of any kind, regardless of the cause, or for results obtained from using Cirium Products or Licensed Material.

12.2 Nothing in these Terms or any Order Form shall exclude or limit either party's liability (i) for death or personal injury caused by such's party's negligence, (ii) for fraud or fraudulent misrepresentation; (iii) for losses arising from breach of the provisions of the confidentiality obligations in these Terms; and (iv) matters that cannot, as a matter of law, be limited or excluded.

12.3 Other than as set out in Section 12.2, in no event shall the aggregate liability of each party together with all of its Affiliates arising out of or related to these Terms exceed the total amount paid by Customer and Customer's Affiliates hereunder for the Cirium Products giving rise to the liability in the twelve (12) months preceding the first incident out of which the liability first arose. The foregoing limitation will apply whether an action is in contract or tort and regardless of the theory of liability, excluding the applicable indemnity and insurance coverage obligations, but will not limit Customer's and Customer Affiliates' payment obligations, even if a party or its Affiliates have been advised of the possibility of such damages or if a party's or its Affiliates' remedy otherwise fails of its essential purpose.

12.4 Other than as set out in Section 12.2, in no event will either party or its Affiliates have any liability arising out of or related to these Terms and/or any Order Form for any: (i) loss of profits, business or revenues; (ii) loss of anticipated savings; (iii) loss of goodwill; (iv) business interruption; (v) loss of data (including use or receipt of data); or (vi) for any indirect, special, incidental, consequential, or exemplary damages. The foregoing limitation will apply whether an action is in contract or tort and regardless of the theory of liability, excluding indemnity and applicable insurance coverage obligations, even if a party or its Affiliates have been advised of the possibility of such damages or if a party's or its Affiliates' remedy otherwise fails of its essential purpose.

12.5 Without prejudice to any of the foregoing, Cirium will not be liable for breach of any term of these Terms arising from or in relation to: (i) the use of any Cirium Product(s) in breach of these Terms; (ii) any alterations to any Cirium Product made by anyone other than Cirium or someone expressly authorized by Cirium to make that alteration; (iii) any delay or failure in the provision of any Cirium Product to Customer caused by anyone other than Cirium; or (iv) any breach of these Terms by Customer or any other wrongful or negligent act or omission by Customer, any Customer Affiliate, or any Representative.

12.6 The Cirium Products may contain links to external sites. Cirium is not responsible for and has no control over the content of such sites and, to the extent permissible by law, disclaims all responsibility and liability in relation to information available on such sites or accessible from the Cirium Products via hypertext links.

### **13 Term; Suspension and Termination**

- 13.1 The term of an Order Form will commence on the Start Date. No Order form shall renew absent mutual written agreement of the parties.
- 13.2 The fees due for each renewal term shall be assessed at the then current prices for the Cirium Product ordered.
- 13.3 Without prejudice to any other right or remedy which may be available to it, Cirium may suspend or terminate Customer's access to any Cirium Product and/or the Terms immediately and without compensation if: (i) the Customer is in breach of these Terms; (ii) the Customer fails to make any payment to Cirium within 14 (fourteen) days of the due date and fails to remedy such breach within 14 (fourteen) days after written notice from Cirium specifying the breach and requiring it to be remedied; (iii) the Customer at any time becomes insolvent or bankrupt (or the equivalent in any jurisdiction) or enters into any arrangements with or for the benefit of its creditors or be wound up compulsorily or voluntarily (otherwise than for the purpose of a bona fide reconstruction or amalgamation without insolvency) or has a receiver appointed of all or any part of its undertaking or assets ceases or threatens to cease to carry on business; (iv) Customer or any entity controlling Customer acquires, is acquired by and/or merges with another legal entity; or (v) Customer or any Licensed Users is sanctioned by any trade sanctions regimes including but not limited to any of the United Kingdom, the European Union, the United Nations or the United States of America.
- 13.4 Cirium shall additionally be entitled to suspend supply of the Cirium Products to the Customer if it reasonably suspects that the Customer or any Licensed User is in breach of these Terms, and may impose a reasonable charge to the Customer for restoring the Cirium Products.

### **14 Consequences of Termination or Expiry**

- 14.1 On expiry, or on termination or cancellation for any reason, the Customer, its Affiliates, all Customer Representatives, and all Licensed Users shall immediately cease using all of the terminated Cirium Product(s) and Licensed Material, and shall promptly delete such Licensed Material from each of their systems, applications or other storage. Customer shall provide certification to Cirium of any such destruction upon Cirium's request.
- 14.2 The undertaking to delete Licensed Material does not apply to any data which the Customer is required to retain under any applicable legal or regulatory obligation including the rules of a professional body (in each case only to the extent and for such time as is required under any such obligation), provided that and for as long as Customer (i) continues to comply with the provisions of these Terms in Section 2.5 (license restrictions) Section 4.1 (security), Section 5 (Intellectual Property Rights) as well as Section 16 (confidentiality), and (ii) only retains such copies in its archives and does not use the Licensed Material in any part of its business for any reason.
- 14.3 In no event will the termination or expiry relieve Customer of its obligation to pay any fees payable to Cirium for the period prior to the effective date of termination.
- 14.4 Expiry or termination of these Terms shall be without prejudice to the accrued rights and obligations of the parties and, in particular, Section 35 (Definitions), Section 5 (Intellectual Property Rights), Section 11 (Verification and Audit), Section 12 (Warranties; Limitation of Liability), Section 16 (Confidentiality) and Section 3 (Fees) in so far as it sets out Customer's obligation to pay all amounts due hereunder shall survive expiry or termination for whatever reason.

### **15 Data Protection**

- 15.1 Each of the parties shall comply with its respective obligations under applicable Data Protection Laws.
- 15.2 The terms "controller", "data subject", "personal data", "personal data breach", "processing", and "processor" will have the meanings ascribed to them in the Data Protection Laws, and where the relevant Data Protection Laws use the term 'data controller' or 'data processor', they shall be read as controller and processor, respectively. "Data Protection Laws" means all data protection laws and regulations, including those of the United Kingdom ("UK"), Switzerland, European Economic Area ("EEA") and the European Union ("Union"), applicable to the processing of personal data under these Terms, including the Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ("GDPR") from May 25, 2018.
- 15.3 Customer recognises that, in the process of accessing and using the Cirium Products and Licensed Materials, it and the Licensed Users will supply personal data. Customer represents and warrants that it and the Licensed Users have complied with all applicable obligations under the Data Protection Laws in supplying personal data to Cirium I, including providing any required notices and obtaining any required consents and

authorisations for Cirium's processing such personal data and that it is responsible for its decisions and actions concerning the use and other processing of the personal data.

