Revised 6/22/16

Technical Advisory Group Recommendation

Meeting Date: 6/16/2016

RECOMMENDATION FOR ACTION:

The Technical Advisory Group has reviewed and recommend approval of the following Contract Action(s).

SUMMARY OF CONTRACTING ACTION:

The Owner's Representative has reviewed and recommends the following Contract Action(s):

List description of Contract Action(s):

Aconex

Service Agreement and Phase 2 Services Order ***$1,322,146***

- Eight year Services Agreement and Service Order for Multi-party platform use on the F-M Flood Diversion Program during design, pre-construction, and construction

Summary of Contracting History and Current Contract Action:

Original Agreement or Amendment	Budget ($) Change	Previous Project Cost	Revised Project Cost	Agreement Execution Date	Project Completion	Comments
Original Agreement	$1,322,146	0.00	$1,322,146	23-Jun-16	23-Jun-24	Aconex multi-party document control platform

BACKGROUND:

The Program Management Consultant (PMC) is tasked with implementing an Electronic Data Management System to manage the program record for the FM Metro Flood Diversion Project (Project). During the winter of 2015/2016 the PMC identified several barriers to effective management of the program record and identified Aconex as an efficient and cost effective tool for management. In February 2016 the Diversion Authority (DA) provided concurrence with the PMC's recommendation to implement Aconex for program record management in a two phase approach.

The PMC has operated under a Phase 1 service order with Aconex to configure Aconex for utilization on the Project with a focus on construction project document processes. A Phase 1 Findings Report documents the scope of those services and measures the successful configuration and implementation of this tool for multiple construction projects. The PMC recommends that the DA continue with the Phase 2 service order with Aconex as the document management tool for the Project based on the results of the evaluation and the following key points:

- Aconex has been adopted by the construction contractors and other project participants and been demonstrated as an effective tool managing construction RFI's, construction submittals, and invoices.
- The attached Cumulative Project Activity Report demonstrates that participants are accepting and utilizing the tool.
- Utilization of the tool has significantly reduced the level of effort for RFI, submittal, and invoice review by automating the communication in the review process and gives an auditable record with data generated by the automated process to facilitate robust tracking and reporting.

- Demonstrated effectiveness of tool in bid and tender which will support the Public Private Partnership (P3) procurement
- The PMC has invested time in configuration and training, and to develop system guides that unite project management, contract management, deliverables management, in a way that improves our ability to measure and report contract compliance verification and therefore to ensure the scope required for successful delivery is being performed.
- The agreement terms and conditions have been reviewed by the DA's legal counsel. Counsel identified and negotiated changes to the duration of the agreement (changed from duration of project to duration of service agreement (8 years), and cancellation of services (services can be cancelled if project is cancelled).

Additional work will be performed by the PMC during Phase 2 implementation to configure the tool for the P3 contract, and for construction and non-construction related processes. The current schedule for full implementation identifies the following processes or document types to address through configuration:

- Meeting Minutes
- Construction Progress Reports
- Procurement
- Change Management
- Construction Quality Documentation
- Survey Data
- Correspondence Processing
- Design Submittal Review
- Safety Documentation
- Schedule Management and Reporting
- Cost Management and Reporting
- System Administration
- On-Boarding

It is anticipated that the configuration effort by the PMC for the above mentioned items will be complete by October 2016, and that task completion will include preparation of process flow charts, workflow process in Aconex if applicable, a review matrix by project for each process, written procedure, internal PMC and external reports for administration and contract compliance, and training to project participants.

DISCUSSION:

This agreement provides the Aconex document management platform service for a period of 8-years to the DA. This includes a local copy of the program record on a server owned by the DA.

Budget Detail:

Task Number	Activity ID	Total ($)	Amendment
Years 1 and 2	SW-1150	306,856	**Original Contract**
Years 3 and 4	SW-1150	306,856	
Years 5 and 6	SW-1150	354,217	
Years 7 and 8	SW-1150	354,217	
Total		**1,322,146**	

The PMC recommends this cost proposal for 8-years of service for a total commitment of $1,322,146.

This change amount of $306,856 is **not** included in the FY-2016 FMDA budget.

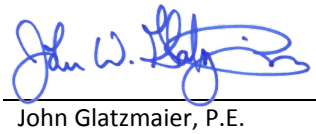
ATTACHMENT(S):

Aconex Terms of Service Agreement (revised June 22, 2016)

Service Order – Phase 2

Cumulative Project Activity Report

Submitted by:



John Glatzmaier, P.E.
CH2M
Project Manager
Metro Flood Diversion Project

June 22, 2016
Date

Keith Berndt, Cass County Administrator
Concur: *June 22, 2016** *Non-Concur:* _____

April Walker, Fargo City Engineer
Concur: _____ *Non-Concur* _____

Mark Bittner, Fargo Director of Engineering
Concur: *June 22, 2016** *Non-Concur:* _____

Jason Benson, Cass County Engineer
Concur: _____ *Non-Concur* _____

David Overbo, Clay County Engineer
Concur: _____ *Non-Concur:* _____

Robert Zimmerman, Moorhead City Engineer
Concur: *June 22, 2016** *Non-Concur* _____

Nathan Boerboom, Diversion Authority Project Manager
Concur: *June 22, 2016** *Non-Concur:* _____

** Per the TAG meeting discussion on June 21, 2016, present members concurred with the recommendation to approve pending completion of legal counsel review. Legal counsel review of the agreement terms and conditions was completed on June 22, 2016.*

ACONEX TERMS OF SERVICE AGREEMENT

(AMERICAS)

This Master Services Agreement is entered into as of the Effective Date 24 June 2016 by and between Aconex (North America) Inc. 250 Montgomery Street, 10th Floor, San Francisco, CA 94104 and the Metro Flood Diversion Authority 211 Ninth Street South, Box 2806, Fargo, ND 58108, and this Agreement will be applicable only for the Services Order for the Fargo Moorhead Flood Diversion Program – Phase 2.

All users of Aconex's cloud-based, collaborative project management and document management software platform and associated services (as more particularly described below, collectively, the "Services") must review and accept this Terms of Service Agreement ("Agreement") prior to using such Services. As more particularly specified in this Agreement, users of the Services are divided into two categories, Paying Organizations and Non-Paying Organizations. A "Paying Organization" is an individual or entity that has executed an Aconex Services Order (defined below) and is responsible for paying fees to Aconex for use of the Services. A "Non-Paying Organization" is an individual or entity that has been invited by a Paying Organization to use the Services in connection with a collaborative project. Some provisions of this Agreement apply only to Paying Organizations, some provisions apply only to Non-Paying Organizations. As a result, this Agreement has been separated into two parts that contain those provisions applicable to Paying Organizations and those applicable to Non-Paying Organizations. If you are unsure whether you or your organization is a Paying or Non-Paying Organization, or you have other questions about this Agreement, please contact Aconex's Legal Department by either calling 1-888-5-ACONEX within North America or by sending an email addressed to legal@aconex.com (worldwide), prior to using the Services. You and the organization you are representing (hereinafter collectively, "you" or "Client") may not use the Services without first accepting this Agreement. Your organization's acceptance will be deemed to occur on the earlier of the following events: (a) if your organization is a Paying Organization, upon its execution of the applicable Services Order, (b) your clicking the online "Accept" button below, or (c) your organization's use of the Services. You should print or otherwise save a copy of this Agreement for your records.

Irrespective of whether an Aconex customer is a Paying Organization or a Non-Paying Organization, Aconex's policy is to provide equal rights and protections with respect to the data that is uploaded or stored by such customer in connection with their use of the Services.

As more particularly described below, the following protections are provided by Aconex to Paying Organizations and Non-Paying Organizations alike:

- Ownership rights do not change when data is uploaded and stored on Aconex–controlled systems.
- Aconex will, in all cases, provide at least 14 days' notice before terminating the Services of a Non-Paying Organization, to allow the individual or organization to preserve continuity of access to the Services, such as to enable the Non-Paying Organization to become a Paying Organization, or by allowing an organization to purchase data archive services or a copy of their data from Aconex.
- Upon termination of the Services, Aconex will retain an organization's data for a minimum of 12 calendar months from the date of termination ("Retention Period"). During the Retention Period, the individual or organization may purchase data archive services or a copy of their data from Aconex.
- Aconex will use commercially reasonable efforts to limit Platform Downtime to less than sixty-six (66) minutes during either Business Hours or After Hours (each defined below).

The following provisions operate differently depending on whether Client is a Paying Organization or a Non-Paying Organization. As more particularly defined below, Client is a Paying Organization in connection with a particular Project when it has executed an Aconex Services Order in connection with that Project, or has otherwise committed to paying fees to Aconex for the Services delivered in connection with that Project. Please note that a particular organization may be a Paying Organization on one project, and a Non-Paying Organization on another.

PROVISIONS APPLICABLE TO PAYING ORGANIZATIONS

1. DEFINITIONS

The capitalized terms set forth below shall have the following meanings for the purposes of this Agreement:

1.1. "Acceptable Use Policy" means the Aconex Acceptable Use Policy applicable to the Services, which is available for review and download on the Platform login page and the Aconex corporate web site.

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1.2. **"Aconex"** means the Aconex-affiliated entity specified on the Services Order or if none, Aconex (North America) Inc., a company incorporated in the State of New York, and, unless expressly included in the Agreement, excludes any Aconex Affiliates.

1.3. **"Aconex Affiliate"** means (a) Aconex Limited (ABN 49 091 376 091), a company incorporated in Australia; (b) any entity controlling or controlled by Aconex Limited; and (c) any entity under common control with Aconex Limited, for so long as such common control continues to exist, where control means ownership either directly or indirectly of not less than 50% of the voting shares.

1.4. **"Client"** means CH2M HILL, INC. While CH2M Hill, Inc. is the entity entering into this Agreement, the intent of the parties is that future Services Orders entered into by the Client or its business units, groups, divisions, subsidiaries, joint ventures and affiliates, and all of the business units, groups, divisions, subsidiary, joint ventures, and affiliates of its parent company, CH2M HILL Companies, Ltd. will be subject to these terms and conditions.

1.5. **"Client Affiliate"** means any entity that directly or indirectly controls, is under common control, or is controlled by Client. For purposes hereof, "control" shall mean, with respect to any entity, the legal, beneficial, or equitable ownership directly or indirectly, of greater than fifty percent (50%) of the voting securities or other equity interest, or such lesser percentage that is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction.

1.6. **"Aconex Reseller"** means an entity authorized by Aconex to market, sell, offer or deliver some or all of the Services.

1.7. **"Business Day"** means a day that is not a Saturday, Sunday or holiday observed by Aconex in the United States.

1.8. **"Client Data"** means data related to a Project that the Paying Organization uploads to or transmits via the Platform and includes first level metadata (such as the time, date, distribution parties relating to a specific document or item of correspondence on any Hosted Platform) but excludes secondary metadata (such as the structure of database tables within the Platform code and folder structures established on the Platform).

1.9. **"Confidential Information"** means any non-public information disclosed by either Party to the other Party in writing pursuant to this Agreement, which is designated as "confidential" or "proprietary" (or with a similar legend), or that is disclosed orally and confirmed in writing as confidential within a reasonable time. Even if not so marked, the Parties agree that Client Data, any non-public components of the Platform and Services, and the terms of this Agreement (including, without limitation, any Services Order) are Confidential Information.

1.10. **"Data Archive"** means the Optional Services Aconex offers relating to the continued preservation and access to Client Data following termination of a Project or termination of Services, as described in Sections 3.2.1 and 3.2.2.

1.11. **"Effective Date"** means the earlier of the date the Paying Organization accepts this Agreement or the date stipulated in the Services Order.

1.12. **"Fees"** means the amounts(s) payable by a Paying Organization to Aconex pursuant to this Agreement for all the Paying Organization's and all Non-Paying Organizations' access to and use of the Services with respect to a Project, as specified in the applicable Services Order and this Agreement. Fees may be payable on a one time basis (e.g., implementation fees for configuring and deploying the Services or a lump sum payable in advance use of the Services) or on a recurring basis (e.g., monthly or other periodic fees for use of the Services), or any other basis agreed upon in writing by Aconex and the Paying Organization.

1.13. **"Force Majeure Event"** means any forces of nature, disruptions to the internet infrastructure, public bandwidth shortages, industrial action, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemics, lock-outs, strikes and action or inaction by a government agency (including any quasi-government agency) which causes a Party to be prevented or delayed in performing its obligations.

