

AGREEMENT BETWEEN
THE STATE OF IOWA, ACTING THROUGH THE IOWA DEPARTMENT OF NATURAL RESOURCES,
AND
THE UNIVERSITY OF IOWA

THIS AGREEMENT, between the State of Iowa, acting through the Iowa Department of Natural Resources (DNR), and the University of Iowa (UI) is effective as of this 23rd day of October, 2013 (Dated Date).

WITNESS:

That DNR is a state-level executive agency, created by Iowa Code sections 7E.5 and 455A.2, and is charged to implement or otherwise comply with requirements in various chapters in Title XI of the Iowa Code, including without limitation Iowa Code chapter 456;

That UI is an institution under the authority of the Regents pursuant to Iowa Code section 262.7 consistent with Iowa Code chapter 263;

That the parties to this Agreement have shared interests and obligations with respect to investigating and analyzing the geological resources of the state of Iowa;

That the parties acknowledge that DNR has certain obligations enumerated in Iowa Code chapters 455A and 456 with respect to investigating the geological resources of the State, appointing a state geologist (State Geologist) and managing a Geological Survey within the state, none of which shall be abdicated by this Agreement;

That the parties acknowledge DNR has certain other obligations enumerated in Iowa Code chapter 455A to regulate and monitor the water quality and resources of the State and in doing so, relies on vetted, high-quality geologic and water resource data;

That the DNR shall not, pursuant to this Agreement, abdicate or delegate to UI its responsibilities or obligations under the Iowa Code chapter 456 but shall coordinate and cooperate with UI consistent with Iowa Code section 456.8 and under the authority of Iowa Code section 28E.12, to perform certain functions under the direction of the State Geologist;

That the DNR has expended approximately \$1,000,000.00 a fiscal year from various funds and sources on the types of work contemplated by this Agreement over the fiscal years immediately preceding this Agreement and that the DNR intends to make a similar amount available per fiscal year of this Agreement to UI, provided DNR continues to receive such funding;

That the parties acknowledge that UI is uniquely situated in the state to provide research and analytical support to DNR by virtue of its role as an institution of higher education, its management of the State Hygienic Laboratory consistent with Iowa Code section 263.7, its relationship with federal research

entities, its appointment of a state archeologist consistent with Iowa Code chapter 263B, and its management of the Iowa Flood Center;

That the parties have determined that this Agreement, which will authorize and facilitate cooperation and resource-sharing between the parties with respect to their investigation and analyses of geological resources, will result in more robust research, as well as cost-savings to the taxpayers of Iowa through a reduction in the duplication of certain functions; and

That reliable geologic and water resource information and data are necessary to meet the current and future economic development and environmental quality goals of the State of Iowa.

THEREFORE, in consideration of mutual promises and covenants herein contained, the parties agree as follows:

Section 1. Purpose. The purpose of this Agreement is to assign certain obligations to UI as they relate to the DNR's management of a geological survey and other associated and specific water quantity and quality research duties.

Section 2. Statutory Authority.

- A. DNR enters this agreement based on its statutory authorities in 455A.2, which charges the DNR to protect the environment; in 455B.103, which authorizes DNR to contract with other public agencies of the state to perform certain analysis and investigations to fulfill the requirements of Iowa Code chapters 455B, 459 and 459A; and 456.8, which authorizes DNR to cooperate with other state organizations in making topographic maps and studying the geologic problems of the state when, in the opinion of the State Geologist, such cooperation will profit the state.
- B. UI enters this agreement based on its statutory authorities to contract in Iowa Code Chapter 262, Iowa Administrative Code 681-12.5(262) and in accordance with the University Operations Manual Part V, Chapter 6.
- C. The parties further enter into this agreement pursuant to their statutory authority in Iowa Code chapter 28E to enter into agreements with other public agencies for joint or cooperative action. In accordance with chapter 28E, the parties stipulate as follows:
 - 1. A copy of this Agreement shall be filed by DNR with the Secretary of State before it shall be in full force and effect, pursuant to Iowa Code section 28E.8.
 - 2. The parties agree that no real property will be acquired, held or disposed of in relation to this Agreement. Any personal property acquired, held or disposed of in relation to this Agreement shall be done in accordance with Section 5 of this Agreement.

3. This Agreement shall not establish a separate legal entity nor a joint board to conduct the joint or cooperative undertaking described herein. As such and pursuant to the provisions of Iowa Code section 28E.6(1)(a), the persons named in Section 3 of this Agreement shall serve as administrators for their respective parties' performance under this Agreement.