15.4 To the extent that Cirium act as a processor of personal data on Customer's behalf, Cirium will process such personal data in accordance with the Data Protection Laws and, as of May 25, 2018, the GDPR - Data Processing Addendum ("DPA") attached as Schedule 1 to these Terms.

15.5 Customer acknowledges and agrees that the services Cirium provides to provide the RBI Products include (i) compiling statistical and other information related to the performance, operation and use of the Cirium Products and Licensed Materials, and (ii) use data in aggregated and/or anonymized form for security and operations management or for research and development purposes, provided that such information and data will not identify or serve to identify Customer or any data subject.

15.6 Customer agrees that while Cirium Products provide analysis and insight, Customer alone will be responsible for any decisions it may take using insights from Cirium Products as one of several factors, and that therefore Customer will be responsible for compliance with any requirements under Articles 21 (Right to Object) or 22(Automated Individual Decision Making and Profiling) GDPR in so far as they might arise as well as for responding to any requests from any data subject (subject to Clause 4 of the DPA).

## **16 Confidentiality**

16.1 Each party receiving Confidential Information ("Receiving Party") from the other party ("Disclosing Party") shall: (i) use the Disclosing Party's Confidential Information solely for the purposes of fulfilling its obligations under these Terms (ii) keep the Disclosing Party's Confidential Information secure and take no lesser security measures and degree of care to protect the Disclosing Party's Confidential Information than the Receiving Party applies to its own confidential or proprietary information (but not less than reasonable care); and (iii) not disclose the Disclosing Party's Confidential Information to any third party except with the prior written consent of the Disclosing Party or in accordance with this Section.

16.2 The obligations of confidentiality shall not apply where the Receiving Party can demonstrate that the Confidential Information: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) is or was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) is or was received from a third party without breach of any obligation owed to the Disclosing Party; (iv) was independently developed by the Receiving Party; or (v) is subject to disclosure pursuant to the Texas Public Information Act, currently codified under Texas Government Code Chapter 552, only to the extent such information is deemed public and there is a legal obligation to disclose the particular information .

16.3 Upon the expiry or termination of these Terms, each party will promptly return or destroy the relevant Confidential Information of the other and any copies, extracts and derivatives thereof, except as otherwise set out in these Terms.

16.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

16.5 Each party acknowledges that its breach of this Section may cause irreparable injury to the other party for which monetary damages may not be an adequate remedy. Accordingly, a party will be entitled to seek any legal or equitable remedies in the event of such a breach by the other. The operation of this Section shall survive the termination or expiration of these Terms.

## **17 Notice**

17.1 To Customer. Cirium may provide any notice to Customer under these Terms by: (i) posting a notice Cirium's website; or (ii) sending a message to the email address then associated with Customer's account. Notices Cirium provides by posting on its website will be effective upon posting and notices by email will be effective when Cirium sends the email. It is Customer's responsibility to keep Customer's email address current. Customer will be deemed to have received any email sent to the email address then associated with Customer's account when the email is sent, whether or not Customer actually receives the email.

17.2 To Cirium. To give Cirium notice under these Terms, Customer must contact Cirium as follows: by personal delivery, overnight courier or registered or certified mail to Reed Business Information Inc., 3355 West Alabama Street, Suite 700, Houston TX 77098 attention Legal Department. Cirium may update the address for notices by posting a notice on Cirium's website. Notices provided by personal delivery will be effective immediately. Notices provided by overnight courier will be effective one business day after they are sent. Notices provided registered or certified mail will be effective three business days after they are sent.

## **18 Governing Law and Jurisdiction**

18.1 Texas law governs the interpretation and enforcement of these Terms, regardless of the law that might otherwise apply under applicable principles of conflicts of law. The parties agree that any suit, action or proceeding arising out of or relating to these Terms shall be instituted only in the United States District Court for the Western District of Texas or a Texas State Court located in Travis County, Texas.

18.2 Each of the parties consents to the exclusive jurisdiction of such courts in any such action or proceeding, waives any objection to venue laid therein and agrees not to plead or claim in any such courts that a proceeding brought therein has been brought in an inconvenient forum.

18.3 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation.

## **19 Entire Agreement**

These Terms, including all schedules hereto and together with the Order Form, constitutes the entire agreement and understanding between the parties and supersedes any prior and contemporaneous agreements, proposals or representations, written or oral, between them concerning the subject matter of these Terms and the order forms. Each party acknowledges that, in entering into these Terms, it does not rely on any statement, representation, assurance or warranty of any person (whether a party to these Terms or not) other than as expressly set out in these Terms or any order form. Nothing in these Terms shall restrict or exclude any liability for (or remedy in respect of) fraud or fraudulent misrepresentation. Neither these Terms, nor any order or associated Order Form shall be modified by any purchase order submitted by Customer, even if such purchase order is accepted by Cirium.

## **20 Assignment**

Customer may not assign, novate or otherwise transfer any of its rights or obligations hereunder, whether by operation of law or otherwise, without Cirium's prior written consent. Cirium may assign, novate or otherwise transfer any or all of its rights and/or obligations under these Terms at any time; provided, the assignor/transferee assumes the performance obligations set forth hereunder. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

## **21 Relationship of the Parties**

The parties are independent contractors. Nothing in these Terms shall be construed as constituting a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

## **22 Third-Party Beneficiaries**

These Terms do not create, and shall not be construed as creating, any rights in favor of any person or entity not a party to these Terms, except for Cirium's Affiliates in connection with the facilitation of the obligations set forth under these Terms.

## **23 Waiver and Cumulative Remedies**

No failure or delay by either party in exercising any right under these Terms will constitute a waiver of that right. The rights and remedies arising under, or in connection with, these Terms are cumulative and, except where otherwise expressly provided in these Terms, do not exclude rights and remedies provided by law or otherwise. Any termination of these Terms and/or parts of them does not affect any accrued rights or liabilities of either party and nor does it affect the coming into force or the continuance in force of any provision of the Terms that is expressly or by implication intended to come into or continue in force on or after such termination.

