"C" SERIES

CONTRACT

PRINTING, BINDING, PACKAGING, AND DELIVERING THE
2016 IOWA ACTS

C-2A
CONTRACT FORM

Legislative Services Agency
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Des Moines, Iowa

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CONTRACT FORM (C-2A)
CONTRACT 2016 IOWA ACTS

CONTRACT

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CONTRACT FORM (C-2A)
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I. INTRODUCTION

A. ***Parties.*** The parties to this contract are the Legislative Services Agency, herein referred to as the "Agency," an organization created under the jurisdiction of the Iowa General Assembly pursuant to Iowa Code §2A.1 and identified with the Federal Employer Identification Number 42-6022199, and West Publishing Corporation, d/b/a West® a Thomson Reuters business, herein referred to as "Contractor," a business located in Eagan, Minnesota, and identified with Federal Identification Number 41-1426973.

B. ***Purpose.*** The purpose of this contract is to govern the production and delivery of the following publications: the Iowa Acts and the Iowa Code. It includes provisions governing both the production and delivery of production items and publications.

II. DEFINITIONS

As used in this contract, unless the context otherwise requires:

A. ***"Acts"*** means the Iowa Acts and Joint Resolutions (Session Laws), a loose-spine, case-bound book, containing statutory provisions as enacted or item vetoed during a regular session and any extraordinary session of that General Assembly, together with miscellaneous materials, tables, and an index, that is published each year under the direction of the Iowa Code Editor pursuant to Iowa Code chapter 2B.

B. ***"Code"*** means the Iowa Code (or the Code of Iowa) that is a loose-spine, case-bound set of multiple volume books divided into a statutory volumes set and Tables and General Index volume, and that is published in print form during each even-numbered year under the direction of the Iowa Code Editor pursuant to Iowa Code chapter 2B.

C. ***"Delivery"*** means the physical or electronic transmission of communications associated with the publication, including composed pages, a production item, or a publication by one party to another party as provided in Part V, or payment by the Agency to the Contractor as provided in Part IX. Delivery is accomplished by receipt.

D. ***"Production Item"*** means a sample cover or set of digital proofs which is required to be produced by the Contractor for the Agency and delivered by the Contractor to the Agency as provided in this contract.

E. ***"Publication"*** means each book comprising the 2016 edition of the Acts produced and delivered as provided in this contract.

F. ***"Sample Cover"*** means a production item that is (1) a paper proof cover (sometimes referred to as a laser proof) that illustrates how a cover associated with a publication will appear when it is bound, or (2) a finished cover that is an exact replica of a cover associated with a publication.

G. ***"Set of Digital Proofs"*** means a production item that is a set of sheets of paper which replicate the Agency's composed pages and show how pages will appear in a publication (e.g., with crop marks).

H. ***"Workmanship"*** includes all aspects of labor and mechanical, chemical, or computer processes used to compose, create, or manufacture a production item or publication and the effort required to produce the appearance, sturdiness, and durability of a publication such as its binding, the appearance and placement of images on digital proofs and book pages; the alignment and cut of the book pages; the placement of impressions and foils on a cover associated with a publication; and the composition, color, legibility, crispness of text and artwork; and any necessary collating of digital proofs into sets.

III. GENERAL PROVISIONS

A. ***Appendices Incorporated by Reference.*** The Appendices (C-3A) are incorporated as part of this contract by reference. If a provision in this contract and a provision in an Appendix (C-3A) conflict, the provision in this contract shall control.

B. ***Choice of Law and Forum.*** This contract is governed by the laws of the State of Iowa. All disputes and controversies regarding this contract shall be heard in the District Court of Polk County, Iowa. However, if jurisdiction is not proper in the Polk County District Court, actions shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, provided that jurisdiction is proper in that forum.

C. ***Conflict With Contract and Applicable Law.*** In the case of a conflict between a provision of this contract and a statute or regulation of this state as judicially construed and in effect on the effective date of this contract, the provision of this contract controls, unless otherwise prohibited by a statute or regulation of this state as judicially construed and in effect on the effective date of this contract. Otherwise, a statute or regulation of this state as judicially construed and in effect on the effective date of this contract, and principles of common law as applicable on the effective date of this contract, shall be reasonably construed as being in harmony with the provisions of this contract.

D. ***Compliance With Applicable Laws and Regulations.*** During the duration of this contract and as a condition of the Contractor's duty to perform under the provisions of this contract, the Contractor shall comply with all applicable laws and regulations of the State of Iowa and the United States, including but not limited to Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 (42 U.S.C. ch. 21), and the federal Occupational Safety and Health Act of 1970 (29 U.S.C. ch. 15).

E. ***Taxes; Certification — Collection and Remission of Iowa Sales and Iowa Use Tax.*** The Agency or the Iowa General Assembly is not responsible for paying any taxes incurred by the Contractor in the performance of this contract. The Agency and the Iowa General Assembly are exempt from the payment of Iowa sales taxes, Iowa use taxes, and other taxes. The Contractor shall not collect or remit an Iowa sales tax or Iowa use tax on sales of tangible personal property or services for its performance under this contract. However, the Contractor certifies to Iowa's Department of Revenue, on any form required by the department, that the Contractor agrees to collect and remit Iowa sales taxes and Iowa use taxes otherwise due under Iowa Code chapter 423 on the sales of tangible personal property and services as enumerated by statute, pursuant to Iowa Code §423.2 and §423.5.