Section 3. Administrators. Each party has designated an administrator, who shall be responsible for management of its party's interest herein as well as any oversight and/or approval of the Agreement's scope, as follows:

DNR Administrator: William Ehm
Division Administrator
Environmental Services Division
Wallace State Office Building, 502 E. 9th Street
Des Moines, IA 50319
515-281-5817
william.ehm@dnr.iowa.gov

UI Administrator: Larry Weber
Director, IIHR – Hydrosience & Engineering
107C SHL
University of Iowa
Iowa City, IA 52242
319-335-5597
larry-weber@uiowa.edu

UI Financial Contact: Rose Sullivan
Assistant Director
Address: Grant Accounting Office
B5 Jessup Hall
University of Iowa
Iowa City, IA 52242
319-335-0050
rosemary-sullivan@uiowa.edu

These persons so named as the administrator may be changed by the parties from time to time. Upon such change, the changing party shall send the other party notice of such change as soon as practicable. These persons shall serve as points of contact for this Agreement, and all communications regarding this

Agreement shall be directed either through them or to the party's signatory to this Agreement, or persons then holding such position if such individual is no longer in that signatory position. For purposes of this Agreement, the DNR's Administrator shall be the person serving as the State Geologist.

Section 4. Period of Performance. The term of this Agreement shall be from the Dated Date and run for a period of five (5) years, unless terminated earlier in accordance with the Termination section of this Agreement. However, the obligations under this Agreement shall not begin until it has been signed by both parties. This Agreement may be modified in writing upon mutual agreement of the parties.

Section 5. Scope of Work.

A. Work Plans. Under the direction of the State Geologist, UI shall provide administrative and ministerial support for and cooperate with the DNR's survey by:

1. Proposing a survey of the natural resources of the state in all their economic and scientific aspects consistent with Iowa Code section 456.3.
2. Conducting preliminary investigation of the characters of various soils and their capacities for agricultural purposes, the streams, and other scientific and natural resources consistent with Iowa Code section 456.4.
3. Making detailed maps and reports of counties and districts, embracing such geological, mineralogical, topographical and scientific details as are necessary to make complete records thereof, which may include the necessary illustrations, maps, charts and diagram, consistent with Iowa Code section 456.6.
4. Cooperating with the United States Geological Survey and other state and federal organizations in making topographic maps and studying geological problems of the state, consistent with Iowa Code section 456.8.
5. Preparing special reports and bulletins of scientific value or containing information of immediate use to people for review or according to protocols articulated by the State Geologist, consistent with Iowa Code section 456.9.
6. Coordinating with the State Geologist to publish and distribute deliverables, maps or reports that may be developed by UI according to this Agreement, consistent with relevant provisions of Iowa Code chapter 456, including without limitation sections 456.9-11.
7. Performing grant functions related to the grants identified in Exhibit A, which is attached and incorporated by this reference, subject to approval, if required, from the respective grantors of those grants.

8. Provide specific information and data required by the DNR for regulatory and other obligations. This information could include analysis of drilling samples, preparation of strip logs, interpretation of geologic conditions, or evaluation of existing reports or data. The DNR may require the prioritized processing of this information in order to support its mission and objectives.

To this end, UI shall implement an approved work plan (Work Plan). Each year, UI shall submit a proposed Work Plan to the State Geologist, which shall cover the period from July 1 to the following June 30. The Work Plan shall describe tasks UI intends to perform to meet the requirements of this Agreement, specifically paragraphs 1-8 of this section, and shall identify any deliverables, maps or reports that are intended to be provided during the year as well in what form the product shall be provided and by what date such product shall be delivered to the State Geologist for review and approval. DNR shall provide UI a rough estimate of funds available for each Work Plan for UI's use in developing such Work Plan.

To comply with the state-level budget request process and ensure code compliance, all Work Plans, and related budgets as described in Section 7 of this Agreement, shall be submitted to the DNR by the September 1 prior to the period covered by the Work Plan and shall be subject to the review and approval of the DNR; such approval shall not be unreasonably withheld. The final and approved Work Plan shall be signed by the parties and incorporated into this Agreement by not later than June 1 prior to the period covered by the Work Plan or as soon as possible after all state legislative appropriations are approved, whichever is later, and in conjunction with the approval of the Annual Budget consistent with Section 7 of this Agreement.

In the event the UI proposes to modify any approved Work Plans such that DNR budget approval would be required under 6D or 7D herein, UI must submit the proposed amendment(s) to the State Geologist, who shall review such request within ten (10) business days and who shall not unreasonably withhold such approval.