1.14. **"Gross Negligence"** means a grossly negligent act or omission that arises due to a wilful and reckless disregard of an obvious risk by the negligent party in circumstances where the relevant act or omission is clearly a substantial departure from the standard of care that would ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances as the negligent person

1.15. **"Intellectual Property Rights"** means patents, copyrights, trademarks, trade secrets, and all other proprietary rights recognized in any jurisdiction worldwide, and all applications and registrations therefore.

1.16. **"Materials"** means all manuals, data, documents, and information that are prepared, written, made accessible, provided or developed by Aconex or its licensors in connection with the Services, including help desk and technical support documentation.

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1.17. "Monthly Fee" means the monthly Fee(s) for Services as specified in any Services Order. If (a) the Fees for any Services are partly or fully payable up front, or (b) the Fee(s) for any Services are partly or fully payable on a periodic basis other than monthly, then in both cases Monthly Fee means the amount calculated by dividing the total Fees by the number of months covered by the Services Order.

1.18. "Non-Paying Organization" means any organization that is invited and/or authorized by the Paying Organization to use the Services with respect to a Project by the Paying Organization, has accepted this Agreement and is not required under a Services Order to pay Aconex or an Aconex Reseller for access to and use of the Services.

1.19. "Optional Services" means the services specified in Section 3.2.

1.20. "Party" means either Aconex or the Paying Organization as the context dictates, and "Parties" means Aconex and the Paying Organization, as the context dictates.

1.21. "Paying Organization" means the entity specified as the contracting party (other than Aconex) in a Services Order, or if no Services Order was executed, the entity delivering a purchase order for Services, as described in Section 18.12.

1.22. "Platform" means the object code version of the computer software application(s) owned by or licensed to Aconex that is made available by Aconex or its agents to Paying and Non-Paying Organizations in connection with this Agreement, together with any associated Materials. The Platform also includes any upgrades, improvements, bug fixes, new versions and/or derivative works of such software or Materials.

1.23. "Platform License" means each license to access and use the Platform granted to the Paying Organization under this Agreement.

1.24. "Price List" means Aconex's standard price list for Services provided directly to its customers, as may be changed from time to time at Aconex's discretion and which is available from Aconex.

1.25. "Privacy Policy" means the Aconex Privacy Policy, which is applicable to data received by Aconex from Aconex customers and users of its web sites, and which is available for review and download on the Platform login page and the Aconex corporate web site.

1.26. "Project" means the collaborative project identified by the Paying Organization in the Services Order, subject to the scope and/or any other limitations specified in such Services Order

1.27. "PST" means Pacific Standard Time.

1.28. "Services Order" means an Aconex-approved order form with respect to a Project that is executed by Aconex or an Aconex Reseller and a Paying Organization that relates to the provision of the Platform and Services by Aconex or its agents to the Paying Organization and all Non-Paying Organizations under this Agreement. Each Services Order is incorporated into this Agreement by this reference. Notwithstanding the foregoing, the Services Order may also form a separate agreement between a Paying Organization and an Aconex Reseller, e.g., with respect to payment terms, etc. ("Extraneous Terms"). Extraneous Terms are not incorporated into this Agreement.

1.29. "Services" means the Platform and the associated services described in Section 3.

1.30. "Wilful Misconduct" means:

(a) an act or omission by a Party or any of its Personnel which is carried out intentionally or in wanton or reckless disregard, which act or omission the Party or its Personnel executing or authorising such act or omission, knew or ought reasonably to have known:

(i) was wrongful; or

(ii) failed to meet the standard of care which a reasonable person in the position of that Party or its Personnel would have exercised,

and which would be likely have harmful consequences for the other Party, but does not mean any innocent act, omission, mistake or error of judgement, by a Party or any of its Personnel acting in good faith.

2. TERM

The term will be for the duration ~~Unless otherwise~~ specified in a Services Order~~,~~ ~~the term of Services applicable to a Project will be tied to the duration of the Project.~~ The term of Services applicable to a Project commences upon the Paying Organization's execution of the Services Order~~,~~ ~~or equivalent commitment delivered in the manner specified in Section 18.12.~~

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Unless terminated earlier by either Party as permitted under this Agreement, the Service term applicable to a Project will expire ~~upon the earlier of the completion or termination of the Project, or~~ in accordance with the terms of the Services Order. Notwithstanding the foregoing, in the event that Client purchases online data archive Services described in Section 3.2.1, then the term of this Agreement shall be extended for the duration of Client's receipt of such Services.

3. SERVICES

3.1. Standard Services and Delivery Schedule. In consideration of the Paying Organization's timely payment of all applicable Fees and compliance with the terms and conditions of this Agreement, Aconex will, during the applicable service term, provide the Paying Organization and all Non-Paying Organizations with those of the following Services ("Standard Services") as are specified in the Services Order, pursuant to the terms and conditions of this Agreement. Optional Services may also be requested from Aconex, which if accepted by Aconex, will be subject to the payment of additional Fees and may be subject to a separate Services Order, at Aconex's option. Aconex will use commercially reasonable efforts to provide the Services according to any schedule agreed in the Services Order.

3.1.1. Platform License. A non-exclusive, non-transferable, restricted Platform License for the term specified in Section 2, to access and use the functionality available within the modules of the Platform expressly included in the Services Order (subject to any restrictions specified in the Services Order) solely in support of the Project, within the scope specified in the Services Order, and in accordance with and subject to any specifications set forth in the Materials.

3.1.2. Hosting Services. Making the Platform available for use via the public Internet, including unlimited data transmission by the Paying Organization and all Non-Paying Organizations to and from the Platform (subject to limitations set out in the Acceptable Use Policy), and unlimited storage of Client Data related to the Project during the applicable term of Services.

3.1.3. Implementation Services. One or more group sessions with key stakeholders (designated by the Paying Organization, acting reasonably and taking into account Aconex's suggestions) who have primary responsibility for the success of the Project, or their designees, to define critical parameters for use of the Services, resulting in the preparation of a "Project Instruction" document which summarizes how the Paying Organization and all Non-Paying Organizations should use the Platform with respect to the Project, and includes guidelines for establishing appropriate Project processes such as document numbering conventions and version control rules.

3.1.4. Training Services. The provision of one-to-many training modules delivered over the Internet or at a designated site, which site must be approved by Aconex in advance. In the event that Client requests that training be provided at a designated site (other than Aconex's offices) and Aconex agrees, the Paying Organization will reimburse Aconex for its reasonable travel and living expenses actually incurred in delivering such training. All travel and living expenses will need to be listed on the Aconex Service Order and CH2M will provide an approved purchase order prior to training services being provided.

3.1.5. Maintenance and Support Services. Email and telephone help desk support provided to designated Paying Organization personnel, to assist the Paying Organization's end users to access and use the Platform on a 24/7 basis, provided in English and any other languages specified in the Services Order. Also included is access to a web-based support center (English only) and maintenance updates and improvements to the Platform.

3.2. Optional Services.

3.2.1. Online Data Archive. Following completion of a Project or termination of Services applicable to a Project, provided that such termination was not attributable to the Paying Organization's material breach, the Paying Organization may purchase a Platform License to access the Platform and use the functionality available on the Platform with respect to a Project in the manner specified in Section 3.1.1, except that the Paying Organization may not: (1) instruct Aconex to grant Non-Paying Organizations access to the Platform with respect to such data; (2) add new users; (3) share, transmit or send such data to other organizations; or (4) use the Platform to collaborate with users outside of the Paying Organization's organization, with respect to such Project.

3.2.2. Offline Data Archive. Following completion of a Project or termination of Services applicable to a Project, provided that such termination was not attributable to the Paying Organization's material breach, the Paying Organization may purchase a copy of the Client Data from the Project specified on the Services Order, on a digital media and in a format that may be viewed using the software applications that created the files that make up the Client Data.

3.2.3. Fax line. Installation and configuration of an inbound and outbound fax capability.

3.2.4. Local Copy Services. A restricted license to use the Aconex local copy utility (Local Copy) for one nominated Paying Organization user. For the duration of the Project, Local Copy will incrementally transmit a copy of the Paying Organization's Client Data to an accessible network location designated by the Paying Organization.

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3.2.5. Other Services. Any products or services, other than the Services specified in this Section, that Aconex makes available to its customers for a fee.

3.3. Cancelling Services Provided that it has complied with Section 6 (Fees) at the date of cancellation, the Paying Organization may cancel the Services specified in a Services Order at any time upon 960 days' prior written notice to Aconex in the event that, for reasons outside of the Paying Organization's control, the project is permanently cancelled, ~~which notice must be delivered to Aconex within the first 90 days of the initiation of such Services~~in which case the Paying Organization will be responsible for payment of fees invoiced prior to the effective date of cancellation.

~~3.3.~~3.4. The Paying Organization's Responsibilities

~~3.3.1.~~3.4.1. Confidentiality of Username and Password. The Paying Organization is responsible for maintaining the confidentiality of the access credentials (e.g., username and password) used by it and/or its end users to access the Services and agrees that it will not share access credentials among users or disclose those credentials to any third party.

~~3.3.2.~~3.4.2. Use of Data. The Paying Organization acknowledges that by transmitting and receiving data to and from the Platform, the Paying Organization is making information available for the use of the other authorized users of the Platform that are participating in the Project ("Project Participants") and the retraction of such information may negatively affect those Project Participants. Aconex may, as a condition to complying with any request to retract or delete data from the Platform, require the Paying Organization to comply with Aconex's reasonable risk mitigation requirements.

~~3.3.3.~~3.4.3. Other Obligations. The Paying Organization understands and acknowledges that Aconex's ability to provide the Services is dependent on the Paying Organization and each Non-Paying Organization undertaking any agreed or necessary obligations required to facilitate the delivery of the Services. The Paying Organization acknowledges that failure to perform any such obligations may result in a failure to receive Services, which shall not relieve the Paying Organization of any obligation to pay Fees.

4. CLIENT DATA

4.1. Ownership. The Paying Organization retains all of its right, title and interest in and to its Client Data, and ownership of such Client Data shall not be transferred to Aconex under this Agreement.

4.2. Right to Use. The Paying Organization grants Aconex a nonexclusive license to use Client Data to deliver Services to authorized users of the Platform, solely in connection with the Project. The Paying Organization further grants Aconex a nonexclusive, worldwide, perpetual license to use Platform usage data (such as, by way of example and not by way of limitation, numbers of documents uploaded) in an aggregated form that does not identify individual persons or organizations, in order to compile statistics regarding use of the Services and/or to improve the Services.

4.3. Data Archives. Upon termination of the Services, Aconex will retain the Paying Organization's data for a minimum of 12 calendar months from the date of termination ("Retention Period"). Provided that the termination of Services is not attributable to the Paying Organization's material breach, the Paying Organization may, during the Retention Period, purchase Data Archive services, subject to its payment of fees to Aconex at the rates specified in the Services Order (or if no rates are specified in the Services Order, the fees specified in the Price List). Aconex will not be liable for any damages of any kind in connection with its decision to not retain Client Data after the expiration of the Retention Period.

4.4. Warranty regarding Client Data and Use of the Services. The Paying Organization warrants that (a) it has appropriate and sufficient rights in Client Data, and (b) neither Aconex's use, processing and/or storage of Client Data in accordance with this Agreement nor the Paying Organization's use of Client Data as contemplated hereunder will violate applicable laws or this Agreement. Aconex is not obligated to screen Client Data, although Aconex reserves the right to screen Client Data and to suspend access to Client Data without warning that Aconex reasonably considers may breach this Agreement or any applicable law. Aconex will notify the Paying Organization as soon as practicable if Aconex suspends access to any Client Data and will restore access to such Client Data as soon as, in Aconex's reasonable opinion, doing so would not place Aconex at risk of loss or damage. Aconex is not liable for any damage or loss caused by Aconex's decision to suspend access to Client Data. The Paying Organization is entirely responsible for the content and delivery of Client Data, including without limitation, the accuracy, usefulness, timeliness and completeness of Client Data. The Paying Organization is responsible for ensuring Client Data is correctly addressed and on-time and does not represent a breach of any obligations to a third party or of law.

5. PLATFORM SERVICE CREDITS

The credits specified in the table below are, to the extent permitted by law, the Paying Organization's sole and exclusive remedy with respect to any unavailability of the Platform. Aconex will meet or exceed an availability service level of 99.85%.