F. ***Estimations.*** Whenever this contract estimates a number of pages (or signatures) to be produced or estimates a number of publications to be delivered to a particular destination, the estimation is an approximation as it relates to the "base amount" and subject to adjustment to achieve the "contract price" as provided in Part IX. The final numbers or an exact payment amount will be determined after the execution of this contract.

G. ***Counting Book Pages.*** When counting book pages, one sheet of paper includes two pages, one on the front side and one on the reverse side.

H. ***Computing Time.*** For purposes of computing time, including but not limited to purposes of calculating delivery requirements according to a schedule provided as part of a trial performance period as provided in Part VI or as part of a standard performance period as provided in Part VII or Part VIII, all of the following apply:

1. **Time of Day.** Any reference in this contract to time of day is calculated using Central Time. A day begins at 8:00 a.m. and ends at 4:30 p.m.

2. **Days.** A "day" means a calendar day unless otherwise provided in this contract.

   a. **Calendar Day.** A calendar day is any day of the week. In computing calendar days for purposes of delivery, the first calendar day is excluded and the last calendar day is included unless the last day falls on a Sunday or a legal public holiday as provided in Iowa Code §1C.1, in which case the time prescribed is extended to include the next succeeding calendar day.

b. **Business Day.** A business day is a calendar day other than a Saturday or Sunday or a day recognized as a legal holiday as provided in Iowa Code §1C.1. In computing time for purposes of delivery, the first business day is excluded and the last business day is included.

I. ***Agency's Interest in a Publication.*** Composed pages, a production item, or a publication shall not be subject to copyright by the Contractor in the United States or in any other country. The Contractor shall not use or release text or data originating from print or electronic media delivered to the Contractor under this contract that contains any portion of the publication without the prior written approval of the Agency. The Contractor shall not produce a print or electronic version from such text or data without the prior written approval of the Agency. The Contractor shall not advertise itself as the State of Iowa's official publisher of a publication or any other item produced by or under the supervision of the General Assembly.

J. ***Party in Litigation.*** The Agency shall not act as a party in any lawsuit to protect or enforce a right or interest of the Contractor, unless the Agency consents in writing to become a party.

K. ***Delegation.*** The Contractor shall not delegate (convey, assign, transfer, or subcontract) any interest in this contract to another person without the prior written consent of the Agency. The Contractor shall provide for subcontracting only as follows:

1. **Production (Book Bindery).** The Contractor may, with Agency approval, provide for the production of a production item or publication by a book bindery which acts under the direct supervision of the Contractor and provides for the production of (1) a production item during the trial performance period as provided in Part VI, (2) a production item during the standard performance period as provided in Part VII, or (3) a publication during the standard performance period as provided in Part VIII. *See Appendices A and B (C-3A).*

2. **Payment Obligation.** The Contractor and not the Agency shall be liable for any payment to a subcontractor for performance rendered by the subcontractor under this contract.

3. **Duty to Perform.** The Contractor shall not be relieved from performing a duty under this contract because of a subcontract or a subcontractor's failure to perform a duty. All standards for production and delivery of a publication as provided in this contract shall apply to the Contractor regardless of whether the Contractor renders performance directly or by using a subcontractor.

4. **Agreements.** The Agency may obtain and review any agreement executed between the Contractor and a subcontractor.

L. ***No Pecuniary Gain or Conflict of Interest.*** The Contractor agrees that to its knowledge neither the staff of the Agency nor a member of the General Assembly of the State of Iowa has or will receive any direct economic benefit because of the selection of the Contractor as a party to this contract. The Contractor agrees that it has no interest and will not acquire any direct or indirect interest which would conflict in any manner with the performance of this contract, and that a person having such an interest will not knowingly be associated in the performance of this contract.

M. ***Fixed Price Contract.*** This is a fixed price contract. Except as otherwise expressly provided in this contract, or expressly agreed to in writing by the parties, the contract price paid to a Contractor is fixed as provided in this contract. Except as provided in this contract, no special fees or expenses shall be charged directly or indirectly to the Agency, including labor, production materials, equipment, insurance, packing, freight, travel, parking, or any other costs incurred in producing and delivering a production item or publication.

N. ***Renewal Options.*** The parties shall elect an option to renew a contract as follows:

1. **Exercising Present Renewal Option.** The parties agree to implement their rights to execute this contract on a renewal basis as provided in Part III, Paragraph "N" of the contract for printing, packaging, and delivering the 2015 edition of the Acts executed by the parties on August 30, 2015, and September 1, 2015.

2. **Reserving Future Renewal Option.** The parties reserve the right to execute a renewal contract to produce and deliver the next edition of the Acts in the following year according to provisions substantially similar to the provisions of this contract, as negotiated by the parties.

IV. STANDARDS
PRODUCTION

A. ***Contractor's Duty of Performance.*** The Contractor shall acquire all production materials, furnish all workmanship, and oversee all aspects of production.