- B. Preliminary Work Plan. UI shall implement an approved preliminary Work Plan. The preliminary Work Plan shall comply with the requirements and be subject to the same review as the Work Plan, but it will address the period of time from the Dated Date until June 30, 2014 and shall be submitted within 30 days of the Dated Date. This preliminary Work Plan may require the identification of additional tasks required by either party to effectuate the transition of duties from DNR to UI. Such duties should be plainly stated in the preliminary Work Plan, and the parties acknowledge that the identification of additional tasks may require an amendment to this Agreement to the extent they substantially add or modify the terms of this Agreement. The final and approved preliminary Work Plan shall be signed by the parties and incorporated into this Agreement by not later than 30 days from the date it is submitted to the DNR for its review, or soon thereafter as is feasible if that date is impossible or impracticable for the parties to meet, and in conjunction with the approval of the Preliminary Budget consistent with Section 6 of this Agreement.

- C. DNR Review. State Geologist shall review the deliverables, maps and reports prepared by UI pursuant to this Agreement and approve and submit or publish them as appropriate under Iowa Code chapter 456, as described in Exhibit C. The State Geologist may prescribe methods or procedures by which certain deliverables, maps and reports prepared by UI may be appropriately published without the State Geologist's prior review provided those deliverables, maps and reports meet the criteria laid out in the prescribed methods or procedures and provided the State Geologist shall still have the authority to review them and provide comment consistent with the next paragraph after they are so published.

To the extent that additional research or analysis is required, in the State Geologist's professional opinion, the State Geologist shall direct the UI to conduct such work to correct or complete the deliverable, map or report before it is finalized.

- D. Meetings. UI shall meet quarterly with the State Geologist to discuss work under the Work Plan in effect for the current or just-ending quarter. The State Geologist will provide updated DNR priorities for UI's information, some of which may require modifications to the Work Plan. The parties will also discuss any upcoming Work Plans or other issues that could impact this Agreement. The parties may meet more than quarterly but must meet at least quarterly.
- E. Access to Private Property. To the extent that UI would require access to private property to obtain information required under this Agreement, UI must either (1) obtain the private landowner's permission, or (2) identify such property to the State Geologist who may then assign an assistant, consistent with Iowa Code section 456.5, to enter such land consistent with the requirements of that section.
- F. State Hygienic Laboratory. Separate from this Agreement and pursuant to authority in Iowa Code sections 455B.103 and 456.8, the DNR may contract with UI's State Hygienic Laboratory for analytical services related to the work required under this Agreement and any subsequent Work Plan(s) approved under it. Should any work described in the Work Plan contemplated in Section A above require the services of SHL, the parties agree that a separate contract with specific deliverables shall be entered into by and between DNR and SHL for that discrete work. The parties also agree that they shall endeavor to coordinate their respective analytical services to the greatest extent practicable for the purpose of achieving cost efficiencies where substantial savings are possible. However, nothing herein shall require DNR to contract with SHL to perform additional analytical functions, in particular if DNR has a business need to conduct its own analysis.
- G. Equipment. A list of equipment that currently resides on DNR's state inventory and that has been used by DNR in performing functions described in this Agreement but that will be made available to UI to perform this Agreement will be developed as part of the development of the

Preliminary Work Plan described in Section 5.B and shall be attached and incorporated by this reference as Exhibit B.