## 24 Severability

If any provision (or part provision) of these Terms is or becomes illegal, invalid or unenforceable in any respect: (i) it shall not affect or impair the legality, validity or enforceability of the remaining provisions of these Terms; and (ii) that provision (or part provision) shall be limited or eliminated to the minimum extent necessary so that these Terms shall otherwise remain in full force and enforceable effect.

## 25 Insurance

General Requirements: See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for the general insurance requirements applicable to this Contract.

B. Specific Coverage Requirements: The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

i. Worker's Compensation and Employers' Liability Insurance: Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$1,000,000 bodily injury each accident, \$1,000,000 bodily injury by disease policy limit and \$1,000,000 bodily injury by disease each employee.

(1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:

(a) Waiver of Subrogation, Form WC420304, or equivalent coverage

(b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage

ii. Commercial General Liability Insurance: The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).

(1) The policy shall contain the following provisions:

(a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

(b) Contractor/Subcontracted Work.

(c) Products/Completed Operations Liability for the duration of the warranty period.

(d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.

(2) The policy shall also include these endorsements in favor of the City of Austin:

(a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

(b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage

(c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

iii. Business Automobile Liability Insurance: The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage.

(1) The policy shall include these endorsements in favor of the City of Austin:

(a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage

(b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage

(c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

Professional Liability/Technology Errors and Omissions Insurance: The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act,



error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract.

If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract

## **26 Modifications**

The Contract can be modified or amended only by a writing signed by both parties.

## **27 Advertising**

Cirium shall not advertise or publish, without the Customer's prior consent, the fact that the Customer has entered into the Contract, except to the extent required by law.

## **28 No Contingent Fees**

Cirium warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by Cirium for the purpose of securing business. For breach or violation of this warranty, the Customer shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to Cirium, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

## **29 Gratuities**

Customer may, by written notice to Cirium, cancel the Contract without liability if it is determined by the Customer that gratuities were offered or given by Cirium or any agent or representative of Cirium to any officer or employee of the Customer with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the Customer pursuant to this provision, the Customer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Cirium in providing such gratuities.

## **30 Prohibition Against Personal Interests in Contracts**

No officer, employee, independent consultant, or elected official of the Customer who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of Cirium shall render the Contract voidable by the Customer.

## **31 Delays**

Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, pandemic, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the Contract will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

## **32 Non-Suspension or Debarment Certification**

The Customer is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the Customer, Cirium certifies

that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

### 33 Equal Opportunity

A. Equal Employment Opportunity: No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

B. Americans with Disabilities Act (ADA) Compliance: No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

### 34 Prohibition of Boycott Israel Verification

Pursuant to Texas Government Code §2270.002, the Customer is prohibited from contracting with any "company" for goods or services unless the following verification is included in this Contract.

A. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code §2270.001.

B. If Cirium qualifies as a "company", then Cirium verifies that it:

- i. does not "boycott Israel"; and
- ii. will not "boycott Israel" during the term of this Contract.

C. Cirium's obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

### 35 Definitions

#### These Terms contain the following definitions

**"Affiliate"** in respect of a corporate entity means any other corporate entity which directly or indirectly, controls, is controlled by or is under common control with such entity and the term "control" (including the terms "controlled by" and "under common control with") in relation to an entity means the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of 50% or more of the voting securities, by contract or otherwise;

**"Confidential Information"** means any information which is disclosed by one party to the other whether before or after the Start Date, which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a party's business, affairs, operations, customers, processes, budgets, pricing policies, products, information, strategies, developments, trade secrets, know-how, design rights, market opportunities, personnel, plans or intentions, suppliers, other contracting parties, or other persons in respect of whom a confidentiality obligation may arise of the party disclosing it;

**"Contract Year"** means any period of 12 consecutive calendar months commencing on (a) the Start Date of an order or (b) any anniversary thereof occurring during the term of the applicable order;

**"Customer"** means the legal entity specified as customer in the applicable Order Form;



**"Customer Data"** means all code, data, documents, information, text, drawings, statistics, analysis, diagrams, images, sounds and other materials embodied in any form relating to Customer which Customer may supply (or make available) to Cirium, Cirium's Affiliates and/or a Cirium sub-contractor;

**"Customer Representative"** means an individual contractor or agent engaged by Customer to perform services in support of Customer's use of the Licensed Material in accordance with the Permitted Purpose. A Customer Representative with access to the Licensed Material shall at all times be bound to written terms and conditions with Customer consistent with the terms and conditions protecting the Licensed Material as required under these Terms;

**"Derived Materials"** means materials created by or on behalf of the Customer incorporating more than an insubstantial portion of the Licensed Material in combination with other information and/or data for the purposes of creating another product or other offering, whether in the form of analyses, directories, databases, mailing lists or otherwise and irrespective of whether such Product is paid for or not;

**"Cirium"** is a registered business name of Reed Business Information Inc., and all references to Cirium in these Terms are to Reed Business Information Inc.;

**"Cirium Products"** means: the data products or information services (delivered in various formats and channels including but not limited to online user interfaces, by emails, in excel spreadsheets or pdf documents, made available on FTP servers or other secure online locations, or via an application program interface or other automated means), online reference services and software tools including all components thereof licensed by or on behalf of Cirium;

**"Intellectual Property Rights"** means: (i) patents, utility models, supplementary protection certificates, petty patents, rights in trade secrets and other confidential or undisclosed information (such as inventions (whether patentable or not) or know how) registered designs, rights in copyright (including authors' and neighboring or related rights), database rights, design rights, semiconductor topography rights, mask work rights, trademarks and service marks; (ii) all registrations or applications to register any of the items referred to in paragraph (i); and (iii) all rights in the nature of any of the items referred to in paragraphs (i) or (ii) including all proprietary rights, updates, continuations, continuations in part and divisional applications, reputation, personality or image, trade names, business names, brand names, get up, logos, domain names and URLs, rights in unfair competition and, without prejudice to anything set out elsewhere in this definition, rights to sue for passing off and all rights having equivalent or similar effect to, and the right to apply for any of, the rights referred to in this definition in any jurisdiction;

**"License Type"** means the type of license specified on the applicable Order Form authorizing Customer's use of the Licensed Material, as follows:

(i) Permitted Purpose License – permits Customer's employees and/or other workers who are directly involved in the permitted purpose specified in the Order Form to use the Licensed Material for the purpose set out in the Order Form and for no other purpose; or