B. ***General Standards.*** Any detailed standard for production material or workmanship contained and required in this contract shall be the standard for production material or workmanship used to produce a production item or publication. However, if a standard is not specified in this contract or there is a question regarding the Contractor's compliance with a standard for a production material or workmanship, due to any ambiguity in this contract, all of the following apply:

1. **Production Materials.** If the Agency has approved without qualification a production material after the execution of this contract during the trial performance period as provided in Part VI or standard performance period as provided in Part VII, that same production material shall be used by the Contractor in the production of a production item during the standard performance period as provided in Part VII and in the production of a publication during the standard performance period as provided in Part VIII. The standard for a production material established pursuant to this Subparagraph 1 shall supersede any possible conflicting standard for the production material in this contract. In all other cases, the standard for a production material used to produce a publication shall be the same or equivalent to the standard used to produce the 2014 edition of the Acts.

2. **Workmanship.** If the Agency has approved without qualification the workmanship used to produce a production item during the trial performance period as provided in Part VI or the standard performance period as provided in Part VII, that same workmanship shall be used by the Contractor in the production of a production item during the standard performance period as provided in Part VII and in the production of a publication during the standard performance period as provided in Part VIII. The standard of workmanship used to produce a production item approved by the Agency without qualification shall supersede any possible conflicting standard for workmanship in this contract. In all other cases, the standard for workmanship used to produce a publication shall be the same or equivalent to the standard used to produce the 2014 edition of the Acts.

C. ***Questions.*** The Contractor shall notify the Agency of any question arising because of an apparent conflict between the general standards provided in Paragraph "B" and the detailed standards provided in Appendix A or B (C-3A) not resolved by the parties prior to production.

V. STANDARDS
DELIVERY

A. ***Communications.*** Any communication between the Agency and the Contractor regarding this contract must be addressed to the party's respective contact persons, as specified in Appendix F (C-3A).

1. **Book Bindery.** If the contact person specified in Appendix F (C-3A) is not responsible for the day-to-day operations in the book bindery, the Agency reserves the right to communicate with the person in the book bindery during the trial performance period as provided in Part VI, and during the standard performance periods as provided in Part VII or Part VIII.

2. **Replacement.** If a party replaces a contact person, the party shall immediately notify the other party of the contact information for the new contact person.

B. ***General Duty to Deliver.*** The parties shall deliver products as specified in Appendices C and D (C-3A).

C. ***Incomplete Delivery.*** The Agency's delivery of a set of composed pages with missing pages shall be deemed to be a failure to deliver the entire set of composed pages, and the Contractor's failure to deliver a complete, satisfactory set of digital proofs shall be deemed to be a failure to deliver the entire set of digital proofs. However, the Agency may provide for incremental delivery of composed pages and for the incremental production and delivery of digital proofs. The Contractor's failure to deliver a complete and satisfactory set of book pages shall be deemed to be a failure to deliver the publication.

D. ***Subcontractor (Book Bindery).*** The Agency may require that a subcontractor who is the book bindery deliver a production item simultaneously to the Agency and the Contractor during the trial performance period as provided in Part VI and the standard performance period as provided in Part VII.

E. ***Common Carrier Requirements.*** The Contractor shall provide for the delivery of a production item or publication as specified in Appendices C and D (C-3A). However, the Agency may modify the special instructions specified in Appendix C or D (C-3A) prior to delivery, subject to the parties' agreement to alter or not to alter the contract price.

F. ***Delivery on Business Day.*** The Contractor shall not deliver a production item or publication on a day other than a business day without the express approval of the Agency.

G. ***Excusable Failure to Deliver.*** The Contractor is excused from delivering a production item or publication on a specific business day or to a specific destination if the destination does not accept receipt and the Contractor promptly notifies the Agency of the refusal. However, the Contractor must complete delivery on the next business day to that destination, unless the failure is excused as provided in this Paragraph "G," or the Agency provides otherwise.

H. ***Possession by Agency.*** Delivery is not accomplished until the Agency takes possession of a production item or publication. Title does not pass to the Agency prior to the receipt of the production item or publication by the Agency. The Agency's receipt of a production item or publication is not an approval of the production item or publication by the Agency. A production item or publication which is damaged prior to receipt by the Agency shall be deemed undelivered. When the Agency opens a carton or other box containing a damaged production item or publication, it is conclusively presumed that the damage occurred prior to receipt (i.e., during production or delivery).

I. ***Review and Response.*** The Agency shall review production items or publications and communicate a response to the Contractor as follows:

1. **Exclusive Right of the Agency.** Even though another person may be authorized to receive a production item or publication only the Agency is authorized to approve, disapprove, or approve with qualification a production item or publication or accept or reject a production item or publication.

2. **Statistical Sampling.** In determining whether to accept or reject any or all publications delivered to the Agency as part of Normal Delivery or Special Delivery as provided in Appendix C (C-3A), the Agency shall examine a statistical sampling of at least 5 percent of the publications (excluding publications produced as part of an overrun) delivered as part of Normal Delivery.

3. **Determination Period.** The Agency shall have a determination period to deliver its response to the Contractor as provided in Subparagraph 4 and specified in Appendix D (C-3A). The Agency's determination period begins on the final date required for the delivery of a production item or publication or the actual date that such production item or publication is delivered, whichever is later.

4. **Agency Response.** The Agency's response shall be one of the following: (1) to approve a production item without qualification, approve a production item with qualification, or disapprove a production item during the trial performance period as provided in Part VI or the standard performance period as provided in Part VII or (2) to accept or reject any or all publications during the standard performance period as provided in Part VIII. The Agency shall be deemed to have approved a production item or

accepted a publication or all publications delivered to the Agency at the end of a determination period as provided in Subparagraph 3, unless the Agency responds otherwise.