1. Each piece of equipment identified in Exhibit B shall remain the property of DNR, but shall be made available for use and shall be maintained by the UI until this Agreement is terminated, at which time it will be returned to DNR, or until the end of the useful life for the particular piece of equipment, at which time UI may dispose of it according to its policies regarding the disposal of property after providing DNR an opportunity to have it, whichever occurs first. The DNR will maintain insurance coverage on or rely on its status as self-insured for equipment for which the DNR remains the owner.
 2. Each year of the Agreement, by August 1, UI shall provide the State Geologist with a report summarizing the condition, location and depreciated value of all equipment described on Exhibit B. If UI has disposed of a piece of equipment that has reached the end of its useful life, UI shall note the nature of the disposal in such report.
 3. UI may purchase additional equipment for purposes of implementing all or part of the Work Plans described in Section A above. If UI purchases equipment with a value in excess of \$5,000.00 using funds provided under this Agreement, such equipment shall be included in the report described in paragraph 2 of this section above to be included in the state's inventory and all requirements and obligations described in this Section shall apply.
 4. Except as otherwise provided herein, all equipment provided to UI by DNR not on the DNR's state inventory and all equipment purchased by UI under this Agreement with a value of less than \$5,000 shall become the property of UI.
 5. During the period of time from the Dated Date until June 30, 2014, DNR may have equipment present on UI-owned real property. DNR and UI shall enter into a separate agreement to memorialize and regulate the DNR's temporary use of such real property during such transitional or preliminary period.
- H. Information and Data. All data provided to UI by DNR under this Agreement shall remain the property of DNR and be subject to the provisions of Exhibit C, except as otherwise stated herein or as would be precluded by law. All data provided to UI by DNR under this Agreement shall be maintained and made available for public use, consistent with Exhibit C, by UI, except as otherwise stated herein or as would be precluded by law. In addition to, and notwithstanding the provisions to the contrary in Exhibit C, the following specific provisions shall apply to information and data relevant to this Agreement:
1. DNR shall retain any historical records related to the work described under this Agreement consistent with the applicable records retention policy adopted for such

records, including those retention policies adopted by the State Records Commission or other appropriate oversight entity. DNR shall provide historical files it no longer requires to UI, who shall maintain such documents consistent with Iowa Code section 305.13, unless and until this Agreement terminated, at which time they will be returned to DNR; or until the records may be disposed of properly, at which time UI may dispose of them according to those policies providing DNR an opportunity to have them.

2. Software license. To the extent possible, DNR will share or assign its software licenses to UI for software it has obtained to conduct work described in Section 5.A of this Agreement and which it will no longer require. This shall not include software licenses for software used in the ordinary course of business, such as Microsoft Office or Adobe Publisher, but is intended to include specialized or custom software procured by DNR to manage geological and water resource data. In the event this Agreement is terminated, UI shall assign back to DNR any licenses assigned to it under this paragraph to the extent possible.
 3. Geographical Information Systems (GIS). It is the intention of the parties that UI will host DNR's GIS, including without limitation primary metadata and related software, to enable DNR to make GIS-related information and related resources available to the public. Both parties will continue to collect and deposit metadata necessary to populate the related software according to standards agreed upon by the parties. The standards attributed to the collection and deposit of the above-described data and the hosting and availability of such system shall be more clearly defined in and subject to the conditions of the Preliminary Work Plan or applicable Annual Work Plan(s) described in Sections 5.A and 5.B of this Agreement. Any data received from DNR pursuant to this section shall be considered public data and shall be managed and made available for DNR's unrestricted use of such consistent with Exhibit C.
- I. Employment and subcontracts. UI shall have the authority to hire, manage and terminate employees and the services of subcontractors consistent with the Work Plan(s) executed pursuant to Section 5.A of this Agreement, provided that professional full-time staff employed by UI in the first 18 months of this Agreement to perform functions substantially related to this Agreement shall be subject to approval of the DNR's Director prior to any offer of employment or appointment is made, such approval not being unreasonably withheld. DNR acknowledges that UI utilizes an appropriate hiring and appointment process to identify and hire or appoint professionals capable of performing the obligations described herein. The Director, in consultation with his staff including the State Geologist, shall use this role to affirm whether the hired or appointed staff will appropriately transition the functions described in Section 5.A from DNR to UI to minimize impacts to persons and industries accustomed to and, in some cases, reliant on the DNR's provision of services now to be performed by UI under this Agreement. Nothing in this Agreement shall create an employment relationship between DNR and the

employees hired by UI nor create any contractual privity between DNR and any contractors hired by UI under this Agreement.

- J. Legislation. The parties agree that the work of the Iowa Geological Survey has been important in investigating and analyzing the natural resources of the state of Iowa. However, the parties also agree that the existing laws authorizing and directing the functions of the Iowa Geological Survey should be updated to reflect the current geologic and hydrogeologic needs of Iowa's agriculture, industry, and communities. To that end, the parties agree to coordinate any legislative proposals and responses to legislative inquiries with respect to modifications to existing state law that would promote the collection of geologic information and data intended to meet the current and future needs of Iowa.
- K. Transition. To protect DNR employees as well as user groups and key industries that may be impacted by the performance or non-performance of the parties in this Agreement, in the event DNR is not assured that UI is acting in a manner to expeditiously and efficiently transition the duties described in this Agreement, including those currently performed by DNR but to be performed by UI, with oversight from DNR, under this Agreement, DNR may terminate this Agreement consistent with Sections 9 and 10 of this Agreement. To that end, DNR appreciates and understands that transitions such as the one contemplated in this Agreement can be challenging and will work with UI to overcome obstacles or challenges that may arise before exercising such termination authority.
- L. Implementation Team. Upon initiation of this Agreement, the parties shall establish an implementation team, which shall be comprised of senior managers, or representatives of senior managers, at the respective organizations who have, or have ready access to persons with, decision-making authority for their respective organization. The Implementation Team shall meet at biweekly from initiation of this Agreement until June 30, 2014, and then as agreed to thereafter, at times to be decided upon by the parties. The purpose of these meetings shall be to effectuate the implementation of the Preliminary Work Plan described in Section 5.B above and the transition of duties as described in this Agreement. Such meetings may be in person or by telephone.