(ii) Per User License – the named individual(s) identified in the Order Form may access the Cirium Products and use the Licensed Material in the ordinary course of the Customer's regular business as related to the aviation sector; or

(iii) Site License – all the Customer's employees and/or other workers normally located at the physical site(s) specified on the Order Form may access the Cirium Products and use the Licensed Material in the ordinary course of the Customer's regular business as related to the aviation sector; or

(iv) Enterprise License – all employees and workers of Customer and Customer's Permitted Affiliates may access the Cirium Products and use the Licensed Material in the ordinary course of the Customer's regular business as related to the aviation sector; or

(v) Function License – all employees and workers of Customer who carry out the function specified in the Order Form for the Customer may access the Cirium Products and use the Licensed Material in the ordinary course of the Customer's regular business as related to the aviation sector;

**"Licensed Material"** means all information, data and editorial content including all updates thereof, contained within or made available through or as part of Cirium Products, whether such information, data or editorial content is obtained by Cirium from publicly available sources or third party providers or generated or curated by Cirium itself;

**"Licensed User"** means a named employee or Representative of the Customer who is authorized to access and use the Licensed Material in accordance with these Terms, the Permitted Purpose and the special conditions set forth in the applicable Order Form;

**“Permitted Affiliate”** means each of the Customer’s Affiliates listed on the applicable Order Form;

**“Permitted Purpose”** shall have the meaning set out in the Order Form. If the Order Form is silent, it means Customer’s use of the Licensed Material for Customer’s internal business purposes in the ordinary course of a business in the aviation sector and in line with the License Type;

**“Personal Data”** means any information relating to an identified or identifiable individual that Cirium is processing on behalf of Customer under these Terms;

**“Start Date”** means the commencement date of Customer’s access to the Licensed Materials listed on the applicable order.

## **SCHEDULE 1: THE GDPR - DATA PROCESSING ADDENDUM (“DPA”)**

### **1 Scope**

1.1 This DPA applies to Cirium’s processing of personal data on Customer’s behalf under these Terms. With regard to such processing, Customer is the controller of the personal data and Cirium are the processor of the personal data. This DPA does not apply where Cirium are a controller of personal data.

### **2 Processing**

2.1. Cirium shall not engage another processor without Customer’s prior specific or general written authorisation. In the case of general written authorisation, Cirium shall inform Customer of any intended changes concerning the addition or replacement of other processors, thereby giving Customer the opportunity to object to such changes in the manner more specifically set forth herein.

2.2. Cirium’s processing shall be governed by this DPA under Union or governing Member State law as set forth in these Terms. In particular, Cirium shall:

a) process the personal data only on Customer’s documented instructions, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by the Union or Member State law governing such personal data. In such a case, Cirium shall inform Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

b) ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

c) take all measures required pursuant to Article 32(Security of Processing) of the General Data Protection Regulation ("GDPR");

d) respect the conditions referred to in paragraphs 2.1 and 2.3 for engaging another processor;

e) taking into account the nature of the processing, assist Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Customer’s obligation to respond to requests for exercising the data subject’s rights laid down in Chapter III of the GDPR;

f) assist Customer in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of processing and the information available to Cirium;

g) at Customer’s choice and/or on expiry or termination of these Terms, delete or return to Customer all the personal data after the end of the provision of Cirium Products relating to processing and delete existing copies unless Union or Member State or other applicable law requires storage of the personal data (which for the avoidance of doubt, does not apply to aggregated or anonymized data);

h) make available to Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by Customer or another auditor at the Customer’s mandate;

i) immediately inform Customer if, in Cirium's opinion, an instruction from Customer to Cirium infringes the GDPR or other Union or Member State data protection provisions.

2.3. Where Cirium engages another processor for carrying out specific processing activities on Customer's behalf, the same data protection obligations as set out in this DPA shall be imposed on that other processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR. Where that other processor fails to fulfil those data protection obligations, Cirium shall (subject to the terms of these Terms) remain fully liable to Customer for the performance of that other processor's obligations.

2.4. The subject-matter of Cirium's processing is the personal data provided related to Cirium Products and Services and Licensed Materials under these Terms. The duration of the processing is the duration of the provision of the Cirium Products and Services and Licensed Materials under these Terms. The nature and purpose of the processing is in connection with the provision of the Cirium Products and Services and Licensed Materials under these Terms. The types of personal data processed are as set out in relevant product descriptions and other types of personal data submitted to the Cirium Products and Services. The categories of data subjects are Customer's employees, Customer Representatives, Licensed Users and clients, prospects, suppliers, business partners and others whose personal data is submitted to the Cirium Products and Services.

2.5. These Terms including this DPA are Customer's complete and final documented instructions to Cirium for the processing of personal data. Additional or alternate instructions must be agreed upon separately by the parties. Cirium will ensure that its personnel engaged in the processing of personal data will process personal data only on Customer's documented instructions, unless required to do so by Union, Member State or other applicable law.

### **3 Sub-processing**

3.1. Customer hereby provide Cirium general consent to engage other processors for the processing of personal data in accordance with this DPA. Cirium shall maintain a list of such processors (which Cirium may update from time to time) and make it available to Customer on request. Customer may object to the change without penalty by notifying Cirium within fourteen (14) calendar days after receipt of Cirium's notice. Without prejudice to any applicable refund or termination rights Customer have under these Terms, Cirium shall use reasonable endeavours to change, modify or remove the affected Cirium Products and Services or Licensed Materials to avoid processing of personal data by such new processor to which Customer reasonably object.

### **4 Data Subject Rights**

4.1. Cirium shall, to the extent legally permitted, promptly notify Customer of any data subject requests Cirium receives and reasonably cooperate with Customer to fulfil Customer's obligations under the GDPR in relation to such requests. Customer shall be responsible for any reasonable costs arising from Cirium's providing assistance to Customer to fulfil such obligations.

### **5 Transfer**

5.1. Cirium shall ensure that, to the extent that any personal data originating from the UK, Switzerland or EEA is transferred by Cirium to another processor in a country or territory outside the UK, Switzerland or EEA that has not received a binding adequacy decision by the European Commission or competent national data protection authority, such transfer shall be subject to an appropriate transfer mechanism that provides an adequate level of protection in accordance with the GDPR.

### **6 Security Of Processing**

6.1. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the parties shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:

- a) the pseudonymisation and encryption of personal data;
- b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and

d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

6.2. In assessing the appropriate level of security, account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.

6.3. The parties shall take steps to ensure that any natural person acting under the authority of either party who has access to personal data does not process them except on instructions from Customer, unless he or she is required to do so by Union or Member State law.