5. **Remedies.** The Agency may seek remedies for the Contractor's failure to perform as provided in Parts X through XIII.

VI. SCHEDULE — TRIAL PERFORMANCE PERIOD PRODUCTION AND DELIVERY OF PRODUCTION ITEMS

The Contractor shall produce and deliver the following production items for Agency approval during a trial performance period:

A. ***Paper Proof Covers.*** A paper proof cover shall illustrate how the book cover will appear when the publication is bound, including all lettering and numbering, and the location of the required impressions and foil stamping, as specified in Appendix B (C-3A). The Contractor shall deliver the paper proof cover to the Agency as specified in Appendix D (C-3A), and the Agency will review the paper proof cover and deliver its response to the Contractor as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A).

B. ***Sets of Digital Proofs.*** The Agency shall deliver composed pages for a publication in an electronic format to the Contractor as specified in Appendix C (C-3A). The Contractor shall use the composed pages to produce a set of digital proofs that meet the standards specified in Appendix B (C-3A). The Contractor shall deliver the set of digital proofs to the Agency as specified in Appendix D (C-3A), and the Agency will review the set of digital proofs and deliver its response to the Contractor as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A) which requirement is waived.

VII. SCHEDULE — STANDARD PERFORMANCE PERIOD PRODUCTION AND DELIVERY OF PRODUCTION ITEMS

The Contractor shall produce the following production items and deliver them for Agency approval during a standard performance period:

A. ***Finished Cover.*** A finished cover shall be an exact replica of the book cover when the publication is bound, including all lettering and numbering, and the location of the required impressions and foil stamping, as specified in Appendix B (C-3A). The Contractor shall deliver a finished cover to the Agency as specified in Appendix D (C-3A), and the Agency shall review a finished book cover and deliver its response to the Contractor as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A).

B. ***Set of Digital Proofs.*** The Agency shall deliver composed pages in an electronic format to the Contractor as specified in Appendix C (C-3A). The Contractor shall use the composed pages to produce a set of digital proofs as specified in Appendix B (C-3A). The Contractor shall deliver the set of digital proofs to the Agency as specified in Appendix D (C-3A), and the Agency shall review the set of digital proofs and deliver its response to the Contractor as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A).

1. **Incremental Delivery of Composed Pages and Sets of Signatures.** The Agency may deliver the composed pages to the Contractor in installments by groupings of signatures. After the Contractor receives an installment of composed pages and produces the set of digital proofs, the Contractor shall produce and deliver that set of digital proofs to the Agency.

2. **Deadline.** The Contractor shall deliver a set of digital proofs or installments of a set of digital proofs to the Agency as specified in Appendix D (C-3A). However, the Agency may waive this requirement and authorize the Contractor to deliver the entire set of digital proofs produced from multiple installments of composed pages to the Agency on a later business day.

VIII. SCHEDULE — STANDARD PERFORMANCE PERIOD PRODUCTION AND DELIVERY OF PUBLICATIONS

The Contractor shall produce publications and deliver them to the Agency for approval during a standard performance period in compliance with the requirements of this contract, including the standards provided in Part IV, this part, and the Appendices (C-3A). The Contractor shall package (including loading) and ship (including unloading) the publications as specified in Appendix C (C-3A). The Contractor shall provide for both Normal Delivery and Special Delivery of the publications to all destinations specified in Appendices C and D (C-3A), and the Agency will review the publications and deliver its response to the Contractor as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A).

IX. SCHEDULE — PAYMENT

A. ***General.*** The Agency is liable to the Contractor as provided in this contract only for amounts paid as consideration under this contract, and subject to the following:

1. **Contract Price.** Unless this contract is terminated as provided in Part XI, payment of the contract price shall be based on the production of publications and delivery of publications to the Agency according to the terms and conditions of this contract.

2. **Invoice Required.** The Contractor shall present an invoice or invoices to the Agency for payment of the contract price as specified in Appendix D (C-3A). If payments are made in installments, the Contractor shall identify the final invoice and specify the amount of the last payment owed by the Agency. The Agency's payment to the Contractor of the amount stated in an invoice shall be deemed conclusive evidence of satisfaction by the Agency of any payment obligation for the production item or publication invoiced, and each party waives any right to later contest the invoice amount based on error. The Agency's payment of the final invoice shall be deemed conclusive evidence of payment of the contract price owed to the Contractor, regardless of any error by the parties.

B. ***Payment Schedule.*** Upon delivery of an invoice as provided in Paragraph "A," Subparagraph 2, the Agency shall pay the Contractor the contract price.

1. **Conventional Payment Schedule.** The Agency will pay the Contractor according to a conventional payment schedule. The Agency may make one payment to the Contractor at the end of the determination period as specified in Appendix D (C-3A). The Agency shall pay the Contractor 100 percent of the amount of the contract price for all publications accepted under the contract as provided in Paragraph "C."

2. **Early Payment Schedule.** The Agency, upon request by the Contractor or upon its own initiative, may pay the Contractor the contract price or a portion of the contract price earlier than required under Subparagraph 1. In order to receive payment of an amount earlier than required under Subparagraph 1, the Contractor must verify that the Contractor has incurred all production costs associated with performance under this contract. The decision of the Agency to pay an amount earlier than required under Subparagraph 1 shall not be construed as an amendment of this contract, shall not obligate the Agency to pay the Contractor an amount other than as provided in this contract, shall not constitute a waiver of any requirement of the Contractor, and shall not relieve the Contractor of its duty of performance under this contract.