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Business Hours		After Hours	
Between 9:00 am and 5:00 pm (PST or Relevant Location) Monday to Saturday during a calendar month.		Between 5:00 pm and 9:00 am (PST or Relevant Location) Monday to Saturday and 00:00 to 24:00 on Sundays during a calendar month.	
Downtime During Business Hours ("DBH") (minutes)	Credit as a % of the Relevant Monthly Fee	Downtime After Hours ("DAH") (minutes)	Credit as a % of the Relevant Monthly Fee
Less than 66	0%	Less than 66	0%
66 to 668	2%	66 to 668	0%
669 to 1337	5%	669 to 1337	0%
1338 to 4463	8%	1338 to 4463	2%
4464 or greater	12%	4464 or greater	5%

Downtime shall be calculated on a calendar month basis, in accordance with the following 2 formulae:

DBH = TDBH - E

DAH = TDAH - E

Relevant Location' means the relevant location of the Platform, if the Services Order specifies a location other than the United States.

The following additional terms and conditions apply to this Section: Downtime: Aconex will test the Platform to assess uptime every 3 minutes. "Downtime" means the period beginning at the time the Platform does not give a valid response to 2 consecutive Aconex tests and continues until the Platform returns a valid response. TDBH: "TDBH" means total Downtime during Business Hours in a calendar month; TDAH: "TDAH" means total Downtime After Hours in a calendar month; E: "E" means excusable downtime which includes all of the following: (i) Downtime of an aggregate total of 30 minutes in any two-week period necessary to conduct regular software and hardware updates to the Platform, including bug fixes and patches; (ii) Downtime which is out of Aconex's control due to a Force Majeure Event and the first 30 minutes of any emergency, and; (iii) Downtime required as a result of a critical security breach. Any credit available to a Paying Organization under this Section will be calculated as a proportion of the Monthly Fee and be applied against the Fees payable for the month following the month in which the triggering Downtime occurred. The Paying Organization must claim any credit by sending notice of the same to Aconex within 10 Business Days of the end of the calendar month in which the Downtime occurred. Aconex is not required to provide a credit for Downtime claims that are not presented in writing within the time limit specified above. In the event that Fees are not payable by the Paying Organization, Aconex will provide an equivalent credit note.

6. FEES, PAYMENT TERMS AND INSPECTION

6.1. **Fees.** The Paying Organization shall pay Fees to Aconex for use of the Services in accordance with the following terms of payment: (a) in advance, and in accordance with any payment schedule contained in the Services Order or as otherwise specified in Section 18.12; (b) by the means and to the bank account stipulated on the invoice; (c) within 60 calendar days of the date CH2M receives Aconex's non-disputed invoice. Except as expressly specified in a Services Order, all Fees shall be non-refundable. All invoices to be sent to the "bill to" email address or physical address on the purchase order provided to Aconex by the Paying Organization.

6.2. **Disputed Invoices.** If the Paying Organization in good faith disputes the whole or any portion of the amount claimed in an invoice submitted by Aconex, Aconex will cancel the original invoice and re-issue a new invoice for the undisputed amount. . If it is resolved that some or all of the amount in dispute ought properly to have been paid, then Aconex will re-issue a second invoice for the disputed amount for payment by the Paying Organization.

6.3. **Change in Scope or Law**. Without prejudice to any other rights Aconex may have in the circumstances, if the Paying Organization is, in Aconex's reasonable discretion, using the Services outside of the scope identified in a Services Order, or outside the Scope of the Project, or if the scope of a Project materially increases, or there is a change in the law that materially affects Aconex's cost of delivering the Services, Aconex may charge the Paying Organization additional Fees for use of the Services, which additional Fees shall be proportional to the additional scope of use or increased cost, as determined in Aconex's sole reasonable judgment. If the Paying Organization objects to such increased Fees, then Aconex may at its discretion, either (a) require the Paying Organization to discontinue any excess or prohibited use of the Services, or (b) terminate all Services specified under this Agreement on not less than 30 days' written notice to the Paying Organization. Any and all services provided to CH2M must be approved and a valid purchase order provided to Aconex before any additional services are performed.

6.4. **Taxes.** (a) Aconex will bear and pay all applicable taxes of any country, including any political subdivision of any of them, if the tax is based on or measured by Aconex's gross receipts or net income, or payment of which is required to maintain a legal existence or a general right to transact business within the taxing jurisdiction, or based on Aconex's payroll or personal property used or consumed in the provision of the Services (b) Paying Organization agrees to pay all other taxes,

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including without limitation any value added tax and sales and use tax (including any gross receipts tax imposed similar to a sales and use tax, including withholding tax) imposed by any foreign, national, state or local taxing authority with respect to Aconex's delivery or Paying Organization's or Non-Paying Organizations' receipt of the Services and or the payment of Fees under this Agreement. If Aconex is required to collect any value added tax or sales and use tax on behalf of any taxing jurisdiction, Aconex will provide to the Paying Organization invoices which separately state and clearly indicate the amount of tax, and the Paying Organization will remit any such tax to Aconex. The parties will cooperate in good faith to minimize such tax to the extent legally permissible.

6.5. Currency. Unless otherwise specified in the Services Order, all amounts specified to be paid under this Agreement shall be in US Dollars.

7. INSPECTION.

On reasonable notice and not more than once annually, the Paying Organization will allow an independent third party selected by Aconex and reasonably acceptable to the Paying Organization to verify that it is using the Platform solely in connection with the Project, and is not otherwise using the Service in a manner that violates this Agreement (each, an "Inspection"). The Paying Organization shall reasonably cooperate with each Inspection and shall provide access to relevant documentation and records, for the purpose of confirming its compliance with the terms of this Agreement. Any information disclosed by the Paying Organization in connection with an Inspection shall be Confidential Information, except to the limited extent necessary for Aconex to enforce its rights under this Agreement.

8. ACCEPTABLE USE OF SERVICES

The Paying Organization and its end users shall use the Services solely in accordance with this Agreement, all applicable laws and the Acceptable Use Policy. Aconex may modify the Acceptable Use Policy at its sole discretion and such modifications shall be effective upon their publication on the Platform or Aconex's web site. If there is any conflict between the Acceptable Use Policy and this Agreement, then the Acceptable Use Policy shall take precedence.

9. CONFIDENTIALITY

9.1. Obligation. Both Parties acknowledge that Confidential Information disclosed by either Party pursuant to this Agreement may constitute valuable trade secrets of the disclosing Party. Each Party agrees to use the other Party's Confidential Information solely in accordance with the provisions of this Agreement and not to disclose, or permit to be disclosed, either directly or indirectly, such Confidential Information to any third party, without the disclosing Party's prior written consent. Each Party shall use strict measures to protect the secrecy and avoid disclosure or unauthorized use of the other Party's Confidential Information. Each Party shall exercise the same degree of care to prevent disclosure of the other Party's Confidential Information as it takes to preserve and safeguard its own Confidential Information, but in any event, no less than a reasonable degree of care. For clarity, confidential information shall include all Personal Data and all Client Data.

9.2. Exceptions. Notwithstanding the foregoing, neither Party will be in breach of this provision in circumstances where: (a) the Party is legally compelled to disclose the other Party's Confidential Information; (b) the information is already in the public domain through no fault of the receiving Party; (c) the information is in the disclosing Party's possession without a duty of confidentiality at the date of disclosure; (d) information has been independently developed by the recipient without benefit of the disclosing Party's Confidential Information; (e) the disclosing Party discloses the terms of this Agreement to its professional advisors, financiers, prospective financiers or partners or agents; or (e) where Aconex identifies the Paying Organization as a Platform customer. Aconex may communicate the existence of this Agreement as required under the rules of the Australian Securities Exchange. Nothing shall prevent the Paying Client from disclosing the terms or pricing under this Agreement to any governmental authority and/or its respective agent(s) (e.g., the Defence Contract Audit Agency) as required by law or regulation or pursuant to any client audit. Subject to the foregoing, the recipient may disclose the confidential information on a need-to-know basis to the recipient's Consultants, agents, auditors, and affiliates (collectively, the "Recipient Parties") who agree to maintain its confidential nature in a manner no less restrictive than contained herein and provided that recipient agrees to be responsible for a breach of confidentiality by any of the Recipient Parties. If either Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose disclosing Party's confidential information, recipient shall, unless prohibited by law, provide prompt written notice to disclosing Party of such demand in order to permit it to seek a protective order. So long as recipient gives notice as provided herein, recipient shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter

10. DATA STORAGE AND PRIVACY

10.1. Use of Client PII. In the course of receiving the Services under this Agreement, the Paying Organization may disclose to Aconex personally identifiable information about the Paying Organization's employees, directors, officers, customers or suppliers, and/or other users of the Services (collectively "Client PII"). Aconex may also otherwise be provided with access to Client PII in the course of delivering the Services. The Paying Organization is responsible for confirming that its disclosure and/or provision of Client PII to Aconex, and Aconex's possession, storage and/or use of such Client PII in the manner contemplated under this Agreement is permissible under all applicable data processing laws and regulations. Without prejudice to the foregoing, the Paying Organization acknowledges that Aconex may process Client PII for purposes connected with this

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Agreement, to conduct its business relationship with the Paying Organization and for the relevant and limited purposes specified in the Privacy Policy. Aconex will act only as a data processor and will not re-use or re-disclose Client PII for unrelated purposes. Aconex will use commercially reasonable efforts to protect Client PII from loss, destruction or unauthorized use or access, utilizing technical, physical and administrative security measures consistent with industry standards. The Paying Organization shall obtain the consent of each individual to whom such Client PII relates prior to disclosing such information to Aconex, and such consent shall include adequate authorization for Aconex and Aconex Affiliates to process, use and disclose such Client PII in the manner contemplated under the Agreement.

10.2. Transfer and Storage of Client Data. Due to the global nature of its business, Aconex may, for the purposes contemplated under this Agreement, transfer or store Client Data (including, without limitation, Client PII) in and to any country in which Aconex operates, subject to its compliance with applicable laws and this Agreement. The Paying Organization agrees to such transfer in its own right and on behalf of those individuals and entities from whom it collected such Client Data and/or Client PII.

10.3. Location of Client Data. Aconex will store Client Data in the United States, unless the Services Order specifies another location. Nothing in this Section prevents Aconex from changing the location for storing Client Data within the United States. If the Project Services Order (or other similar document) specifies a Platform instance in another country for storage of Client Data, Client Data will be stored in that country, subject to data being stored on the disaster recovery site in Australia.

10.4. User Communications. Aconex reserves the right to communicate with end users of the Services regarding matters relating to system usage, administration and support.

11. INTELLECTUAL PROPERTY RIGHTS

Aconex and its licensors own all right, title and interest in and to the Platform and Services, including all Intellectual Property Rights therein and thereto, and any Materials or software or other inventions that may be developed or discovered by Aconex in connection with the Services. Except for the Platform License, no transfer of any Intellectual Property Rights will occur in connection with this Agreement. Notwithstanding anything to the contrary in this Agreement, Aconex has and retains the exclusive right to own, use and disclose, in the course of its business, all feedback provided by the Paying Organization with respect to the Services and Platform.

12. SUSPENSION OF SERVICES

Without affecting any other rights and obligations available to Aconex under this Agreement or at law or equity (including a right of termination and a right to claim damages), Aconex may suspend the Platform License and delivery of any or all of the Services if the Paying Organization continues to fail to pay any overdue amounts owed to Aconex under this Agreement, following receipt of written notice from Aconex of such delinquency. In the event that Services are suspended under this Section, then, as a condition of reinstituting such Services, Aconex may require the Paying Organization to pay a reconnection fee and/or require the payment of all future Fees in advance. Aconex is required to provide written notification if Paying Organization is delinquent of payment prior to suspension of services for non-payment.

13. LIMITED WARRANTY AND DISCLAIMERS

13.1. Limited Warranty. Aconex warrants to the Paying Organization that it will use reasonable professional skill and care, consistent with industry standards, in providing all Services. Aconex's sole liability and the Paying Organization's sole and exclusive remedy for any breach of the warranty specified in this Section will be for Aconex to re-perform such Services.