## **7 Personal Data Breach**

7.1. Cirium shall notify Customer without undue delay after becoming aware of a personal data breach and shall reasonably respond to Customer's requests for further information to assist Customer in fulfilling Customer's obligations under Articles 33 and 34 of the GDPR.

## **8 Records Of Processing Activities**

8.1. Cirium shall maintain all records required by Article 30(2) of the GDPR and, to the extent applicable to the processing of personal data on Customer's behalf, make them available to Customer as required.

## **9 Audit**

9.1. Audits shall be:

- a) Limited to Cirium's processing of personal data under the Agreement and compliance with this DPA only;
- b) Conducted by an independent third party reputable auditor;
- c) Subject to the execution of appropriate confidentiality undertakings;
- d) Conducted no more than once per year, unless a demonstrated reasonable belief of non-compliance with these Terms has been made, upon thirty (30) days written notice and having provided a plan for such review; and
- e) Conducted at a mutually agreed upon time and in an agreed upon manner.

## **10 Conflict**

10.1. If there is any conflict or inconsistency between the terms of this DPA and these Terms, the terms of this DPA shall control to the extent required by law. Otherwise, these Terms shall control in the case of such conflict or inconsistency.

**CONTRACT BETWEEN THE CITY OF AUSTIN  
AND  
REED BUSINESS INFORMATION INC  
For  
Duo Mi Aviation Data Tool**

**Contract No. MA 8100 NS200000013**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Reed Business Information Inc, ("Contractor"), having offices at 3355 West Alabama, Suite 700, Houston TX 77098 USA.

**SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES**

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Samantha Rocheleau, Phone: 713-525-2613, Email Address: samantha.rocheleau@cirium.com. The City's Contract Manager for the engagement shall be Diana Heath, Phone: (512) 530-6341, Email Address: Diana.Heath@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

**SECTION 2. SCOPE OF WORK**

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

**SECTION 3. COMPENSATION**

3.1 **Contract Amount.** The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed \$18,000 for all fees and expenses.

3.2

**Invoices.**

**Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. The City's preference is to have invoices sent to the following:

	City of Austin
Department	Aviation
Attn:	Accounts Payable
Email Address	<a href="mailto:CTMAPInvoices@austintexas.gov">CTMAPInvoices@austintexas.gov</a>

3.2.1 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.2 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.3 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

### 3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

**3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 The City may withhold or off set the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

**3.5 Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

**3.5.1 Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

**3.5.2 Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

### **3.6 Final Payment and Close-Out.**

**3.6.1** The making and acceptance of final payment will constitute:

**3.6.1.1** a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

**3.6.1.2** a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

## **SECTION 4. TERM AND TERMINATION**

**4.1 Term of Contract.** The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 12 months. Contract may be extended beyond the initial term for up to two additional 12 month periods at the City's sole option.

**4.2 Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

**4.3 Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

**4.4 Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor



list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

## **SECTION 5. OTHER DELIVERABLES**

5.1 **Insurance:** The following insurance requirements apply.

### **5.1.1 General Requirements.**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

OR

[PURInsuranceCompliance@austintexas.gov](mailto:PURInsuranceCompliance@austintexas.gov)



5.1.1.8 The “other” insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Professional Liability Insurance/Technology Errors and Omissions Insurance.** The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract.

If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.

5.1.2.5 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City’s review and approval.

## 5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor, or Contractor’s agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City

shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

**5.2.2 Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

**5.3 Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

**5.4 Delays.**

**5.4.1** The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

**5.4.2** Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**5.5 Ownership And Use Of Deliverables.** The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

**5.5.1 Patents.** As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

**5.5.2 Copyrights.** As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this paragraph shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

5.5.3 **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this paragraph shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms herein.

## 5.6 **Texas Public Information Act.**

5.7.1 All material submitted by the Contractor to the City related to the Contract shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.7.2 In accordance with Texas Government Code Sec. 552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:

5.7.2.1 Preserve all contracting information related to the Contract as provided by the records retention requirements in Section 17 (Audits and Records) of the Contract;

5.7.2.2 Promptly provide to the City any contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and

5.7.2.3 On completion of the Contract, either:

5.7.2.3.1 Provide at no cost to the City all contracting information related to the Contract that is in the custody or possession of Contractor; or

5.7.2.3.2 Preserve the contracting information related to the Contract as provided by the records retention requirements in Section 17 (Audits and Records) of the Contract.

5.7.3 The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

5.8 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

## **SECTION 6. WARRANTIES**

### 6.1 **Warranty – Price.**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

## **SECTION 7. MISCELLANEOUS**

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

### **7.2 Workforce.**

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

**7.3 Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**7.4 Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.4.6 reorganization, reduction and/or relocation in key personnel;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

**7.5 Audits and Records.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 Records Retention:

7.5.2.1 Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

7.5.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City.

7.5.3 The Contractor shall include sections 7.5.1 and 7.5.2 above in all subcontractor agreements entered into in connection with this Contract.

**7.6 Financial Disclosures and Assurances.** The City may request and review financial information as the City requires to determine the credit worthiness of the Contractor, including but not limited to, annual reports, audited financial statements and reports, bank letters of credit or other credit instruments. Failure of the Contractor to comply with this requirement shall be grounds for terminating the Contract.

**7.7 Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

**7.8 Indemnity.**

**7.8.1 Definitions:**

7.8.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.8.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.8.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.8.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

**7.8.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**7.9 Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

**7.10 Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATTN: CA's Name, Contract Administrator  
P O Box 1088  
Austin, TX 78767

To the Contractor:  
Contractor's Name  
ATTN: Name, Contract Manager  
Street Address  
City, State Zip Code

7.11 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.12 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.13 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.14 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.15 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.16 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.17 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.18 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations

under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

**7.19 Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

**7.20 Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

**7.21 Dispute Resolution.**

7.21.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.21.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

**7.22 Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

**7.23 Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.



7.24 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.25 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.26 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.27 **Incorporation of Documents. Section 0100, Standard Purchase Definitions,** is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:

[https://assets.austintexas.gov/purchase/downloads/standard\\_purchase\\_definitions.pdf](https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf)

7.28 **Order of Precedence.** The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.28.1 any exceptions to the Offer accepted in writing by the City;

7.28.2 the Supplemental Purchase Terms and Conditions;

7.28.3 the Standard Purchase Terms and Conditions;

7.28.4 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

REED BUSINESS INFORMATION INC

CITY OF AUSTIN

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed Name

Name: \_\_\_\_\_  
Printed Name

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

### List of Exhibits

Exhibit A	Pricing Agreement
Exhibit B	Non Discrimination Certification, Section 0800

EXHIBIT A  
City of Austin, Texas



December 3, 2019

Jamy Kazanoff  
Assistant Director, ABIA  
City of Austin Aviation Department  
3201A Presidential Blvd.  
Austin, TX 78719

Dear Jamy:

I am pleased to provide you with a price quote and sole source justification for a subscription to Diio Mi. The basic Diio Mi subscription includes four (4) user licenses. Here is the annual price for year 1.