C. ***Contract Price (Base Amount and Adjustments).*** The Agency shall pay the Contractor a contract price that equals a base amount which is an estimate of the contract price calculated for the production and delivery of a publication's order by assuming that each publication has an estimated number of pages divided into signatures as specified in Appendix A (C-3A), subject to adjustment as provided in Paragraph "D."

Table A
Base Amount (Unadjusted)

	Amount
Acts	$6,732.00

D. ***Adjustments.*** The Agency shall adjust the base amount provided in Paragraph "C" to achieve the contract price for that publication as follows:

1. **Replacement Pages.** The Agency shall adjust the base amount specified in Table A to account for the replacement of an occasional page or pages of a publication as required by the Agency due to the Agency's correction of the appearance or text of a page during publication production. The Agency shall deliver a replacement page to the Contractor by electronic transmission. The prices charged by the Contractor for incidental work shall not exceed those customarily charged by the Contractor to its customers for similar incidental work. Upon request, the Contractor shall provide the Agency with proof of customary charges. The Contractor shall not charge the Agency for the first $300 incurred for replacing pages of a publication.

Table B
Base Amount Adjusted Due to Replacement Pages

	Amount Per Hour
Acts	$75 After the First $300.00

2. **Actual Number of Signatures.** The Agency shall adjust the base amount specified in Table A to account for the actual number of signatures required to be adjusted during the trial performance period as provided in Part VI or the standard performance period as provided in Part VII (the number of signatures that the Agency instructs the Contractor to be added to or subtracted from the estimated signature count). The Agency shall adjust the base amount to account for the adjusted number of signatures (i.e., an increase or decrease in the estimated number of signatures).

Table C
Base Amount Adjusted Due to an Increase/Decrease in the Signature Count

Signature Calculation	Estimated Number of Signatures	Amount	
		Per Publication	All Publications Per Order
Unadjusted	Per Publication 19/ 10,450 Per Order	$12.24 Base Amount ÷ by No. of Ordered Books	$6,732.00 Base Amount
Adjusted	Each Additional Full	Increased Base Amount Per Publication: $0.38	Increased Base Amount Per Order*: $209.00
	Each Additional Half	↑ $0.19	↑ $104.50
	Each Fewer Full	Decreased Base Amount Per Publication: $0.38	Decreased Base Amount Per Order*: $209.00
	Each Fewer Half	↑ $0.19	↑ $104.50

Acts

***Increase or Decrease in Amount Per Publication x Number of Publications Ordered (not counting any overrun)**

3. **Actual Number of Publications (Overrun).** The Agency shall adjust the base amount specified in Table A as adjusted in Table C to account for an overrun of not more than 50 publications produced and delivered as an overrun during the standard performance period as provided in Part VIII. The adjusted amount for each publication of the overrun shall be discounted to equal 75 percent of the base amount specified in Table A as adjusted in Table C multiplied by the total number of publications associated with the overrun.

Table D
Adjustment Due to Publication Overrun

STEP ONE					STEP TWO				
Base Amount Per Publication (as Adjusted by Signature Count)	Percentage After Discount Applied Per Publication		Discounted Amount		Discounted Amount Calculated in Step 1	Number of Overrun Publications		Total Amount for All Overrun Publications	
$_____	x	.75	=	$_____	$_____	x	_____	=	$_____

Acts

4. **Delivery.** The parties shall use good-faith efforts to adjust the base amount specified in Table A to account for the actual number of publications delivered as part of Normal Delivery and Special Delivery as specified in Appendix C (C-3A). The Agency may increase or decrease the number of the publications dedicated for Normal Delivery to the Grimes Building Warehouse, the State Capitol, and the Judicial Building and then make a corresponding decrease or increase in the number of publications dedicated for Special Delivery to judicial districts, including by drop shipment or mail, to destinations specified in Appendix C (C-3A). The Agency may also increase or decrease the number of the publications dedicated for drop shipment and decrease or increase a corresponding number of publications dedicated for mailing or courier delivery as part of Special Delivery to judicial districts as specified in Appendix C (C-3A). The Agency shall notify the Contractor at least 15 days before the day that the Contractor is required to deliver publications to the Agency as specified in Appendix D (C-3A). The Agency shall provide the Contractor with addresses for those Special Delivery destinations in a Microsoft® Excel format as set forth in Appendix C (C-3A).

5. **Supplementary Pamphlets.** After the production of a publication and prior to the Agency's payment for the production and delivery of that publication under this contract, the Agency may exercise an option to require the Contractor to produce and deliver a supplementary pamphlet associated with that publication in the same manner as the Contractor produces and delivers the publication, and subject to good faith negotiation by the parties.

Table E

Base Amount Adjusted Due to the Production and Delivery of a Supplementary Pamphlet

	Number of Pages/Signatures		Amount	
	Per Pamphlet	Per Order	Per Pamphlet	Per Order
Acts	32/1	550	$1.18	$649.00

X. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — GENERAL

A. ***All Legal Remedies Available.*** Remedies available as provided in this contract for breach of contract are in addition to every other remedy available to the parties at law or in equity. The Agency may utilize a procedure and remedy for noncompliance as provided in this contract in addition to another procedure and remedy also provided in this contract, including but not limited to termination as provided in Part XI, a demand for specific performance as provided in Part XII, or the assessment of liquidated damages as provided in Part XIII and specified in Appendix E (C-3A).