Section 6. Preliminary Budget.

- A. Submission of a Preliminary Budget. As soon as practicable from the Dated Date but not more than 30 days therefrom, UI shall submit to DNR a proposed preliminary budget, which will cover the timeframe from the Dated Date to June 30, 2014.
- B. Contents of the Preliminary Budget. The Preliminary Budget shall be broken down by month and shall identify anticipated costs, or ranges of costs, UI expects to incur by virtue of its performance under this Agreement and shall not exceed \$500,000.00, such amount dependent on the approved preliminary Work Plan described in Section 5 above. The Preliminary Budget shall include only those costs that substantially relate to the functions described in this

Agreement; shall not include any costs related to functions identified in contracts otherwise in place between DNR and UI; and shall not include any costs related to functions to be performed by the State Hygienic Lab, which shall be subject to a separate agreement or agreements. It is understood that the Preliminary Budget will reflect minimal costs at first to perform the obligations herein, and that costs attributed to this Agreement in that budget will increase as time goes by.

- C. Review and Approval of the Preliminary Budget. DNR shall have twenty days to review such Preliminary Budget and may request changes or modifications necessary to conform to available budget resources and changes to the preliminary Work Plan. The final and approved Preliminary Budget shall be signed by the parties and incorporated into this Agreement in conjunction with the preliminary Work Plan.
- D. Modifications to the Preliminary Budget. UI shall have the authority to modify the Preliminary Budget within specific tasks by not more than ten percent without approval of the DNR, provided the modifications do not result in an overall increase to the Preliminary Budget. In the event UI seeks a modification to the budget that requires changing the use of funds by more than ten percent or an increase to the Preliminary Budget, UI shall submit such request, along with a narrative supporting the change, to DNR. DNR shall review the proposed modification within ten (10) days; DNR's approval of such will not be unreasonably withheld.

Section 7. Annual Budget.

- A. Submission of an Annual Budget. In conjunction with the annual Work Plan development process, UI shall submit to DNR a proposed annual budget, which will cover the fiscal years occurring after the time period covered by the Preliminary Budget. The amount of funds available from DNR to meet the Annual Budget shall be dependent on the approved Work Plan for that time period as well as funds available to DNR for such purpose.
- B. Contents of the Annual Budget. The Annual Budget shall be broken down by month and task and shall identify anticipated costs UI expects to incur by virtue of its performance under this Agreement. The Annual Budget shall also include funds UI intends or expects to receive from sources other than DNR for performance of the Work Plan. The Annual Budget shall include only those costs that substantially relate to the functions described in this Agreement; shall not include any costs related functions identified in contracts otherwise in place between DNR and UI; and shall not include any costs related to functions to be performed by the State Hygienic Lab, which shall be subject to a separate agreement or agreements.
- C. Annual Budget Review and Approval. DNR shall review and approve the Annual Budget as part of the annual Work Plan review process described in Section 5 of this Agreement. DNR may request changes or modifications necessary to conform to available budget resources. Each final and approved Annual Budget shall be signed by the parties and incorporated into this

Agreement consistent with the approval and incorporation of the corresponding Work Plan as described in Section 5 of this Agreement.

- D. Modifications to the Annual Budget. UI shall have the authority to modify the Annual Budget within specific tasks by not more than ten percent without approval of the DNR provided the modifications do not result in an overall increase to the Annual Budget. In the event UI seeks a modification to the budget that requires changing the use of funds by more than ten percent or an increase to the Annual Budget, UI shall submit such request, along with a narrative supporting the change, to DNR. DNR shall review the proposed modification within ten (10) days; DNR's approval of such will not be unreasonably withheld.

Section 8. Payments.