**Diio MI: \$18,000/Year**

Reed Business Information, Inc is a sole source provider/manufacture of these modules all together in one web-based aviation data portal, that is critical to your airport's efforts to attract and retain flights.

Our trademarks patents are under the following serial numbers on the United States Patent and Trademark Offices website:

Diio – 8779649  
Diio Mi- 85133609  
Innovata- 3306371  
\*Diio Mi is © under RBI Inc. All rights reserved.


Reed Business Information, Inc retains the right to develop Diio Mi, and Reed Business Information, Inc currently has no resellers of the software, maintenance or subscription suppliers at this time. More information on the Unique Features and Benefits of Diio Mi appears in the following pages.

Please feel free to contact me if you have any questions about this quote. My contact info appears below. We look forward to hearing from you.

Best Regards,

Samantha Rocheleau

Account Manager  
Reed Business Information, Inc  
[samantha.rocheleau@cirium.com](mailto:samantha.rocheleau@cirium.com)  
503-821-8549

Signed By   
Name Jeremy Bowen  
Date 04-Dec-2019  
Title CEO

**EXHIBIT B**  
**City of Austin, Texas**  
**NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

**City of Austin, Texas**  
**Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy**

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

CONTRACTOR	_____
Authorized	_____
Signature	_____
Title	_____



# CIRIUM

December 3, 2019

Jamy Kazanoff  
Assistant Director, ABIA  
City of Austin Aviation Department  
3201A Presidential Blvd.  
Austin, TX 78719

Dear Jamy:

I am pleased to provide you with a price quote and sole source justification for a subscription to Diio Mi. The basic Diio Mi subscription includes four (4) user licenses. Here is the annual price for year 1.

**Diio MI: \$18,000/Year**

Reed Business Information, Inc is a sole source provider/manufacture of these modules all together in one web-based aviation data portal, that is critical to your airport's efforts to attract and retain flights.

Our trademarks patents are under the following serial numbers on the United States Patent and Trademark Offices website:

Diio – 8779649  
Diio Mi- 85133609  
Innovata- 3306371  
\*Diio Mi is © under RBI Inc. All rights reserved.


Reed Business Information, Inc retains the right to develop Diio Mi, and Reed Business Information, Inc currently has no resellers of the software, maintenance or subscription suppliers at this time. More information on the Unique Features and Benefits of Diio Mi appears in the following pages.

Please feel free to contact me if you have any questions about this quote. My contact info appears below. We look forward to hearing from you.

Best Regards,

Samantha Rocheleau

Account Manager  
Reed Business Information, Inc  
[samantha.rocheleau@cirium.com](mailto:samantha.rocheleau@cirium.com)  
503-821-8549

Signed By   
Name Jeremy Bowen  
Date 04-Dec-2019  
Title CEO



# CIRIUM

## Features and Benefits Exclusive to Diio Mi

### 1. General Features and Selling Points

Diio Mi is the most user-friendly aviation data tool on the market, allowing novice data users to access meaningful aviation data quickly and effortlessly.

- Available 24/7 with a username and password, wherever there is access to the internet
- Diio Mi subscription fees are set by number of users; it's an all-you-can-eat buffet from there—the users can choose as much or as little of each report as they like, including data on their airport or any other airports they would like to analyze
- Automatic graphing and charting capabilities available with many important reports display the data in charts for immediate placement into presentations, with users transferring data with a simple copy and paste between applications
- Dynamic Tables in each dataset allow users to design their own customized reports
- Product support by former airline route planners who are actual product users
- Continual product improvements and new features, available to users at no additional charge.
- The former airline planners at Diio designed Diio Mi to provide data and reports in formats just like current airline planners are used to seeing them
- The Top 19 airlines in North America use Diio data analysis products, as do airlines comprising 77% of the world's capacity.
- Based on the success of Diio Mi, IATA chose Diio to produce its successful DDS, PaxIS and AirportIS products, which allow access to ticket sale data worldwide
- Based on the success of Diio's work with IATA, ARC chose Diio replace its DataXpert Market Intelligence tool.

### 2. Schedule Data

Diio Mi schedules are updated every weekly, not monthly or even quarterly like some aviation data products. Access to timely information is critical in this unstable aviation environment.

- Diio Mi provides historical worldwide schedule data back to January 2000
- Diio Mi provides future worldwide schedule data out twelve months, including estimates of schedules for carriers who haven't filed that far ahead, for producing more realistic time period comparisons (OAG actually publishes that carriers have 100% capacity declines!)
- Recent Changes report, highlighting changes in future schedules weekly as carriers load them
- Flight Connection reports allows users to check connectivity in carriers' hubs airports
- The Missed Connections report will allow users to suggest improvements easily
- Worldwide schedule mapping utilities allow users to build presentations with colorful maps

### 3. United States Department of Transportation (U.S. DOT) Data

Diio Mi provides data from the U.S. DOT also found in other data sources, but its straightforward reports make analysis of complex data sources much easier for both expert and novice users, cutting straight to the pertinent data more directly than other data sources.