B. ***Notice and Response Requirements.*** The Agency shall notify the Contractor in writing of any noncompliance with the terms and conditions of this contract that demands a remedy as provided in Paragraph "A." Except as provided in Part XI, the Agency shall deliver the notice of noncompliance within the determination period for the approval of publications as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A). The notice demanding a remedy for a breach of contract as provided in Part XII or XIII and specified in Appendix E (C-3A) shall document each breach of contract and the remedy demanded or imposed for the breach of contract. A notice of breach of contract which demands a remedy shall suspend any obligation by the Agency to carry out the provisions of this contract until the Agency accepts the remedy. The Contractor may dispute the Agency's determination of a breach by delivering a notice of dispute to the Agency within 30 calendar days after the Agency delivers its notice to the Contractor. The dispute shall be resolved by the parties in good faith.

C. ***Indemnification.*** Except as provided in this contract, the Contractor shall jointly and severally indemnify and hold the Agency, the Iowa General Assembly, and the State of Iowa harmless from and against all liability, loss, damage, or expense, including reasonable attorney fees, by reason of a breach of contract by the Contractor.

XI. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — TERMINATION

A. ***Justifiable Termination.*** Any of the following shall be just cause for terminating this contract, without breach of contract:

1. **Insufficient Moneys.** If moneys necessary to satisfy this contract price are at any time not forthcoming or insufficient through the failure of the State of Iowa to make sufficient moneys available as a result of legally binding action, then the Agency may terminate this contract by giving not less than 20 calendar days' written notice to the Contractor documenting the lack of funding. Upon termination, the Agency agrees to pay all costs incurred by the Contractor up and until the date of termination. If moneys necessary to satisfy the contract price become available within 40 calendar days subsequent to the termination, the Agency agrees to reexecute a contract with the Contractor under the same provisions of this contract and any amendments as agreed to by the parties.

2. **Force Majeure.** If the performance of any provision of this contract is prevented by an event which is an act of God, civil tumult, war, epidemic, interruption of transportation or communication, or any other cause beyond the control of a party, as determined by the Agency, that party is relieved of the performance of that provision of this contract. However, if the Contractor is prevented from performance, the Contractor shall provide the Agency with written notice within 10 calendar days describing the preventing event, the possible duration of the preventing event, the Contractor's efforts to remedy the situation caused by the preventing event, and the expected effect of the preventing event

upon the schedules contained in this contract. It shall be the Contractor's responsibility to show that the cause of the preventing event was beyond the Contractor's control, that the preventing event reasonably caused nonperformance, and that the Contractor was not reasonably able to anticipate the preventing event in order to avoid the nonperformance.

B. ***Nonjustifiable Termination.*** Either party may terminate this contract if the other party breaches this contract by failing to substantially comply with a provision of this contract. The party terminating this contract shall deliver written notice to the other party within 20 calendar days following the breach. The written notice shall document the breach of contract. If the Contractor breaches this contract by failing to satisfy such provision, the Agency may withhold all or a portion of unexpended moneys of the contract price, retaining such moneys as liquidated damages. The Agency may also continue this contract and retain such moneys as liquidated damages. The Agency shall deliver a written notice to the Contractor stating the Agency's decision to retain an amount in liquidated damages not later than 20 calendar days following the delivery of its notice documenting the breach of contract.

C. ***Unilateral Termination.*** The Agency may unilaterally terminate this contract if the Contractor commits an egregious breach of this contract as specified in this Paragraph "C." The Agency shall deliver a written notice to the Contractor within 30 calendar days following the Agency's discovery of the egregious breach, but within the determination period for the acceptance or rejection of publications as provided in Part V, Paragraph "I," and specified in Appendix D (C-3A). The written notice shall document each cause of the egregious breach.

1. **Egregious Breach.** As used in this Paragraph "C," an egregious breach is limited to any of the following:

a. **Unauthorized Copyright.** The Contractor obtains or attempts to obtain a copyright in text or data produced in the publication or originating from electronic media delivered to the Contractor by the Agency as provided in this contract.

b. **Unauthorized Release.** The Contractor releases text or data delivered by the Agency to the Contractor under this contract to any person, including but not limited to a related entity of the Contractor, the text or data is produced in the publication or originates from electronic media delivered to the Contractor by the Agency, and the release is not expressly approved in writing by the Agency.

c. **Unauthorized Publishing.** The Contractor uses text or data delivered by the Agency to the Contractor under this contract for purposes of publishing without the express written approval of the Agency.

d. **Unwarranted Delay.** The Contractor fails to deliver any of the following:

(1) **Production Item.** A production item as required to be delivered to the Agency during the trial performance period as provided in Part VI or the standard performance period as provided in Part VII more than 10 calendar days after due.