- A. Submission of Invoices. DNR shall reimburse UI for costs identified in the approved Preliminary or Annual Budget. UI shall invoice DNR not more than monthly, consistent with the applicable budget, during the term of this Agreement and shall invoice DNR for all costs incurred in a fiscal year by not later than August 1 following the end of each fiscal year. Each invoice shall comply with all applicable rules concerning payment of such claims. Each invoice shall be itemized as per the line item budget categories in the budget contained in this Agreement. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Invoices shall be submitted electronically and shall be sent to the DNR Administrator identified in Section 3 of this Agreement.
- B. Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514 and within sixty (60) days following receipt of invoices or be subject to interest accrual authorized by Iowa Code section 8A.514. Payment will be issued to the University of Iowa and shall be remitted to UI's Financial Contact identified in Section 3 of this Agreement. Unless otherwise agreed to in writing by the parties, UI shall not be entitled to receive any other payment or compensation from the State of Iowa for any services provided by or on behalf of UI under this Agreement.
- C. No advance payment. No advance payments shall be made for any services provided by UI pursuant to this Agreement.
- D. Delay of Payment Due to UI's Failure. If DNR determines that UI has failed to perform or deliver any service or product required by this Agreement, then UI shall not be entitled to any compensation for that service or product, or any further compensation if compensation has already occurred, under this Agreement until such service or product is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the obligation that was not completed, delivered and successfully deployed.

- E. Erroneous Payments and Credits. UI shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by UI or notification by DNR of the overpayment or erroneous payment.

Section 9. Default. Prior to initiating a Termination for Convenience authorized by Section 10.B below for cause, a party shall provide thirty (30) days written notice to the defaulting party that notifies the defaulting party of the breach or noncompliance and an opportunity for such breach or noncompliance be remedied within the period of time specified in the written notice. If the breach or noncompliance is not remedied by the date of the written notice, the notifying party may either terminate the Agreement consistent with Section 10.B or other termination provision in this Agreement; or enforce the terms and conditions of the Agreement and seek any legal or equitable remedies.

Section 10. Termination.

- A. Immediate Termination by DNR. DNR may terminate this Agreement for any of the following reasons effective immediately without advance notice and without penalty:
 - 1. DNR determines that the actions, or failure to act, of UI, its agents, employees or subcontractors have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;
 - 2. UI furnished any statement, representation or certification in connection with this Agreement which is materially false, deceptive, incorrect or incomplete.
- B. Termination for Convenience. Following thirty (30) days written notice, either party may terminate this Agreement in whole or in part, with or without cause and without the payment of any penalty or incurring any further obligation to the other party.
- C. Remedies of the UI in the event of Termination. In the event of termination of this Agreement for any reason, DNR shall pay only those amounts, if any, due and owing to UI for services actually rendered up to and including the date of termination of the Agreement and for which DNR is obligated to pay pursuant to this Agreement. Payment will be made only upon submission of invoices and proper proof of UI's claim. This provision in no way limits the remedies available to DNR or UI under this Agreement in the event of termination. However, DNR shall not be liable for any of the following costs:
 - 1. The payment of unemployment compensation to UI's employees;
 - 2. The payment of workers' compensation claims, which occur during the Agreement or extend beyond the date on which the Agreement terminates;
 - 3. Any overhead costs incurred by UI in its performance of the Agreement, except to the extent specifically agreed to in the Work Plans or Preliminary or Annual Budgets;

4. Any taxes that may be owed by UI in connection with the performance of this Agreement, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

D. UI's Termination Duties. Upon receipt of termination by DNR or upon sending termination to DNR, and unless otherwise directed by law, UI shall:

1. Cease work under this Agreement and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report (excluding the final invoice) within thirty (30) days of the date of notice of termination, describing the status of all work under the Agreement, including, without limitation, results accomplished, and conclusions resulting there from, any other matters DNR may require.
2. Immediately cease using and return to DNR any personal property or materials, whether tangible or intangible, provided by DNR to UI under this Agreement.
3. Comply with DNR's instructions for the timely transfer of any active files and work product produced by UI under this Agreement.
4. Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.
5. Immediately return to DNR any payments made by DNR for services that were not rendered by UI.

E. Rights in Incomplete Products. In the event the Agreement is terminated for any reason, all finished or unfinished documents, data, reports, or other materials prepared by UI under this Agreement shall, at the option of DNR, become DNR's property and UI shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other material.