# CIRIUM

- The raw data is filed by operating carrier—Diio reassigns the data from each operating carrier to the mainline carriers for whom they're flying
- Origin and Destination (O&D) (DB1B) survey reports allow analysis of the data from differing views, such as at the itinerary level, by flight segment, by region, by point-of-origin, or by market share
- Diio estimates net O&D fares, as opposed to the gross fares reported in the raw data
- Airport report allows users to quickly check rankings of airports and markets
- Fare Bands report allows users to analyze the fares sold in a market at each point in the pricing spectrum, from the most expensive first class tickets to free frequent flyer seats
- The Monthly Traffic report, which breaks quarterly data into months to make seasonality analyses easier
- T-100 data and reports provide accurate and timely onboard data for every sector served in and out of the U.S., providing important capacity, onboard, load factor, and cargo data
- Form 41 data and reports provide access to analyze U.S. carrier cost and performance data
- On-Time Performance data and reports are available to assess operational performance

#### 4. Tools found only in Diio Mi

- **Route Grader** is the combines data from Schedule, U.S. DOT O&D, U.S. DOT T-100 and ancillary revenues from Form 41 and carriers' public filings to estimate fare, passenger and revenue allocations for every segment in an airline's network and then scoring from 1 to 4 to provide users one-of-a-kind access to how users' most important routes are performing. Only **Route Grader** scores route performance based on TRASM ("total revenue by available seat –mile"), the new airline standard in route evaluation.
- **Demographic Mapping** utility allows users to show off their catchment area by displaying population density, business penetration, ethnicity and average income within a user-defined range from any commercial airport in the U.S. or Canada. Diio Mi is allows users to plot data by mileage, zip code or drive-time, the only tool of it's kind on the market.
- The **Demographics Report** also allows downloading of demographic data.
- The **Catchment Mapper** allows demographics data to be displayed by drive time to the airport.



# Order Agreement

## 1) Check the details below:

Please initiate the following subscription:

Product	Quantity	Start Date	Net Price
<b>Diio Mi</b>	Number Of Users: 4	01/01/2020	18,000.00
<b>Total Price</b>			<b>USD 18,000.00</b>
<b>Contract Term:</b> 3 Year(s) 0 Month(s) 0 Day(s)			
<b>Billing Frequency:</b> Yearly			

### Special Instructions:

**IMPORTANT.** Cirium may refuse any order. Orders are accepted subject to the Terms and Conditions found at:

<https://www.cirium.com/terms-and-conditions/#subscription-services-rbi-inc> Neither these Terms, nor any order or associated Order Agreement shall be modified by any purchase order submitted by Customer, even if such purchase order is accepted by Cirium. Standard payment terms are 30 days from invoice date. The term of an order will commence on the Start Date. Except to the extent stated otherwise in an Order Agreement, each order shall renew automatically for further periods of the term stated in the Order Agreement (and if that doesn't state a term for periods of twelve (12) months) unless either party provides the other party with no fewer than thirty (30) calendar days' notice in advance of the expiry to cancel the renewal. The fees due for each renewal term shall be assessed at the then current prices for the Cirium Product ordered. Unless otherwise agreed by the parties, the Fee for any Renewal Term(s) will automatically increase by 4% per year, compounded.

If Customer receives U.S. Department of Transportation ("DOT") Origin and Destination ("O&D") Data ("DB1B Data") via the Cirium Product, below additional requirement shall apply: All U.S. users must complete their Certification to Protect Restricted Release Aviation Economic Information, which is available from Cirium or the Office of Airline Information at the DOT's Bureau of Transportation Statistics. It should be noted that Non-U.S. users do not have access to international O&D data but may access U.S. domestic O&D data.

## 2) Your company and your details:

<b>Ship To Company</b>	City of Austin Dept of Aviation	<b>Name</b>	Accounts Payable
<b>Street Address</b>	3600 Presidential Blvd Dept of	<b>Title</b>	Accounts Payable
<b>City, State, Post/Zip Code</b>	Austin TX 78719-2363	<b>Dept.</b>	
<b>Country</b>	United States	<b>Phone</b>	512-530-2242
		<b>Email</b>	abia.invoices@ci.austin.tx.us

## 3) Your Invoice address

<b>Bill To Company</b>	City of Austin Dept of Aviation	<b>Name</b>	Accounts Payable
<b>Street Address</b>	3600 Presidential Blvd Ste 411	<b>Title</b>	Accounts Payable
<b>City, State, Post/Zip Code</b>	Austin TX 78719-2510	<b>Dept.</b>	
<b>Country</b>	United States	<b>Phone</b>	512-530-2242
		<b>Email</b>	abia.invoices@ci.austin.tx.us
<b>Purchase Order No.</b>			
<b>Sales Tax Exemption Number</b>	1-74-6000085-8		

#### 4) Your name and signature

<b>Your Name</b>	_____	<b>Job Title</b>	_____
<b>Signed</b>	_____	<b>Date</b>	_____

#### 5) Please send your Order Form to:

**Sales Contact:** Samantha Rocheleau  
**Email:** samantha.rocheleau@cirium.com  
**Telephone:**  
**Post:** Reed Business Information Inc, Registered in Texas, USA  
**Number:** 76-0199035.  
**Registered Office:** 3355 West Alabama, Suite 700, Houston TX  
77098 USA  
**Payment Terms:** 30 Days

**For reference:** Invoices corresponding to this order confirmation will be submitted from Reed Business Information and addressed to your Accounts Payable Department.

#### Office Use Only

**Order Mode:** New Business  
**Opportunity Number:** 200027  
**Contract Number/Prior Contact:**



## City of Austin Purchasing Office

### Sole Source Certificate of Exemption

DATE: 12/6/19

DEPT: Aviation

TO: Purchasing Officer or Designee

FROM: Diana Heath

PURCHASING POC:

PHONE: 512 530 6341

Chapter 252 of the Local Government Code requires that municipalities comply with certain competitive solicitation procedures before entering into a contract requiring an expenditure greater than \$50,000, unless the expenditure falls within an exemption listed in Section 252.022 or other applicable law.

Refer to Local Government Code 252.022 for a complete list of exemptions:

[Link to Local Government Code](#)

This Certificate of Exemption must be complete, fully executed, and filed with the City Purchasing Office.