13.2. Disclaimers. THE PAYING ORGANIZATION ASSUMES ALL RESPONSIBILITY FOR ITS SELECTION OF THE PLATFORM TO ACHIEVE ITS INTENDED RESULTS, FOR THE USE OF AND RESULTS OBTAINED FROM THE PLATFORM, AND FOR TAKING APPROPRIATE MEASURES TO PREVENT LOSS OF DATA. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13.1 ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACONEX DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ACONEX DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL BE AVAILABLE WITHOUT INTERRUPTION. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACONEX WILL NOT BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL LOSS, OR OTHER DAMAGES (INCLUDING LOSS OF PROFIT, INTEREST, REVENUE, BUSINESS, GOODWILL, SAVINGS OR ANTICIPATED PROFIT OR ANY LOSS OF OR DAMAGE TO ANY CLIENT DATA, OR LOSS OF OR INTERRUPTION TO CLIENT'S BUSINESS), IN EACH CASE ARISING OUT OF OR IN ANY WAY CONNECTED TO THE PROVISION OF THE PLATFORM OR THE SERVICES INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE CAUSED BY A COMPUTER VIRUS OR OTHER MALWARE, AND IN EACH CASE REGARDLESS OF WHETHER ACONEX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REGARDLESS OF WHETHER A CLAIM ARISES IN CONTRACT, TORT OR OTHER, UNDER NO CIRCUMSTANCES WILL ACONEX'S (INCLUDING ITS OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES AND AGENTS): ACONEX'S AGGREGATE

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LIABILITY IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES PAID BY THE PAYING ORGANIZATION TO ACONEX UNDER THIS AGREEMENT THROUGH THE DATE THE CLAIM AROSE. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE LIMITATION OF LIABILITY IN THIS CLAUSE DOES NOT APPLY TO ANY LIABILITY OF ACONEX FOR OR IN RESPECT OF ANY GROSS NEGLIGENCE OR WILFUL MISCONDUCT BY ACONEX OR DISCLOSURE OF CONFIDENTIAL INFORMATION AS COVERED IN THE AGREMENT

15. INDEMNITIES

15.1. Aconex Indemnity.

15.1.1. Obligation. Aconex shall defend, indemnify and hold the Paying Organization harmless from and against damages, costs, liabilities, and expenses, including reasonable attorney's fees, incurred in connection with any third party claim alleging that the Platform or Services, when used within the scope of this agreement, infringes any third party's IP rights . Aconex shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that the Paying Organization provides Aconex with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at Aconex's reasonable expense) to defend and/or settle such claim. The Paying Organization may participate in the defense of a claim asserted hereunder after Aconex has assumed the defense or settlement, provided that the Paying Organization shall bear any legal fees and expenses or other costs it incurs in so participating. Aconex shall not be liable for any costs or expenses incurred by the Paying Organization when acting without Aconex's prior written authorization. Aconex may not settle or compromise any claim under this Section that requires the Paying Organization to admit liability or pay any money without the Paying Organization's prior written consent, which consent shall not be unreasonably withheld or delayed.

15.1.2. Limit on Indemnity. Notwithstanding the foregoing, Aconex will have no liability for infringement claims arising from: (i) combination of the Services with other software or products not provided by Aconex, if the infringement would not have occurred if the Services had not been so combined; (ii) any modification of the Services, in whole or in part, by anyone other than Aconex, if the infringement would not have occurred but for such modification; or (iii) use by the Paying Organization of any specified release of the Platform after Aconex notifies the Paying Organization that continued use may subject the Paying Organization to such claim of infringement, provided Aconex provides the Paying Organization with a replacement release.

15.1.3. Replacement Services. If any portion of the Services is held, or in Aconex's opinion is likely to be held, to infringe or misappropriate a third party's Intellectual Property Rights, or use of the Services is otherwise enjoined, then Aconex may at its sole option and expense, within a commercially reasonable period of time: (i) procure for the Paying Organization the right to continue using the Services; (ii) replace the Services with a non-infringing solution without material decrease in functionality; or (iii) in the event that neither of the foregoing is reasonably practicable in Aconex's judgment, terminate the Platform License and/or this Agreement and refund any Fees pre-paid by the Paying Organization with respect to future delivery of the terminated portion of the Services.

15.1.4. Entire Liability. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF ACONEX, AND THE SOLE AND EXCLUSIVE REMEDY OF THE PAYING ORGANIZATION, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE PAYING ORGANIZATION'S USE OF THE SERVICES

15.2. Paying Organization Indemnity. The Paying Organization shall defend or at its option settle any third party claim, action or proceeding brought against Aconex, any Aconex Affiliate alleging that (a) the Paying Organization has breached any law or regulation in its use of the Services, Client Data, or Client PII, or (b) the Paying Organization has misused any Client Data or Client PII or infringed any third party's Intellectual Property Rights in its use of the Client Data or Client PII, and the Paying Organization shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that Aconex provides the Paying Organization with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at the Paying Organization's reasonable expense) to defend and/or settle such claim. Aconex may participate in the defense of a claim asserted hereunder after the Paying Organization has assumed the defense or settlement, provided that Aconex shall bear any legal fees and expenses or other costs it incurs in so participating. The Paying Organization shall not be liable for any costs or expenses incurred by Aconex when acting without the Paying Organization's prior written authorization. the Paying Organization may not settle or compromise any claim under this Section that requires Aconex to admit liability or pay any money without Aconex's prior written consent, which consent shall not be unreasonably withheld or delayed.

16. TERMINATION

16.1. **Termination for Material Breach**. Either Party may terminate this Agreement in the event that the other party commits a material breach of this Agreement and where such breach is capable of remedy, fails to remedy the breach within 30 days of receiving written notice from the other Party. Aconex may also immediately terminate this Agreement if the Paying Organization's access to the Services has been suspended under Section 12 (Suspension of Services) and the Paying Organization has not, in Aconex's sole judgment made a reasonable attempt to promptly resolve the basis for such suspension. Without prejudice to the foregoing, the parties agree a failure by the Paying Organization to pay Fees when due constitutes a material breach of this Agreement.

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16.2. Termination for Insolvency. Either party may terminate this Agreement by notice in writing if: (a) the other party is unable to pay its debts as and when they become due or becomes, threatens or resolves to become or is in jeopardy of becoming insolvent or subject to an order, proceedings or resolution for liquidation or dissolution (unless for the purposes of amalgamation or reconstruction,) or entering into a compromise or arrangement with, or assignment for the benefit of any of its members or creditors; or (b) the other party, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;.

16.3. Effect of Termination. On termination of this Agreement: (a) the Paying Organization will pay to Aconex all outstanding amounts under the Agreement; (b) the Paying Organization's Platform License shall automatically terminate and the Paying Organization shall immediately cease using the Platform; and (c) the Paying Organization shall return any Materials and Aconex Confidential Information to Aconex or comply with Aconex's instructions for the destruction of such Materials and Confidential Information. At Aconex's request, the Paying Organization will provide written confirmation certifying that all Materials and Aconex Confidential Information in its possession have been returned or destroyed. The termination of this Agreement shall not relieve the Paying Organization of its obligation to pay any Fees or other amounts owed to Aconex under this Agreement prior to the date of such termination.

16.1. Survival. Sections 3.4.2, 4, 6.1, 6.4, 7. 9, 10, 11, 13.2, 14, 15, 16.3, 16.4, 17, 18 and 19 of this Agreement shall survive termination, howsoever occurring.

17. GOVERNING LAW AND DISPUTE RESOLUTION

17.1. Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of New York, without regard to its conflict of law principles and the Parties submit to the exclusive jurisdiction of the state and federal courts located in the District of New York, and any court that may hear appeals from any of those courts, for any proceedings initiated or pursued in connection with this Agreement, and waive any right they may have to claim that those courts are an inconvenient forum.

17.2. Injunctive Relief. Notwithstanding the foregoing, if either Party breaches, or threatens to breach the provisions of this Agreement concerning Confidential Information or Intellectual Property Rights, each Party agrees that the non breaching Party may have no adequate remedy at law and is therefore entitled to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages, in any court having jurisdiction.

17.3. Dispute Resolution.

17.3.1. Negotiation. If any dispute arises between the Parties in respect of this Agreement, or any related document, a Party must: (a) issue a written notice to the other Party notifying them of the existence of a dispute; and (b) use good faith efforts to resolve the dispute through negotiation.

17.3.2. Escalation. In the event that negotiations pursuant to Section 17.3.1 do not resolve the dispute within 15 Business Days (or such longer period as may be agreed between the Parties), the dispute will be referred to the respective chief executive officers (or their nominees – external counsel excluded) of each Party for good faith negotiations.

17.3.3. Filing of Actions. Neither Party may file an action to resolve a dispute prior to 20 Business Days (or such other period as may be agreed between the Parties) after an escalation pursuant to Section 17.3.2.

17.4. Legal Expenses. If any proceeding is brought by either Party to enforce or interpret any provision of this Agreement, the substantially prevailing Party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such Party's reasonable attorneys' and other experts' fees and expenses.

18. MISCELLANEOUS

18.1. Force Majeure. With the exception of any payment obligations, neither Party will be liable for any delay or failure to perform its obligations pursuant to this Agreement to the extent such delay is due to a Force Majeure Event. With the exception of payment obligations, to the extent a delay or failure of a Party to perform its obligations is caused or anticipated due to a Force Majeure Event, the performance of that Party's obligations will be suspended and neither Party will be liable to the other Party for a failure to perform its obligations as a result of a Force Majeure Event. If a delay or failure by a Party to perform its obligations due to a Force Majeure Event exceeds 3 calendar months, either Party may immediately terminate the Agreement without cause upon written notice to the other Party.

18.2. No Reliance on Representations. The Paying Organization has not relied on any representation, undertaking, statement or understanding which has not been stated expressly in this Agreement or upon any descriptions, illustrations or specifications contained in any document including marketing materials produced by Aconex.

18.3. Independent Contractors. The Parties are independent contractors. Aconex is not a party to any transactions a Paying Organization enters into with a Non-Paying Organization using the Platform or Services. Under this Agreement, Aconex and its personnel will never be employees, agents or partners of the Paying Organization, and are not engaged in a joint

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venture with the Paying Organization. Aconex shall have no liability arising out of any transaction or dealings conducted between the Paying Organization and Non-Paying Organizations or any other third parties through use of the Services.

18.4. Assignment. The Paying Organization may not assign this Agreement or delegate any of its obligations unless written into the Aconex Service Order as an option, hereunder without Aconex's prior written consent. Any attempted assignment in violation of this provision will be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

18.5. Novation. Provided there are no outstanding Fees, the Paying Organization may novate this Agreement (including payment of Fees) at any time to a third party, subject to Aconex's prior written approval (not to be unreasonably withheld).

18.6. Waiver. Any right of either Party under this Agreement may only be waived in writing, signed by the Party giving the waiver, and no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) shall operate as a waiver of the right or otherwise prevent the exercise of the right.

18.7. Modification. The provisions of this Agreement will not be varied, except by express written instrument that makes explicit reference to this Agreement and is executed by authorized representatives of each of the Parties. Notwithstanding the foregoing, Aconex reserves the right to modify the Services and/or the terms and conditions of this Agreement at any time, but such modifications shall apply to Services Orders executed after the effective date of the change. Aconex will notify the Paying Organization of such modifications, either via email, the Platform, or in a manner deemed commercially reasonable by Aconex.

18.8. Severability. If any provision or part provision of this Agreement is held invalid, unenforceable or illegal by any court or tribunal for any reason, the remainder of this Agreement will remain otherwise in full force apart from such provisions or part provisions which will be deemed deleted or modified to the minimum extent necessary to remove the invalidity, unenforceability or illegality.

18.9. Client Reference. Neither party may issue any press release regarding the Paying Organization's use of the Platform without the prior written consent of the other party (not to be unreasonably withheld, delayed or conditioned).

18.10. United States Export Controls. The Services (including the Platform) use software and technology that may be subject to United States export control laws. The Paying Organization shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of the Services or any technical information related to the Services to any country for which such export or re-export is restricted by any applicable U.S. regulation or statue, without the prior written consent, if required, of the U.S. government entity that has jurisdiction over such export or re-export. Aconex and its licensors make no representation that the Services are appropriate or available for use in locations outside of the United States. If the Paying Organization uses the Services from outside of the U.S., the Paying Organization is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. the Paying Organization's failure to comply with this Section shall be a material breach incapable of remedy.