Section 11. Representations. With respect to any deliverables, maps, studies or reports provided by UI pursuant to this Agreement, the following conditions shall apply:

- A. Construction of Representations Expressed in this Agreement with Representations Implied by Law. All representations made by UI in all provisions of this Agreement and the Proposal by UI, whether or not this Agreement specifically denominates UI's promise as a representation or whether the representation is created only by UI's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to DNR, shall not be construed as limiting or negating any representation provided by law, including without limitation, representations which arise through course of dealing or usage of trade. The

representations expressed in this Agreement are intended to modify the representations implied by law only to the extent that they expand the representations applicable to the goods and services provided by UI. The provisions of this Section apply during the term of this Agreement and any extensions or renewals thereof.

- B. Concepts, Materials, and Works Produced. UI represents that all the concepts, materials and Works produced, or provided to DNR pursuant to the terms of this Agreement shall, to the best of UI's knowledge, be wholly original with UI or that UI has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and work product produced under this Agreement. UI represents to the best of its knowledge that a: the concepts, materials and work product produced under this Agreement shall not infringe upon any other work, other than material provided by the Agreement to UI to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and b: the concepts, materials and work product produced under this Agreement will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. UI represents that it is the owner of or otherwise has the right to use and distribute any software, the materials owned by UI and any other materials, work product produced under this Agreement and methodologies used in connection with providing the services contemplated by this Agreement.
- C. Professional Practices. UI represents that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.
- D. Conformity with Agreement Requirements. UI represents that the work product produced under this Agreement will appear and operate in conformance with the terms and conditions of this Agreement.
- E. Authority to Enter into Agreement. UI represents that it has full authority to enter into this Agreement and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to DNR.
- F. Obligations Owed to Third Parties. UI represents that all obligations owed to third parties with respect to the activities contemplated to be undertaken by UI pursuant to this Agreement are or will be fully satisfied by UI so that DNR will not have any obligations with respect thereto.
- G. Title to Property. In the event UI assigns, conveys or licenses any property to DNR associated with this Agreement, such assignment, conveyance or license will be addressed under a separate agreement.

- H. Academic Standards. UI represents that all aspects of the goods and services provided or used by it shall conform to the applicable academic standards in the performance of this Agreement.
- I. Technology Updates. UI represents that it shall continually use and integrate the most current and up-to-date technology commercially available as practical and appropriate to ensure efficient work performance.

Section 12. Miscellaneous.

- A. Compliance with Law. The parties and their employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing obligations under this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The parties and their employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Agreement.
- B. Independent Contractor. The status of UI shall be that of an independent contractor. UI and its employees, agents and any subcontractors performing under this Agreement are not by reason of this Agreement employees or agents of the DNR. Neither UI nor its employees shall be considered employees of DNR for federal or state tax purposes by reason of this Agreement. DNR will not withhold taxes on behalf of UI. UI shall be responsible for payment of all applicable taxes in connection with any income earned from performing this Agreement.
- C. Conflict of Interest. With the exception of other contracts between DNR and UI, UI represents to the best of its knowledge that it presently has no interest and shall not acquire any interest, direct and indirect, which would conflict in any manner or degree with the performance of services required under this Agreement nor will it engage in activities during the term of this Agreement that would create an illegal conflict pursuant to Iowa code chapter 68B.
- D. Amendments. Except as otherwise expressly stated herein, this Agreement may be amended or renewed only by written mutual consent of the parties.
- E. Choice of Law. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. The parties shall comply with the provisions of Iowa Code section 679A.19 regarding disputes between government agencies. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. No provision of this Agreement shall be construed as waiving

any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to DNR, UI, or the State of Iowa.

- F. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.
- G. Entire Agreement. This Agreement constitutes the entire agreement between DNR and UI with respect to the subject matter hereof, and the parties acknowledges that they are respectively entering into the Agreement solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This Agreement supersedes all prior contracts and agreements between DNR and UI for the work described in this Agreement.
- H. Assignment and Delegation. This Agreement may not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other party. For the purpose of construing this provision, a transfer of a controlling interest in the transferring party shall be considered an assignment.
- I. Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of DNR and UI, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Agreement shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- J. Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows in Section 3 of this Agreement. Each such notice shall be deemed to have been provided at the time it is actually received. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.
- K. Obligations beyond the Term. This Agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Agreement. All obligations of DNR and UI incurred or existing under this Agreement as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Agreement.
- L. The DNR shall have the right to review and observe, at any time within reasonable business hours and so as not to disrupt services, completed work or work in progress related to the Agreement. UI shall permit the DNR or its agents to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, reports, papers and records of UI relating to orders, invoices,

or payments or any other documentation or materials pertaining to this Agreement. Upon the request of the DNR, UI shall deliver to the DNR or its agents said documentation or materials.