The City has deemed this procurement to be exempt from the competitive solicitation requirements of LGC Chapter 252 based on the following facts:

1. The undersigned is authorized and certifies that the following exemption is applicable to this procurement.

Please check the criteria listed below that applies to this sole source request:

- ☒ Items that are available from only one source because of patents, copyrights, secret process, or natural monopolies.
- ☐ Films, manuscripts or books that are available from only one source.
- ☐ Gas, water and other utilities that are available from only one source.
- ☐ Captive replacement parts or components for equipment that are only available from one source.
- ☐ Books, papers and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials.
- ☐ Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

2. Describe this procurement including the following information as applicable:

- What it is for and why it is needed? Aviation data tool that provides internal staff direct access to significant aviation data in support of the Austin Airport's air service development program. Staff will use the schedules data, Department of Transportation data, Route Grader and performance reports to compile and analyze data for AUS market and enhance business cases for new routes and maintaining existing routes. Additionally, staff will have access to data on other airports of interest to provide competitive advantage for AUS.
- What is the municipal purpose that this procurement addresses or furthers? Analyze data for the Austin Airport market and enhance business cases for new routes and maintaining existing routes. This data is used to solicit airlines for new air services routes into and out of the Austin Airport and to show need to retain existing routes.
- Why is the procurement a sole source? Reed Business Information, Inc. is a sole source provider/manufacture of these modules all together in one web-based aviation data portal. Reed Business Information holds the following patents for this product: Diio – 8779649, Diio Mi- 85133609, Innovata- 3306371. Reed Business Information, Inc. retains the right to develop Diio Mi, and Reed Business Information, Inc. currently has no resellers of the software, maintenance or subscription suppliers at this time.
- Has this procurement or a similar procurement been competitively solicited in the past? No
- Why is the vendor the only viable solution? No other service provides the comprehensive data set.
- Are there any other alternative solutions? If so, why are those alternatives unacceptable? No other service provides the comprehensive data set and features for the Diio Mi subscription service.
- Is there a concern regarding warranty, compatibility, and/or routine safety? NA
- Are there territorial or geographic restrictions for the product distribution and sale? No
- Are there other resellers, distributors, or dealers in the market? No. The parent company, Reed Business Information, Inc. is a sole source provider/manufacture of these modules all together in one web-based aviation data portal, that is critical to your airport's efforts to attract and retain flights.
- What other suppliers or products/services were considered? Other sources do not provide the same information in a single portal. Therefore would require the Airport to purchase multiple subscriptions and aggregate the data.
- If the product is designed to be compatible with existing equipment/item/system, describe the age, value and useful life remaining of the current equipment/item/system. What is the estimated cost of buying new equipment/item/system? What is value of buying the addition versus buying all new? NA
- Is there a way to retrofit another brand? What is this estimated associated cost? NA
- What specialized training or certifications are necessary to maintain or repair the equipment/item/system? Is it specific to the proposed vendor? NA
- **Prices were determined to be reasonable based on the following (select all that apply):**
  - ☐ Prices are the same or similar to current City contract.  
Notes: At a minimum, note the City of Austin contract number and title.
  - ☐ Prices are the same or similar to current contract with another government.  
Notes: At a minimum, note the contract number, title and government that created the contract.
  - ☐ Prices are on a current and publicly available list price, for the same or similar products, available to all government and commercial customers.  
Notes: At a minimum, note the list price title, source of the list price (catalog and catalog publish date or web address and download date).
  - ☐ Prices are established by law or regulation.  
Notes: At a minimum, note the legal or regulatory reference that established the prices.
  - ☒ Other means of determining Price Reasonableness.  
Notes: Pricing is the same for same services contracted at other airports.

This request is for a 3 year contract with Cirium (Reed Business Information) for subscription services to Diio Mi aviation data tool that provides Airport staff direct access to significant aviation data in support of the Austin Airport's air service development program. Staff will use the schedules data, Department of Transportation data, Route Grader and performance reports to compile and analyze data for the Austin market and enhance business cases for new routes and for maintaining existing routes. Additionally, staff will have access to data on other airports of interest to support Austin's need for additional air service.

The parent company, Reed Business Information, Inc. (RBI), is a sole source provider/manufacture of these modules all together in one web-based aviation data portal that is critical to the Airport's efforts to attract and retain flights. RBI's holds the following patents on these modules:

Diio – 8779649

Diio Mi- 85133609

Innovata- 3306371

Reed Business Information, Inc. retains the right to develop Diio Mi, and Reed Business Information, Inc. currently has no resellers of the software, maintenance or subscription suppliers at this time.

Diio Mi is the only service of its kind that includes the following tools:

- Route Grader - Combines data from Schedule, U.S. DOT O&D, U.S. DOT T-100 and ancillary revenues from Form 41 and carriers' public filings to estimate fare, passenger and revenue allocations for every segment in an airline's network and then scoring from 1 to 4 to provide users one-of-a-kind access to how users' most important routes are performing. Only Route Grader scores route performance based on TRASM ("total revenue by available seat -mile"), the new airline standard in route evaluation.
- Demographic Mapping utility allows users to show off their catchment area by displaying population density, business penetration, ethnicity and average income within a user-defined range from any commercial airport in the U.S. or Canada. Diio Mi is allows users to plot data by mileage, zip code or drive-time, the only tool of it's kind on the market.
- The Demographics Report also allows downloading of demographic data.
- The Catchment Mapper allows demographics data to be displayed by drive time to the airport.



3. Forward the completed and signed Certificate of Exemption to the Purchasing Office along with the following documentation:

- ☐ Scope of Work or Statement of Work or Vendor Proposal
- ☐ Vendor's Quote
- ☐ Project timeline with associated tasks, schedule of deliverables or milestones, and proposed payment schedule
- ☐ Vendor's or Manufacturer's (if vendor is a sole authorized distributor) sole source letter: less than 6 months old, signed by an authorized representative, and on company letterhead, should clearly state they are the sole provider and explain why

4. Based on the above facts and supporting documentation, the City of Austin has deemed this procurement to be exempt from competitive procurement requirements pursuant to Texas Local Government Code section 252.022(7) and will contract with:

Reed Business Information, Inc for 3 year subscription for 4 users to Diio Mi  
aviation data tool.

5. Check the contract type (one-time or multi-term) and fill in the dollar amount and term as applicable:

- ☐ This is a one-time request for \$ \_\_\_\_\_
- ☒ This is a multi-term contract request for 12 months for base term in the amount of \$18,000.00 with 2 renewal options) for \$ 18,000.00 each for a total contract amount of \$ 54,000.00.

Recommended  
Certification

Originator

Date

Approved  
Certification

Department Director or designee

Date

(For Austin Energy, Deputy General Manager or designee)

Assistant City Manager or designee\*

Date

(For Austin Energy, General Manager or designee\*)

\* Only needed for procurements requiring Council approval)

Purchasing Office  
Review

Authorized Purchasing Office Staff

Date

Purchasing Office  
Management Review  
(If required due to signature authority level)

Purchasing Officer or designee

Date