18.11. No Third Party Beneficiaries. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity any rights, remedies or other benefits as a third party beneficiary. Without limiting the generality of the foregoing, Non-Paying Organizations may not enforce the rights granted to Paying Organizations under this Agreement and vice versa, under any circumstances.

18.12. Entire Agreement. The documents comprising this Agreement contain the entire agreement between the Parties concerning its subject matter. If the Paying Organization does not execute a Services Order, but instead issues a purchase order to Aconex or an Aconex Reseller, that purchase order will constitute a binding commitment by the Paying Organization to purchase the Services specified in it, on the terms and conditions set forth in this Agreement. Accordingly, Aconex's commencement or execution of work pursuant to the purchase order will establish a contract for the supply and purchase of the Services under this Agreement, and any additional and/or conflicting terms or conditions in the Paying Organization's purchase order shall be inapplicable.

19. NOTICES

19.1. **Method of Communication.** Any notice or consent delivered by either Party under this Agreement shall only be effective if it is: (a) in writing, sent by or on behalf of and at the express instruction of the Party giving it; (b) addressed in accordance with Section 19.3 to the Party to whom it is to be given; and (c) either: (i) sent via overnight delivery service (e.g., FedEx or UPS), or (ii) sent by fax and the machine from which it is sent produces a report that states that it was sent in full and the recipient does not alert the sender to the fact that fax was not received in a legible form by the close of business the next Business Day; (iii) in the case of notices from Aconex to the Paying Organization, sent via the Platform; or (iv) sent by email communication with confirmation of receipt.

19.2. **Deemed Delivery.** A notice, consent or other communication that complies with this Section is deemed given and received: (a) if it is delivered or sent by fax: (i) by 5:00 PM (local time in the place of receipt) on a Business Day – on that day; or (ii) after 5:00 PM (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; (b) if it is sent by mail: (i) within the United States – four Business Days after posting; or (ii) to or from a

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place outside of the United States – seven Business Days after posting; and (iii) if it is sent via the Platform – by 5:00 PM the next Business Day (local time in the place of receipt).

19.3. **Addresses.** Any notices from Aconex to the Paying Organization under this Agreement shall be addressed to the Paying Organization representative identified below., if such information is not specified, the Paying Organization's representative will be the organization administrator as recorded in the Paying Organization's Services account, and the Paying Organizations' contact details will be the contact details recorded in the Paying Organization's Services account. Any notices from the Paying Organization to Aconex under this Agreement shall be addressed as follows:

Aconex (North America), Inc.
Attn: General Counsel
250 Montgomery Street
10th Floor
San Francisco, CA 94104

CH2M HILL, Inc
Attn: Donald Seward
9191 South Jamaica Street
Englewood, CO 80112-5946

20. HUMAN TRAFFICKING & WORKER WELFARE

20.1. This clause shall apply if Aconex is organized under the laws of the United States of America or is performing work for the Paying Organization pursuant to a prime contract funded by the government of the United States of America. The parties agree to comply with the applicable provisions of National Security Presidential Directive/NSPD-22, the applicable provisions of 22 U.S.C. 7104 as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108-193), the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164), the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110-457), the Trafficking Victims Protection Reauthorization Act of 2013 (Title XII of the Violence Against Women Reauthorization Act of 2013) (Public Law 113-4) and all applicable implementing regulations with regard to the U.S. Government's "zero tolerance" policy against human trafficking.

20.2. This clause shall apply if Aconex is not organized under the laws of the United States of America. Aconex agrees to strictly comply with all applicable laws, rules and regulations to which compliance is required by any lawful jurisdiction governing the trafficking of persons including the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

20.3. If Aconex provides workers to the Paying Organization who are housed within labor facilities or other such Aconex provided housing, then Aconex shall comply with all governing laws and regulations regarding worker living conditions and standards. Aconex shall grant the Paying Organization access to such Aconex facilities for periodic assessments of worker living conditions and allow the Paying Organization to question Aconex's employees associated with the performance of this Agreement regarding worker welfare issues. The Paying Organization may terminate this Agreement for default if in the reasonable opinion of the Paying Organization, it is proven that Aconex has failed to comply with any governing laws or regulations.

20.4. Aconex further agrees that this clause 20 Human Trafficking & Worker Welfare shall be incorporated into any purchase order. Any actual or reasonable suspicion of violation of the provisions of this clause 20 by Aconex shall be advised to the Paying Organization without delay and may result in termination for default at the Paying Organization's reasonable discretion.

21. SUSTAINABILITY

Aconex shall be supportive of furnishing services, materials, products, processes, and business practices that are protective of the natural environment and resources. If established elsewhere within this Agreement, requirements for specific deliverables, reports, licenses, certifications, plans and other documentation required to confirm Aconex's achievement of sustainability performance metrics shall be submitted to the Paying Organization based upon the established schedule.

22. SUPPLY CHAIN ETHICS AND BUSINESS CONDUCT PRINCIPLES

Acceptance by Aconex of this Agreement constitutes agreement that those who work on the Paying Organization's projects at any tier shall conduct business legally, ethically and in compliance with the Principles set forth in the Paying Organization's Our Supply Chain Ethics and Business Conduct Principles to include where applicable, the Supplement for U.S. Government Work, both of which are available at

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http://www.ch2m.com/corporate/about_us/business_ethics.asp.

23. COMPLIANT WITH ALL APPLICABLE LAWS REGARDING BRIBERY AND CORRUPT PRACTICES

Aconex shall not violate the United States Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act ("UKBA") or any other applicable laws regarding bribery or other corrupt practices. Aconex warrants that none of its employees, officers, or principals is an official or representative of any government, or is a candidate for such position. In conformity with the FCPA, UKBA and the Paying Organization's established corporate policies regarding business practices, Aconex further represents and warrants that it and its employees, agents, and representatives shall not directly or indirectly make any offer, payment, promise to pay, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any government or candidate for such an office, or any other person, including a decision not to act, or inducing such a person to use his influence to affect any government act or decision of a government or any other business decision in connection with the Paying Organization's or its clients' business. Aconex further agrees that the provisions of this clause shall be incorporated into any Purchase Order for provision of services to the Paying Organization. Any actual or reasonable suspicion of violation of the provisions of this clause by or on behalf of Aconex shall be advised to the Paying Organization without delay, and may result in termination for default at the Paying Organization's reasonable discretion.

24. CONFLICTS OF INTEREST

24.1. Aconex warrants that, to the best of its knowledge and belief, there are no relevant facts or circumstances which could give rise to a potential or actual personal or organizational conflict of interest by Aconex, Aconex's employees, sub-suppliers, or contingent staffing in performing work under the Agreement. A Conflict of Interest means that because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice in the performance of the work, or the person's objectivity in performing the work is or might be otherwise impaired.

24.2. Prior to commencing any work, Aconex agrees to notify the Paying Organization immediately if, to the best of its knowledge and belief, a potential or actual conflict of interest exists.

24.3. Aconex agrees that if a potential or actual organizational and or personal conflict of interest is identified during performance, Aconex will immediately notify the Paying Organization in writing to Paying Organization.

24.4. In accordance with other provisions within this Agreement, the Paying Organization may terminate this Agreement, in whole or in part, if an actual organizational or personal conflict of interest exists during the term.

25. Insurance

This Article shall apply to only Work performed by Aconex at a Paying Organization facility or job site. Before commencing services and as a condition of payment, Aconex will purchase and maintain from the effective date of this Agreement through a period of at least two (2) years after the expiration of this Agreement the following minimum insurance limits and coverages underwritten with a minimum A.M. Best Guide rating of A VII or other rating reasonably acceptable to the Paying Organization, and Aconex will furnish the Paying Organization with original certificates of insurance meeting the limits of coverages specified in this Article:

- Worker's Compensation insurance in the statutory amount and Employer's Liability insurance in an amount not less than $1,000,000 per accident and disease for all employees engaged in the services. If any employees are located in OH, Stop Gap coverage in an amount not less than $1,000,000 per accident and disease shall also be evidenced.
- Commercial Automobile Liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, non-owned, or hired vehicles, in an amount not less than $1,000,000 combined single limits.
- Commercial General Liability insurance, products/completed operations and contractual liability covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of Aconex or of any of its employees, agents, or lower-tier suppliers, in an amount not less than $1,000,000 per occurrence and in the aggregate.

Insurance coverage in (b) and (c) above will name the Paying Organization as additional insured, for the Paying Organization. Such insurance will be the primary and non-contributory coverage to the Paying Organization.

Certificates of insurance shall state that the insurance carrier will give the Paying Organization thirty (30) days written notice of any cancellation, non-renewal, or reduction of coverage or limits.

PROVISIONS APPLICABLE TO NON-PAYING ORGANIZATIONS

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1. DEFINITIONS

The capitalized terms set forth below shall have the following meanings for the purposes of this Agreement:

1.1 "**Acceptable Use Policy**" means the Aconex Acceptable Use Policy applicable to the Services, which is available for review and download on the Platform login page and the Aconex corporate web site.

1.2 "**Aconex**" means Aconex (North America) Inc., a company incorporated in the State of New York, and, unless expressly included in the Agreement, excludes any Aconex Affiliates.

1.3 "**Aconex Affiliate**" means (a) Aconex Limited (ABN 49 091 376 091), a company incorporated in Australia; (b) any entity controlling or controlled by Aconex Limited; and (c) any entity under common control with Aconex Limited, for so long as such common control continues to exist, where control means ownership either directly or indirectly of not less than 50% of the voting shares.

1.4 "**Business Day**" means a day that is not a Saturday, Sunday or holiday observed by Aconex in the United States.

1.5 "**Client Data**" means data related to a Project that the Non-Paying Organization uploads to or transmits via the Platform and includes first level metadata (such as the time, date, distribution parties relating to a specific document or item of correspondence on any Hosted Platform) but excludes secondary metadata (such as the structure of database tables within the Platform code and folder structures established on the Platform).

1.6 "**Confidential Information**" means any non-public information disclosed by either Party to the other Party in writing pursuant to this Agreement, which is designated as "confidential" or "proprietary" (or with a similar legend), or that is disclosed orally and confirmed in writing as confidential within a reasonable time. Even if not so marked, the Parties agree that Client Data, any non-public components of the Platform and Services, and the terms of this Agreement (including, without limitation, Services Order) are Confidential Information.

1.7 "**Data Archive**" means the Optional Services Aconex offers relating to the continued preservation and access to Client Data following termination of a Project or termination of Services.

1.8 "**Effective Date**" means the date the Non-Paying Organization accepts this Agreement.

1.9 "**Force Majeure Event**" means any forces of nature, disruptions to the internet infrastructure, public bandwidth shortages, industrial action, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemics, lock-outs, strikes and action or inaction by a government agency (including any quasi-government agency) which causes a Party to be prevented or delayed in performing its obligations.

1.10 "**Intellectual Property Rights**" means patents, copyrights, trademarks, trade secrets, and all other proprietary rights recognized in any jurisdiction worldwide, and all applications and registrations therefore.

1.11 "**Materials**" means all manuals, data, documents, and information that are prepared, written, made accessible, provided or developed by Aconex or its licensors in connection with the Services, including help desk and technical support documentation.

1.12 **"Monthly Fees"** means the monthly Fee(s) for Service(s) as specified in the Services Order. If (a) the Fee(s) for any Service(s) are partly or fully payable up front, or (b) the Fee(s) for any Service(s) are partly or fully payable on a periodic basis other than monthly, then in both cases Monthly Fee means the amount calculated by dividing the total Fees by the number of months covered by the Services Order.

1.13 "**Non-Paying Organization**" means any organization that is invited and authorized to use the Services with respect to a Project by the Paying Organization, has accepted this Agreement and is not required under a Services Order to pay Aconex or an Aconex Reseller for access to and use of the Services.

1.14 "**Optional Services**" means discretionary, paid Services (including Data Archives) which, if purchased, will be subject to a Services Order.

1.15 "**Party**" means either Aconex or the Non-Paying Organization as the context dictates, and "Parties" means Aconex and the Non-Paying Organization, as the context dictates.

1.16 "**Paying Organization**" means the entity specified as the contracting party (other than Aconex) in a Services Order, that is responsible for paying fees to Aconex for all Non-Paying Organizations' use of the Services, and that has the discretion with respect to all Non-Paying Organizations' right to access and use the Platform and/or Services under this Agreement.