Section 13. Commission Approval. The Environmental Protection Commission has approved this Agreement, as decided at its regular meeting on the 14th day of October 2013 and as shown in the minutes thereof.

Section 14. Approval; Authorization. By their signatures below, the representatives of the respective parties represent and warrant that they are legally able to bind themselves to the obligations enumerated herein. To the extent that a party is found not to be legally able to obligate itself to this Agreement, that party shall be solely liable for any damages that may result from the false representation or warranty.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed on their behalf by their duly authorized officers.

IOWA DEPARTMENT OF NATURAL RESOURCES

BY: Chuck Gipp
Chuck Gipp
Director

DATE: 10/23/2013

UNIVERSITY OF IOWA
BY: Daniel Reed
Daniel Reed
Vice President for Research
and Economic Development

DATE: OCTOBER 18, 2013

EXHIBIT A
GRANTS

Consistent with the Agreement and the development of individual Work Plans thereunder and to the extent funds are available thereunder and approval is granted by the respective grantor, the following grants are known to DNR, as of the date of the Agreement, and are eligible for complete or partial performance by UI consistent with the Agreement and as fully described in the Work Plan:

1. StateMap, funded by the United States Geological Survey (USGS).
2. Source Water Protection grant, funded by the United State Environmental Protection Agency.
3. Data Preservation grant, funded by the USGS.
4. Geothermal Grant, funded by the United States Department of Energy.
5. Lagerstatte Fauna grant, funded by the National Science Foundation.

This Exhibit may be amended by agreement of the parties to include additional or new grants during the performance of the Agreement.

EXHIBIT B
EQUIPMENT INVENTORY

EXHIBIT C
INTELLECTUAL PROPERTY OWNERSHIP AND DATA SHARING

Both parties acknowledge the following requirements related to intellectual property (IP) ownership and data use hereunder, particularly in light of the following understandings of the respective interests of the parties:

- The DNR is required to have access to data and certain rights to IP developed under this agreement in order to fulfill its duties as required by Iowa Code;
- The UI is a public academic institution with an obligation to preserve the right to freely disseminate the results of its research in a timely manner, while acknowledging privacy and confidentiality restrictions as required by law; and
- Under UI policy the UI is required to protect the IP resulting from the work of its personnel, including an obligation to preserve the right to use such IP for further research, instruction and academic publication purposes.

Based on these understandings, the parties hereby agree to the following terms with regard to IP ownership, data use, and publication rights:

For works resulting from projects under third-party funding:

- UI will own patents and copyrights in any inventions or works and the data resulting from the third-party funded projects, except as may otherwise be stated in the next point.
- For third-party funded research and publications that are based on data collected under separate DNR funding to UI and that become UI property under that agreement, UI grants to DNR a royalty-free, non-exclusive license to use such data and results for DNR non-commercial purposes.
- For third-party funded research that UI is eligible to seek because of UI's affiliation with DNR through this Agreement, UI grants to DNR a royalty-free, non-exclusive license to use such data and results for DNR non-commercial purposes.

For works resulting from projects under DNR funding to UI:

- For projects mandated by Iowa Code chapter 456:
 - UI will own patents and copyrights in any inventions or works and the data resulting from the DNR funded project.
 - UI grants to DNR a royalty-free, non-exclusive license to use such data and results for DNR purposes.

- The State Geologist reserves the right to approve the methodology and to review and comment on the final product.
 - The State Geologist retains the first right to publish as required by Iowa Code. UI has the right to publish such results after the State Geologist publishes or one year after data collection and reporting by UI to the State Geologist, whichever occurs first.
 - It is the intent of the parties that such works will become public information except as considered confidential under Iowa Code Chapter 22.7.
- For projects that are not mandated by Iowa Code chapter 456:
 - UI owns patents and copyrights in any inventions or works and the data resulting from such projects.
 - UI grants to DNR a royalty-free, non-exclusive license to use such data and results for DNR purposes.
 - UI retains the right to publish the results of such projects.

Notwithstanding any of the foregoing, if the terms of any third party funding hereunder mandate IP, data use and/or publication rights that conflict with the above, the parties agree to review such terms prior to accepting the funding, and if such funding is accepted, the parties agree to abide by such terms.

Any rights conferred or obligations imposed herein shall survive the termination of the underlying Agreement and the application of this Exhibit.