(2) **Publication.** The publication required to be delivered to the Agency during the standard performance period as provided in Part VIII more than 20 calendar days after due.

e. **Disapproved Production Item (Grossly Unsatisfactory).** The Contractor delivers a production item during the trial performance period as provided in Part VI or the standard performance period as provided in Part VII which the Agency disapproves because it determines that the production item is grossly unsatisfactory. A set of digital proofs is deemed grossly unsatisfactory if text is corrupted or does not otherwise match the composed pages delivered by the Agency to the Contractor for production of the set of digital proofs. This Subdivision "e" does not apply to a production item that is unsatisfactory due to the Agency's use of technology or procedures to produce or transmit information to the Contractor for the production of the production item.

f. **Rejected Publications (15 Percent Rejection Rate).** The Contractor delivers a publication order which the Agency rejects because an unacceptable percentage of the publications (not counting an overrun as provided in Part IX, Paragraph "D,") are unsatisfactory. A publication is unsatisfactory if the Agency determines that it does not comply with the standards for materials or workmanship provided in Part IV based on a statistical sampling of publications delivered to the Agency during the determination period as provided in Part V, Paragraph "I," as specified in Appendix D (C-3A). The Agency shall notify the Contractor of the rejection as soon as practicable within the determination period. An unacceptable percentage equals 15 percent or more of the publications that are unsatisfactory according to the statistical sampling.

g. **Failure to Comply With a Notice for Specific Performance.** The Contractor fails to comply with a demand for specific performance within the period for compliance as provided in Part XII, Paragraph "B."

2. **Remedies.** The Agency may withhold all or a portion of unexpended moneys of the contract price, retaining such moneys as liquidated damages, and the Agency shall be entitled to 75 percent of the contract price, in additional liquidated damages as provided in Part XIII and specified in Appendix E (C-3A) based on potential lost sales to the Agency, the Agency's diminished reputation, and delays caused by selecting another vendor to complete the production and delivery of the publications.

XII. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — SPECIFIC PERFORMANCE

A. ***General.*** The Agency may demand specific performance, by requiring the Contractor to produce and deliver a replacement production item or publication. The Agency may demand specific performance for cause as follows:

1. **Disapproval or Rejection.** The Contractor delivers a production item which the Agency disapproves during the trial performance period as provided in Part VI or during the standard performance period as provided in Part VII or the Contractor delivers a publication which the Agency rejects during the standard performance period as provided in Part VIII. The Agency shall disapprove a production item or reject a publication which does not comply with the standards for production materials and workmanship provided in Part IV, including as specified in Appendices A and B (C-3A).

2. **Inadequate Delivery.** The Contractor fails to comply with a requirement for the delivery of a production item during the trial performance period as provided in Part VI or during the standard performance period as provided in Part VII or the Contractor fails to comply with a requirement for the delivery of a publication during the standard performance period as provided in Part VIII, including as specified in Appendices C and D (C-3A).

3. **Underrun.** The Contractor produces an underrun of a set of digital proofs or publications. The Agency may require the Contractor to produce the set of digital proofs as required by Part VII, Paragraph "B", or the number of publications as required by Part VIII, for delivery to the Agency.

4. **Unauthorized Copyright.** The Contractor obtains or attempts to obtain a copyright in text or data used in the production or delivery of a publication. The Contractor shall immediately withdraw any application for the copyright and renounce any such copyright that the Contractor has obtained. Nothing in this paragraph restricts the Contractor from obtaining or attempting to obtain a copyright in text or data provided to the Contractor by the Agency under the terms of another contract for a purpose unrelated to the production or delivery of a publication under this contract.

5. **Unauthorized Release.** The Contractor releases text or data used in the production or delivery of a publication to an unauthorized person. The Contractor shall take all actions necessary to recover the text or data from that person. The Contractor shall return the text or data to the Agency or destroy the text or data in a manner specified by the Agency. Nothing in this paragraph restricts the Contractor from releasing text or data provided to the Contractor by the Agency under the terms of another contract for a purpose unrelated to the production or delivery of a publication under this contract.

6. **Unauthorized Publishing.** The Contractor uses text or data used in the production or delivery of a publication for purposes of unauthorized publishing of information delivered to the Contractor by the Agency. The Contractor shall destroy any publication which uses such information upon demand by the Agency. Nothing in this paragraph restricts the Contractor from using text or data or releasing text or data provided to the Contractor by the Agency under the terms of another contract for a purpose unrelated to the production or delivery of a publication under this contract.

B. ***Compliance Period.*** Unless the Contractor disputes the Agency's demand for specific performance as provided in Part X, Paragraph "B," the Contractor shall provide specific performance as demanded in the Agency's notice within the same period of time required for the original delivery. However, if the Agency's demand is for the production and delivery of a publication to correct and replace a publication that the Agency rejected, the Contractor shall deliver the corrected replacement publication to the Agency as provided in Paragraph "C" within 20 calendar days following the delivery of the Agency's notice to the Contractor.

C. ***Replacement.*** If the Agency disapproves a production item or publication, as provided in Paragraph "A," the Agency may demand that the Contractor replace the production item or publication as required by the Agency, as follows:

1. **Production Items.** The Contractor shall deliver a replacement production item to the Agency in a manner specified by the Agency. For a set of digital proofs, the Agency shall return the set of digital proofs, or part of the set requiring correction, only upon request by the Contractor, and at the Contractor's expense which shall be deducted from the contract price.