1.17 "**Platform**" means the object code version of the computer software application(s) owned by or licensed to Aconex

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that is made available by Aconex or its agents to the Non-Paying Organizations in connection with this Agreement, together with any associated Materials. The Platform also includes any upgrades, improvements, bug fixes, new versions and/or derivative works of such software or Materials.

1.18 "**Platform License**" means each license to access and use the Platform granted to the Non-Paying Organization under this Agreement.

1.19 "**Privacy Policy**" means the Aconex Privacy Policy, which is applicable to data received by Aconex from Aconex customers and users of its web sites, and which is available for review and download on the Platform login page and the Aconex corporate web site.

1.20 "**Project**" means the collaborative project identified by the Paying Organization in the Paying Organization's Services Order, subject to any Project-scope limitations specified in such Services Order

1.21 "**PST**" means Pacific Standard Time.

1.22 "**Services Order**" means an agreement between Aconex or an Aconex Reseller and a Paying Organization with respect to a Project.

1.23 "**Services**" means the Platform and the associated services described in Section 3.

2. TERM

Unless terminated earlier by Aconex, the term of Services applicable to a Project will be tied to the duration of the Project, commencing once the Non-Paying Organization has been provided with access to the Platform and expiring on the earlier of the date the Project has been completed or terminated, 14 days after Aconex receives Paying Organization's request to remove the Non-Paying Organization's access rights to the Services or upon the Non-Paying Organization's request.

3. SERVICES

3.1. STANDARD SERVICES AND DELIVERY SCHEDULE. Subject to the Non-Paying Organization's compliance with the terms and conditions of this Agreement, Aconex will, during the applicable service term, provide the Non-Paying Organization with the Services specified in this Section 3.1, pursuant to the terms and conditions of this Agreement. Optional Services may also be requested from Aconex, which if accepted by Aconex, will be subject to the payment of additional fees and execution of a separate agreement.

3.1.1. Platform License. A non-exclusive, non-transferable, restricted Platform License for the term specified in Section 2, to access and use the functionality within the modules of the Platform expressly included in the relevant Services Order (subject to any restrictions specified in the relevant Services Order) solely in support of the Project, within the scope specified in the relevant Services Order, and in accordance with and subject to any specifications set forth in the Materials.

3.1.2. Hosting Services. Making the Platform available for use via the public Internet, including unlimited data transmission by the Non-Paying Organization to and from the Platform (subject to applicable limitations set out in the Acceptable Use Policy), and unlimited storage of Client Data related to the Project, during the applicable term of Services.

3.1.3. Maintenance and Support Services. Email and telephone help desk support provided to designated Non-Paying Organization personnel, to assist the Non-Paying Organization's end users to access and use the Platform, on a 24/7 basis, provided in English and any other languages specified in the Services Order. Also included is access to a web-based support center (English only) and maintenance updates and improvements to the Platform.

3.1.4. Training Services. The provision of one-to-many training modules delivered over the Internet or at a designated site, which site must be approved by Aconex in advance. In the event that Client requests that training be provided at a designated site (other than Aconex's offices) and Aconex agrees, the Non-Paying Organization will reimburse Aconex for its reasonable travel and living expenses actually incurred in delivering such training.

3.2. CANCELLING SERVICES

The Non-Paying Organization may cancel the Services at any time by written notice to Aconex.

3.3. CLIENT RESPONSIBILITIES

3.3.1. Confidentiality of Username and Password. The Non-Paying Organization is responsible for maintaining the confidentiality of the access credentials (e.g., username and password) used by it and/or its end users to access the Services and agrees that it will not share access credentials among users or disclose those credentials to any third party.

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3.3.2. Use of Data. The Non-Paying Organization acknowledges that by transmitting and receiving data to and from the Platform, the Non-Paying Organization is making information available for the use of the other authorized users of the Platform that are participating in the Project ("Project Participants") and the retraction of such information may therefore negatively affect those Project Participants. Aconex may, as a condition to complying with any the Non-Paying Organization request to retract or delete data from the Platform, require the Non-Paying Organization to comply with Aconex's reasonable risk mitigation requirements.

3.3.3. Other Obligations. The Non-Paying Organization understands and acknowledges that Aconex's ability to provide the Services is dependent on the Non-Paying Organization undertaking any agreed obligations (or such reasonable obligations as may be advised to the Non-Paying Organization by Aconex). The Non-Paying Organization acknowledges that failure to perform any such obligations may result in a failure to receive Services.

4. CLIENT DATA

4.1. Ownership. The Non-Paying Organization retains all of its right, title and interest in and to Client Data, and ownership of Client Data shall not be transferred to Aconex under this Agreement.

4.2. Right to Use. The Non-Paying Organization grants Aconex a nonexclusive license to use Client Data to deliver Services to authorized users of the Platform, solely in connection with the Project. The Non-Paying Organization further grants Aconex a nonexclusive, worldwide, perpetual license to use Platform usage data (such as, by way of example and not by way of limitation, numbers of documents uploaded) in an aggregated form that does not identify individual persons or organizations, in order to compile statistics regarding use of the Services and/or to improve the Services.

4.3. Retention. Provided that the termination of Services is not attributable to the Non-Paying Organization's material breach, the Non-Paying Organization may, during the Retention Period, purchase a Data Archive, subject to its payment of fees to Aconex at the rates specified in the Price List. Aconex will not be liable for any damages of any kind in connection with its decision to not retain Client Data after the expiration of the Retention Period.

4.4. Warranty regarding Client Data and Use of the Services. The Non-Paying Organization warrants that (a) it has appropriate and sufficient rights in Client Data, and (b) neither Aconex's use, processing and/or storage of Client Data in accordance with this Agreement nor the Non-Paying Organization's use of Client Data as contemplated hereunder will violate applicable laws or this Agreement. Aconex is not obligated to screen Client Data, although Aconex reserves the right to screen Client Data and to suspend access to Client Data without warning that Aconex reasonably considers may breach this Agreement or any applicable law. Aconex will notify the Non-Paying Organization as soon as practicable if Aconex suspends access to any Client Data and will restore access to such Client Data as soon as, in Aconex's reasonable opinion, doing so would not place Aconex at risk of loss or damage. Aconex is not liable for any damage or loss caused by Aconex's decision to suspend access to Client Data. The Non-Paying Organization is entirely responsible for the content and delivery of Client Data, including without limitation, the accuracy, usefulness, timeliness and completeness of Client Data. The Non-Paying Organization is responsible for ensuring Client Data is correctly addressed and on-time and does not represent a breach of any obligations to a third party or of law.

5. FEES AND INSPECTION

5.1. Fees. The Non-Paying Organization has no obligation to pay any Fees in connection with the Services for as long as it remains a Non-Paying Organization. Where the Non-Paying Organization wishes to become a Paying Organization (for example in order to purchase an optional service), then the Non-Paying Organization will be required to enter into a separate agreement with Aconex for the relevant services.

5.2. Inspection. On reasonable notice and not more than once annually, the Non-Paying Organization will allow an independent third party selected by Aconex and reasonably acceptable to the Non-Paying Organization to verify that it is using the Platform solely in connection with the Project, and is not otherwise using the Service in a manner that violates this Agreement (each, an "Inspection"). The Non-Paying Organization shall reasonably cooperate with each Inspection and shall provide access to relevant documentation and records, for the purpose of confirming its compliance with the terms of this Agreement. Any information disclosed by the Non-Paying Organization in connection with an Inspection shall be Confidential Information, except to the limited extent necessary for Aconex to enforce its rights under this Agreement.

6. ACCEPTABLE USE OF SERVICES

The Non-Paying Organization and its end users shall use the Services solely in accordance with this Agreement, all applicable laws and the Acceptable Use Policy. Aconex may modify the Acceptable Use Policy at its sole discretion and such modifications shall be effective upon their publication on the Platform or Aconex's web site. If there is any conflict between the Acceptable Use Policy and this Agreement, then the Acceptable Use Policy shall take precedence.

7. CONFIDENTIALITY

7.1. Obligation. Both Parties acknowledge that Confidential Information disclosed by either Party pursuant to this

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Agreement may constitute valuable trade secrets of the disclosing Party. Each Party agrees to use the other Party's Confidential Information solely in accordance with the provisions of this Agreement and not to disclose, or permit to be disclosed, either directly or indirectly, such Confidential Information to any third party, without the disclosing Party's prior written consent. Each Party shall use strict measures to protect the secrecy and avoid disclosure or unauthorized use of the other Party's Confidential Information. Each Party shall exercise the same degree of care to prevent disclosure of the other Party's Confidential Information as it takes to preserve and safeguard its own Confidential Information, but in any event, no less than a reasonable degree of care.

7.2. Exceptions. Notwithstanding the foregoing, neither Party will be in breach of this provision in circumstances where the Party is legally compelled to disclose the other Party's Confidential Information or where the information is already in the public domain through no fault of the receiving Party, or is in the disclosing Party's possession without a duty of confidentiality at the date of disclosure, or where the disclosing Party discloses the terms of this Agreement to its professional advisors, financiers, prospective financiers or partners or agents, or where Aconex identifies the Non-Paying Organization as a Platform customer.

8. DATA STORAGE AND PRIVACY

8.1. Use of Client PII. In the course of receiving the Services under this Agreement, the Non-Paying Organization may disclose to Aconex personally identifiable information about the Non-Paying Organization's employees, directors, officers, customers or suppliers, and/or other users of the Services (collectively "Client PII"). Aconex may also otherwise be provided with access to Client PII in the course of delivering the Services. The Non-Paying Organization is responsible for confirming that its disclosure and/or provision of Client PII to Aconex, and Aconex's possession, storage and/or use of such Client PII in the manner contemplated under this Agreement is permissible under all applicable data processing laws and regulations. Without prejudice to the foregoing, the Non-Paying Organization acknowledges that Aconex may process Client PII for purposes connected with this Agreement, to conduct its business relationship with the Non-Paying Organization and for the relevant and limited purposes specified in the Privacy Policy. Aconex will act only as a data processor and will not re-use or re-disclose Client PII for unrelated purposes. Aconex will use commercially reasonable efforts to protect Client PII from loss, destruction or unauthorized use or access, utilizing technical, physical and administrative security measures consistent with industry standards. The Non-Paying Organization shall obtain the consent of each individual to whom such Client PII relates prior to disclosing such information to Aconex, and such consent shall include adequate authorization for Aconex and Aconex Affiliates to process, use and disclose such Client PII in the manner contemplated under the Agreement.

8.2. Transfer and Storage of Client Data. Due to the global nature of its business, Aconex may, for the purposes contemplated under this Agreement, transfer or store Client Data (including, without limitation, Client PII) in and to any country in which Aconex operates, subject to its compliance with applicable laws and this Agreement. The Non-Paying Organization agrees to such transfer in its own right and on behalf of those individuals and entities from whom it collected such Client Data and/or Client PII.

8.3. User Communications. Aconex reserves the right to communicate with end users of the Services regarding matters relating to system usage, administration and support.

9. INTELLECTUAL PROPERTY RIGHTS

Aconex and its licensors own all right, title and interest in and to the Platform and Services, including all Intellectual Property Rights therein and thereto, and any Materials or software or other inventions that may be developed or discovered by Aconex in connection with the Services. Except for the Platform License, no transfer of any Intellectual Property Rights will occur in connection with this Agreement. Notwithstanding anything to the contrary in this Agreement, Aconex has and retains the exclusive right to own, use and disclose, in the course of its business, all feedback provided by the Non-Paying Organization with respect to the Services and Platform.

10. SUSPENSION OF SERVICES

The Non-Paying Organization's Platform License and/or right to receive the Services may, at Aconex's sole discretion be suspended, if Paying Organization fails to pay Aconex any fees applicable to the Services under a Services Order when due.

11. LIMITED WARRANTY AND DISCLAIMERS

11.1. Limited Warranty. Aconex warrants to the Non-Paying Organization that it will use reasonable professional skill and care, consistent with industry standards, in providing all Services. Aconex's sole liability and the Non-Paying Organization's sole and exclusive remedy for any breach of the warranty specified in this Section will be for Aconex to re-perform such Services.