2. **Publications.** The Contractor shall deliver a replacement publication to the Agency in a manner specified by the Agency. The Agency shall return a publication or a representative sample of book pages of the publications, only upon request by the Contractor and at the Contractor's expense which shall be deducted from the contract price. The Agency may demand that the Contractor replace all publications if the Agency could unilaterally terminate the contract due to an egregious breach as provided in Part XI, Paragraph "C" because 15 percent or more of the publications are determined unsatisfactory according to a statistical sampling.

XIII. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — LIQUIDATED DAMAGES

A. ***General.*** During the trial performance period as provided in Part VI, or the standard performance periods as provided in Parts VII and VIII, the Agency may assess and impose liquidated damages against the Contractor for a breach of this contract as provided in this part that will result in the delay of a publication's delivery to the Agency. It is assumed that the late delivery of a publication will consequently reduce the Agency's sales of the publication. In addition, the late delivery of a publication will result in an accompanying loss of the Agency's reputation consequently reducing future sales of the Acts, Code, and other Agency products. It is assumed that the late delivery of the production item or the delivery of an unsatisfactory production item will consequently postpone the Agency's review and approval of the production item, causing a delay in the production and delivery of the publication. The Agency's imposition of liquidated damages applies regardless of whether a production item or publication is or is not actually delivered late because it is assumed that any delay in the Contractor's delivery of the production item will be rectified by the Agency taking extraordinary measures to restore the schedule for production, if possible.

B. ***Breaches.*** The Agency may assess and impose liquidated damages for a breach involving the delivery of a publication later than required under Part VIII, as specified in Appendices C and D (C-3A), or for a designated breach that includes the Contractor's failure to properly deliver a production item or publication, subject to the cap on liquidated damages as provided in this Paragraph. *See Appendix E (C-3A).*

1. **Calculation.** The Agency shall assess liquidated damages based on the following calculations:

   a. **Predetermined Rate.** A breach involving a production item or publication shall be assessed at a predetermined rate.

   b. **Actual or Predetermined Days of Delay.** A production item or publication shall be assessed for the actual number of calendar days that the production item or publication is delivered late. Otherwise, the breach is a designated breach. A designated breach involving a production item shall be assessed for a predetermined number of calendar days that the publication is expected to be delivered late due to the designated breach. A designated breach involving a publication shall be assessed for a predetermined number of calendar days that the publication is expected to be delivered late due to the designated breach. The predetermined number of calendar days shall be added to the last required delivery day for the publication.

   c. **Number of Publications Delivered.** The amount of liquidated damages calculated for a single publication shall be multiplied by the number of publications delivered late.

2. **Amount of Liquidated Damages Capped.** The Agency shall not assess or impose liquidated damages for an amount that exceeds a maximum amount for all breaches classified under a category described in this Part for each publication based on a percentage of the contract price for the publication as provided in Part IX, and specified in Appendix E (C-3A).

XIV. WAIVERS AND AMENDMENTS

A. ***Writing Requirement.*** A waiver or amendment of a provision of this contract shall not be valid unless made in writing.

B. ***Waiver Restriction.*** No person representing the Agency may waive a requirement or amend this contract, except Mr. Glen Dickinson, Director of the Legislative Services Agency; Mr. Richard Johnson, Legal Services Division Director; or Ms. Leslie Hickey, Iowa Code Editor. Mr. Doug Adkisson is authorized to communicate on behalf of any person representing the Agency.

C. ***Specific Waiver — Trial Performance Period.*** Any person specified in Paragraph "B" may waive the trial performance period for the production and delivery of a production item by delivering a written notice of the waiver to the Contractor.

D. ***Failure to Act is Not a Waiver.*** The failure of a party at any time to enforce a provision of this contract is not a waiver of the provision, and does not affect the validity of any provision of this contract or the right of either party to subsequently enforce a provision of this contract. A decision by the Agency to ignore a breach of this contract by the Contractor is not a waiver of a subsequent breach of this contract by the Contractor.

XV. EXECUTION AND EFFECT OF EXECUTION

A. ***Integration.*** Except as provided in this Paragraph "A," this contract (C-2A), including Appendices (C-3A), contains the entire agreement between the Agency and the Contractor, and representations made before the signing of this contract shall not be binding, and neither party shall rely upon conflicting prior representations in entering into this contract. However, if the parties disagree regarding an issue which is not expressly addressed in this contract, or regarding the interpretation of a provision in this contract, which is expressly addressed in a provision contained in the Contractor's completed Request for Information Form (C-1A) as amended in the Contractor's Revised Request for Information Form (C-1A) shall be deemed as part of this contract. Otherwise, this contract supersedes the provisions of these documents (C-1A) or any agreement made prior to the execution of this contract.

B. ***Effective and Termination Dates.*** This contract takes effect upon being signed by authorized representatives of the Agency and the Contractor and continues until the provisions of this contract are satisfactorily performed, or until this contract is otherwise terminated under its provisions.

CONTRACT FORM (C-2A)
CONTRACT 2016 IOWA ACTS

C. ***Signatures.*** The duly recognized representatives of the Agency and the Contractor have on the date noted signed their names to and executed this contract:

Glen Dickinson
Director
Legislative Services Agency

7/25/16
Date

Cindy Hansen
~~Senior Director~~
Manager, Contract
Administrator and Compliance

7/26/16
Date

ADDRESS: c/o Legislative Services Agency
State Capitol
Des Moines, Iowa 50319
Phone: 515/281-3566

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