11.2. Disclaimers. THE NON-PAYING ORGANIZATION ASSUMES ALL RESPONSIBILITY FOR ITS SELECTION OF THE PLATFORM TO ACHIEVE ITS INTENDED RESULTS, FOR THE USE OF AND RESULTS OBTAINED FROM THE PLATFORM, AND FOR TAKING APPROPRIATE MEASURES TO PREVENT LOSS OF DATA. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11.1 ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACONEX DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF

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MERCHANTABILITY, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ACONEX DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL BE AVAILABLE WITHOUT INTERRUPTION. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACONEX WILL NOT BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL LOSS, OR OTHER DAMAGES (INCLUDING LOSS OF PROFIT, INTEREST, REVENUE, BUSINESS, GOODWILL, SAVINGS OR ANTICIPATED PROFIT OR ANY LOSS OF OR DAMAGE TO ANY CLIENT DATA, OR LOSS OF OR INTERRUPTION TO THE NON-PAYING ORGANISATION'S BUSINESS), IN EACH CASE ARISING OUT OF OR IN ANY WAY CONNECTED TO THE PROVISION OF THE PLATFORM OR THE SERVICES INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE CAUSED BY A COMPUTER VIRUS OR OTHER MALWARE OR ANY UNAVAILABLITLY OF THE PLATFORM OR THE SERVICES, AND IN EACH CASE REGARDLESS OF WHETHER ACONEX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REGARDLESS OF WHETHER A CLAIM ARISES IN CONTRACT, TORT OR OTHER, UNDER NO CIRCUMSTANCES WILL ACONEX'S (INCLUDING ITS OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES AND AGENTS): (A) LIABILITY IN ANY MONTH BE GREATER THAN U.S. $1,000; AND (B) ACONEX'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT EXCEED U.S. $5,000. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

13. INDEMNITIES

13.1. Aconex Indemnity.

13.1.1. Obligation. Aconex shall defend or at its option settle any third party claim, action or proceeding brought against the Non-Paying Organization alleging that the Platform as delivered to the Non-Paying Organization and used as authorized in this Agreement, infringes any Intellectual Property Right of a third party and Aconex shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that the Non-Paying Organization provides Aconex with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at Aconex's reasonable expense) to defend and/or settle such claim. The Non-Paying Organization may participate in the defense of a claim asserted hereunder after Aconex has assumed the defense or settlement, provided that the Non-Paying Organization shall bear any legal fees and expenses or other costs it incurs in so participating. Aconex shall not be liable for any costs or expenses incurred by the Non-Paying Organization when acting without Aconex's prior written authorization. Aconex may not settle or compromise any claim under this Section that requires the Non-Paying Organization to admit liability or pay any money without the Non-Paying Organization's prior written consent, which consent shall not be unreasonably withheld or delayed.

13.1.2. Limit on Indemnity. Notwithstanding the foregoing, Aconex will have no liability for infringement claims arising from: (i) combination of the Services with other software or products not provided by Aconex, if the infringement would not have occurred if the Services had not been so combined; (ii) any modification of the Services, in whole or in part, by anyone other than Aconex, if the infringement would not have occurred but for such modification; or (iii) use by the Non-Paying Organization of any specified release of the Platform after Aconex notifies the Non-Paying Organization that continued use may subject the Non-Paying Organization to such claim of infringement, provided Aconex provides the Non-Paying Organization with a replacement release.

13.1.3. Replacement Services. If any portion of the Services is held, or in Aconex's opinion is likely to be held, to infringe or misappropriate a third party's Intellectual Property Rights, or use of the Services is otherwise enjoined, then Aconex may at its sole option and expense, within a commercially reasonable period of time: (i) procure for the Non-Paying Organization the right to continue using the Services; (ii) replace the Services with a non-infringing solution; or (iii) terminate the Non-Paying Organization's Platform License and/or this Agreement.

13.1.4. Entire Liability. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF ACONEX, AND THE SOLE AND EXCLUSIVE REMEDY OF THE NON-PAYING ORGANIZATION, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE NON-PAYING ORGANIZATION'S USE OF THE SERVICES.

13.2. Non-Paying Organization Indemnity. The Non-Paying Organization shall defend or at its option settle any **third** party claim, action or proceeding brought against Aconex, any Aconex Affiliate alleging that (a) the Non-Paying Organization has breached any law or regulation in its use of the Services, Client Data, or Client PII, or (b) the Non-Paying Organization has misused any Client Data or Client PII or infringed any third party's Intellectual Property Rights in its use of the Client Data or Client PII, and the Non-Paying Organization shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that Aconex provides the Non-Paying Organization with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at the Non-Paying Organization's reasonable expense) to defend and/or settle such claim. Aconex may participate in the defense of a claim asserted hereunder after the Non-Paying Organization has assumed the defense or settlement, provided that Aconex shall bear any legal fees and expenses or other costs it incurs in so participating. The Non-Paying Organization shall not be liable for any costs or expenses incurred by Aconex when acting without the Non-Paying Organization's prior written authorization. The Non-Paying Organization may not settle or compromise any claim under this Section that requires Aconex to admit liability or pay any money without Aconex's prior written consent, which consent shall not be unreasonably withheld or delayed.

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14. TERMINATION

14.1. Termination for Breach. Either Party may terminate this Agreement in the event that the other party commits a material breach of this Agreement and where such breach is capable of remedy, fails to remedy the breach within 30 days of receiving written notice from the other Party. Aconex may also terminate this Agreement on not less than 14 days' notice to the Non-Paying Organization if Paying Organization's right to receive the Services under this Agreement has been terminated.

14.2. Termination for Insolvency. Aconex may terminate this Agreement immediately by notice in writing if: (a) the Non-Paying Organization is unable to pay its debts as and when they become due or becomes, threatens or resolves to become or is in jeopardy of becoming insolvent or subject to an order, proceedings or resolution for liquidation or dissolution (unless for the purposes of amalgamation or reconstruction,) or entering into a compromise or arrangement with, or assignment for the benefit of any of its members or creditors; (b) the Non-Paying Organization, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; (c) the Non-Paying Organization, being a natural person, dies; or (d) there is a change of control of the Non-Paying Organization.

14.3. Effect of Termination. On termination of this Agreement, the Non-Paying Organization's Platform License shall automatically terminate and the Non-Paying Organization shall immediately cease using the Platform. The Non-Paying Organization shall also return any Materials and Aconex Confidential Information to Aconex or comply with Aconex's instructions for the destruction of such Materials and Confidential Information. At Aconex's request, the Non-Paying Organization will provide written confirmation certifying that all Materials and Aconex Confidential Information in its possession have been returned or destroyed.

14.4. Survival. Sections **1, 3.3, 4, 5.2, 7, 8, 9, 11.2, 12, 13, 14.3, 14.4, 15 and 16** shall survive termination of this Agreement, howsoever occurring.

15. GOVERNING LAW AND DISPUTE RESOLUTION

15.1. Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of California, without regard to its conflict of law principles, and the Parties submit to the exclusive jurisdiction of the state and federal courts located in the Northern District of California, and any court that may hear appeals from any of those courts, for any proceedings initiated or pursued in connection with this Agreement, and waive any right they may have to claim that those courts are an inconvenient forum.

15.2. Injunctive Relief. Notwithstanding the foregoing, if either Party breaches, or threatens to breach the provisions of this Agreement concerning Confidential Information or Intellectual Property Rights, each Party agrees that the non breaching Party may have no adequate remedy at law and is therefore entitled to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages, in any court having jurisdiction.

15.3. Dispute Resolution.

15.3.1. Negotiation. If any dispute arises between the Parties in respect of this Agreement, or any related document, a Party must: (a) issue a written notice to the other Party notifying them of the existence of a dispute; and (b) use good faith efforts to resolve the dispute through negotiation.

15.3.2. Escalation. In the event that negotiations pursuant to Section 15.2.1 do not resolve the dispute within 15 Business Days (or such longer period as may be agreed between the Parties), the dispute will be referred to the respective chief executive officers (or their nominees – external counsel excluded) of each Party for good faith negotiations.

15.3.3. Filing of Actions. Neither Party may file an action to resolve a dispute prior to 20 Business Days (or such other period as may be agreed between the Parties) after an escalation pursuant to Section 15.2.2.

15.4. Legal Expenses. If any proceeding is brought by either Party to enforce or interpret any provision of this Agreement, the substantially prevailing Party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such Party's reasonable attorneys' and other experts' fees and expenses.

16. MISCELLANEOUS

16.1. Force Majeure. With the exception of any payment obligations, neither Party will be liable for any delay or failure to perform its obligations pursuant to this Agreement to the extent such delay is due to a Force Majeure Event. With the exception of payment obligations, to the extent a delay or failure of a Party to perform its obligations is caused or anticipated due to a Force Majeure Event, the performance of that Party's obligations will be suspended and neither Party will be liable to the other Party for a failure to perform its obligations as a result of a Force Majeure Event. If a delay or failure by a Party to perform its obligations due to a Force Majeure Event exceeds 3 calendar months, either Party may immediately terminate the Agreement without cause upon written notice to the other Party.

16.2. No Reliance on Representations. The Non-Paying Organization has not relied on any representation, undertaking,

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statement or understanding which has not been stated expressly in this Agreement or upon any descriptions, illustrations or specifications contained in any document including marketing materials produced by Aconex.

16.3. Entire Agreement. The documents comprising this Agreement contain the entire agreement between the Parties concerning its subject matter.

16.4. Independent Contractors. The Parties are independent contractors. Aconex is not a party to any transactions the Non-Paying Organizations enter into with one another using the Platform or Services. Under this Agreement, Aconex and its personnel will never be employees, agents or partners of the Non-Paying Organization, and are not engaged in a joint venture with the Non-Paying Organization. Aconex shall have no liability arising out of any transaction or dealings conducted between the Non-Paying Organization and the Paying Organization and/or third parties through use of the Services.

16.5. Assignment. The Non-Paying Organization may not assign this Agreement or delegate any of its obligations hereunder without Aconex's prior written consent. Any attempted assignment in violation of this provision will be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

16.6. Waiver. Any right of either Party under this Agreement may only be waived in writing, signed by the Party giving the waiver, and no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) shall operate as a waiver of the right or otherwise prevent the exercise of the right.

16.7. Modification. The provisions of this Agreement will not be varied, except by express written instrument that makes explicit reference to this Agreement and is executed by authorized representatives of each of the Parties. Notwithstanding the foregoing, Aconex reserves the right to modify the Services and/or the terms and conditions of this Agreement at any time, but such modifications shall apply to Services Orders executed after the effective date of the change. Aconex will notify the Non-Paying Organization of such modifications, either via email, the Platform, or in a manner deemed commercially reasonable by Aconex.

16.8. Severability. If any provision or part provision of this Agreement is held invalid, unenforceable or illegal by any court or tribunal for any reason, the remainder of this Agreement will remain otherwise in full force apart from such provisions or part provisions which will be deemed deleted or modified to the minimum extent necessary to remove the invalidity, unenforceability or illegality.

16.9. Client Reference. Aconex may not issue any press release regarding the Non-Paying Organization's use of the Platform without the prior written consent of the Non-Paying Organization (not to be unreasonably withheld, delayed or conditioned). However, Aconex may use the Non-Paying Organization's name and logo in marketing materials and refer to the fact that the Non-Paying Organization is a client of Aconex in its annual report, list of references or presentations to actual or potential clients without the Non-Paying Organization's specific consent.

16.10. United States Export Controls. The Services (including the Platform) use software and technology that may be subject to United States export control laws. the Non-Paying Organization shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of the Services or any technical information related to the Services to any country for which such export or re-export is restricted by any applicable U.S. regulation or statue, without the prior written consent, if required, of the U.S. government entity that has jurisdiction over such export or re-export. Aconex and its licensors make no representation that the Services are appropriate or available for use in locations outside of the United States. If the Non-Paying Organization uses the Services from outside of the U.S., the Non-Paying Organization is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. The Non-Paying Organization's failure to comply with this Section shall be a material breach incapable of remedy.

16.11. No Third Party Beneficiaries. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity any rights, remedies or other benefits as a third party beneficiary. Without limiting the generality of the foregoing, Non-Paying Organizations may not enforce the rights granted to Paying Organizations under this Agreement and vice versa, under any circumstances.

17. NOTICES

17.1. Method of Communication. Any notice or consent delivered by either Party under this Agreement shall only be effective if it is: (a) in writing, sent by or on behalf of and at the express instruction of the Party giving it; (b) addressed in accordance with Section 17.3 to the Party to whom it is to be given; and (c) either: (i) sent via overnight delivery service (e.g., FedEx or UPS), or (ii) sent by fax and the machine from which it is sent produces a report that states that it was sent in full and the recipient does not alert the sender to the fact that fax was not received in a legible form by the close of business the next Business Day; or (iii) in the case of notices from Aconex to the Non-Paying Organization, sent via the Platform.

17.2. Deemed Delivery. A notice, consent or other communication that complies with this Section is deemed given and received: (a) if it is delivered or sent by fax: (i) by 5:00 PM (local time in the place of receipt) on a Business Day – on that day; or (ii) after 5:00 PM (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the

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next Business Day; (b) if it is sent by mail: (i) within the United States – four Business Days after posting; or (ii) to or from a place outside of the United States – seven Business Days after posting; and (iii) if it is sent via the Platform – by 5:00 PM the next Business Day (local time in the place of receipt).

17.3. Addresses. Any notices from Aconex to the Non-Paying Organization under this Agreement shall be addressed to the Non-Paying Organization representative identified in the Non-Paying Organization's Services account, and the Non-Paying Organizations' contact details will be the contact details recorded in the Non-Paying Organization's Services account. Any notices from the Non-Paying Organization to Aconex under this Agreement shall be addressed as follows:

Aconex (North America), Inc.
Attn: General Counsel
1111 Bayhill Drive
Suite 480
San Bruno, CA 94066

SIGNED for and on behalf of ACONEX (NORTH AMERICA) INC (Registration No. F060728000165) by its authorised representative:	
Signature:	.....
Print name:	.....
Position:	.....
Date:	.....
in the presence of	
Signature of witness:	.....
Name of witness:	.....
Occupation:	.....

SIGNED for and on behalf of CH2M HILL INC (Registration No. 84 123 0545) by its authorised representative:	
Signature:	.....
Print name:	.....
Position:	.....
Date:	.....
in the presence of	
Signature of witness:	.....
Name of witness:	.....
Occupation:	.....

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Aconex Services Order

Aconex

Date created: 19 May 2016

Aconex entity: Aconex (North America) Inc

Representative: Ryan Marinero

Engagement information

Company name: Metro Flood Diversion Authority

Address: 211 Ninth Street South, Box 2806, Fargo, ND, United States of America, 58108

Contact name: Donna Reese (Donna.Reese@CH2M.com)

Engagement scope: Fargo Moorhead Flood Diversion Program - Phase 2
Multi-party use of the Aconex Platform and services on the Fargo Moorhead Flood Diversion Program located in North Dakota during the design, pre-construction and part of the construction phase with $1.5B of program cost.

All Services will cease on the end date noted below.

Geographic scope: Fargo, ND

Start date: 24 Jun 2016

End date: 23 Jun 2024

Client ref number: Not required

Billing contact: Daryl Vanyo

Email: APInvoicesFMDiv@ch2m.com

Exclusions and Client Responsibilities:

Fee Information

Invoice schedule: (excl taxes)

Description	Units	Frequency	Unit price *USD*	Total *USD*
Years 1-2 service fee	1.00	Invoiced once on 24 June 2016	306,856	306,856
Years 3-4 service fee	1.00	Invoiced once on 24 June 2018	306,856	306,856
Years 5-6 service fee	1.00	Invoiced once on 24 June 2020	354,217	354,217
Years 7-8 service fee	1.00	Invoiced once on 24 June 2022	354,217	354,217
TOTAL FEE:			**USD**	**1,322,146**

Services

Services summary:
- Tasks and standard Dashboard, Mail, Documents, Project Directory, Mobile, Connected BIM and Aconex reports (Pre-authored, standard reports)
- Workflows and Tenders
- Local Copy incremental Archive (for one (1) Client organisation system project)
- Field includes: 10 inspectors, Unlimited users / Unlimited issues / Max. 2 org capture / Checklists
- Support, Hosting and Maintenance
- Training locations included (Fargo, ND with travel and expenses reimbursed to Aconex)

Aconex Services Order

Authorization to proceed:

Client

Signature: _____ Name (printed): _____

Title: _____

Date: _____

Aconex

Signature: _____ Name (printed): _____

Title: _____

Date: _____

Notes

Terms and Conditions

1 The Client must advise Aconex immediately if there are any changes to the details set out above.

2 All Aconex services will be delivered on the terms and conditions of the Master Agreement attached. Any additions or amendments to the Terms of Service Agreement must be accepted in writing by an authorized officer of both parties.

3 Any licensed software supplied by Aconex in connection with any of the Services including Local Copy, Digital & Smart Manuals and Smart Manuals Dynamic & Mobile is provided in accordance with the licence agreement accompanying the software.

4 Training in locations where Aconex does not have a client service presence may attract additional charges.

5 All pricing excludes sales, services, business and withholding taxes, bank charges, and similar.

6 Sales proposals and related materials do not form part of this Services Order.

7 The Fees in this program have been discounted given the the level of complexity of this program being low (i.e. earthwork and other heavy civil items) and are offered provided the parties execute this Services Order on or before 24 June 2016. Execution after this date will require a revised pricing model.

8 The Fees in this Agreement are considered commercial in confidence and deemed Confidential Information. The Client agrees not to disclose details of the Fees to any third party. Disclosure is considered a breach of confidentiality under this Agreement.

9 This Agreement covers a 96 month program which has a total program cost of $1.5B. If the Client wishes to extend this Agreement for an additional term, Aconex and the Client will mutually agree on the applicable extension rate prior to the end of the Agreement, with such rate based on the scope for the period of extension.

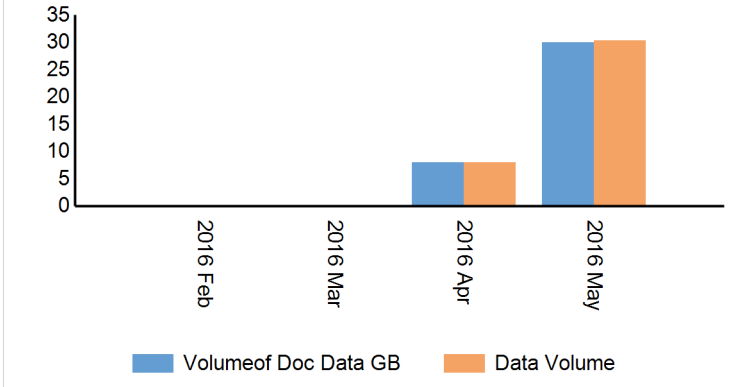
Cumulative Project Activity Report

Project Details		
Project ID	**Project Name**	**Client**
1207961465	Fargo Moorhead Area Diversion Program	Diversion Board of Authority

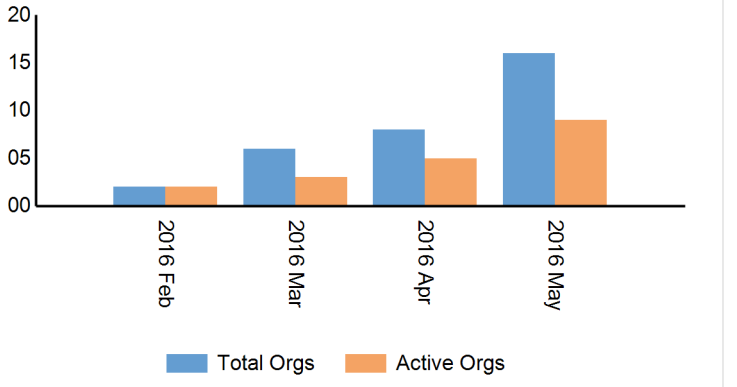
Project Data				
	2016 Feb	**2016 Mar**	**2016 Apr**	**2016 May**
Total Orgs	02	06	08	16
Active Org	02	03	05	09
Members	09	47	72	103
Guests	00	00	00	00
Mail Sent	01	06	106	1,087
Mail Received	04	54	224	1,931
Mail Attachment (MB)	0.00	7.26	23.89	30.10
Docs Transmitted	00	02	72	1,618
Docs Registered	00	07	1,431	8,737
Docs Owned	00	05	1,358	6,928
Workflow Transmittals	00	00	59	998
Supplier Docs Transmittal	00	00	00	00
Volume of Docs Data (GB)	0.00	0.00	8.01	29.93
Data Volume	0.00	0.01	8.05	30.32

Project Trend Analysis

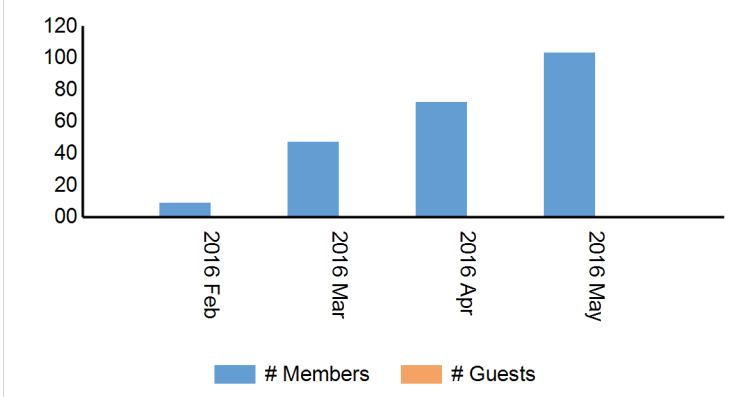
Data Volume



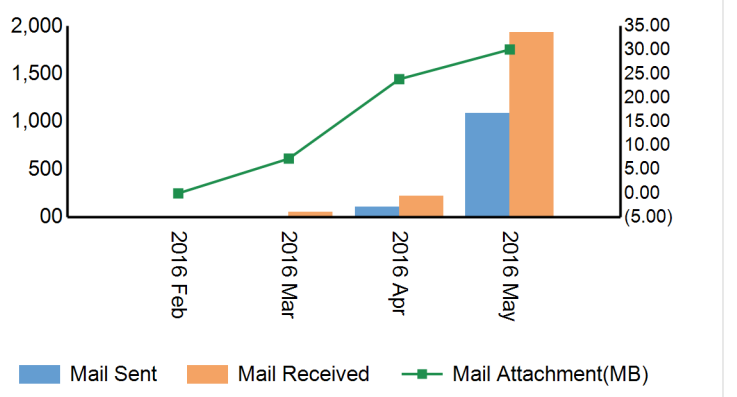
Organization Penetration



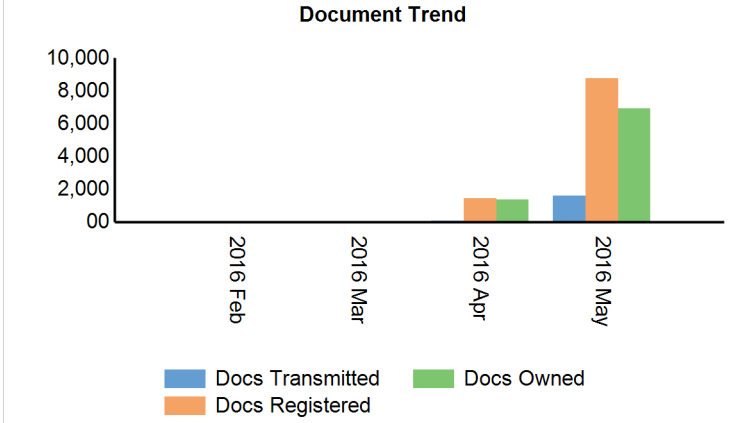
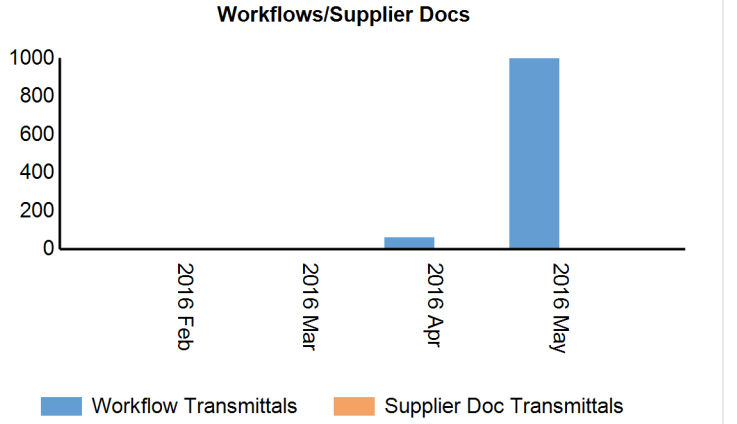
Members & Guests



Mail Activity Trends



Document Trend



Workflows/Supplier Docs