

Med Cannabis Local Government Compliance Certification Form

Adams, Geno <Geno.Adams@state.sd.us>

Tue 11/2/2021 1:15 PM

To: Bobbie Janis <election@frcounty.org>; Ganje, Sue <Sue.Ganje@state.sd.us>

3 attachments (504 KB)

FORM D_SD DOH_MEDICAL CANNABIS TESTING ESTABLISHMENT REGISTRATION CERTIFICATE APPLICATION FORM E.pdf; FORM C_SD DOH_MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE APPLICATION.pdf; Local Government Compliance Certification Form E.pdf;

Good afternoon,

I apologize for the confusion on the local/state medical cannabis application processes! It's a very complex system that we're trying to get figured out with the help of local governments.

Attached are the two fillable forms that mirror the information requested in the online application for establishments.

As far as the process, the only deadlines for application within State of South Dakota Administrative Rule would be:

44:90:03:12. Deadline to submit initial applications for establishments. The department shall accept applications on a rolling basis, except that applications to locate an establishment in a city or county that has limited the number of medical cannabis establishments must be submitted:

- (1) By November 1, 2021, if the limit was enacted prior to October 1, 2021; or
- (2) Within 90 days of the effective date of a limit enacted on or after October 1, 2021.

This rule establishes two deadlines for state application submission so that we have an end date for accepting applications so we can enact tie breaking procedures if needed. From what I have learned, your ordinance was in place after October 1, therefore, applicants in your jurisdiction would be need to get their state application in within 90 days of your ordinance effective date that limits the number of establishments. During that 90 period, the local municipality would need to fill out the "Local Government Compliance Certification Form" (Form E – attached) and provide it to any applicants you choose (or all applicants). The state does not have anything in rule that dictates when a local government application process needs to take place within that 90 day period. We would just need the completed state applications to have the Form E attached and any copies of local medical cannabis licensing provided to the state by the end of the 90 day period.

Hopefully this helps. If you have additional questions, let me know at any time!

Thanks,



GENO ADAMS

Medical Cannabis Program Administrator | *Division of Health Care*

Access & Quality & Health Protection

SOUTH DAKOTA DEPARTMENT OF HEALTH

605.773.6697 | 600 E Capitol Ave, Pierre | doh.sd.gov



Order a **FREE AT-HOME COVID-19 TEST**

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South Dakota Medical Cannabis Program

MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE APPLICATION FOR TESTING FACILITIES

The purpose of this form is to collect the necessary information from applicants who seek a registration medical cannabis establishment certificate pursuant to SDCL 34-20G.

SECTION I. Primary Contact Information for Application

First Name	Middle Name	Last Name	Date of Birth (mm/dd/yyyy)
Address			Apartment or Suite #
City	State	ZIP Code	
Telephone Number (xxx-xxx-xxxx)		Email Address	

SECTION II. Establishment Information

Legal Business Name			
Doing Business As (DBA)		South Dakota Sale Tax License ID	
Establishment Physical Address		Apartment or Suite #	
City	County	State	ZIP Code

SECTION III. Zoning Certification

Copies of city and county registrations, licenses, and permits must be submitted with this application for it to be considered a complete application.



MEDICAL CANNABIS ESTABLISHMENT REGISTRATION
CERTIFICATE APPLICATION TESTING FACILITIES

FORM D

SECTION IV. Financial Interest

Is any person holding a financial interest in this application a South Dakota Physician licensed to prescribe drugs to humans? <i>If answering "NO", please skip to Section V.</i> () Yes () No	Please provide the full name of physician holding financial interest in this application.	Please provide the National Provider Identifier number of the physician holding financial interest in this application.
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SECTION V. Principal Officers and Board Members Information

Please provide the following information for **ALL** principal officers and board members of the proposed medical establishment. If there are more than 6 individuals to identify, please attach additional pages. If less, please leave the additional spaces blank.

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
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Address			Apartment or Suite #
City	State	ZIP Code	



MEDICAL CANNABIS ESTABLISHMENT REGISTRATION
CERTIFICATE APPLICATION TESTING FACILITIES

FORM D

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	

SECTION VI. Attachments

Failure to provide the following attachments will result in an incomplete application.

FROM PREVIOUS SECTION II

- Copies of operating procedures consistent with ARTICLE 44:90:03:04 and/or ARTICLE 44:90:03:05 for cultivation facilities, ARTICLE 44:90:03:07 for product manufacturing facilities, and/or ARTICLE 44:90:03:08 for dispensary facilities. Failure to address all specifications listed in these sections is grounds for application denial.
- Proof of property owner's consent to use of the property for testing cannabis.
- Photocopies of a valid form of identification issued in South Dakota, or its equivalent issued in another U.S. jurisdiction, for all principal officers and board members.
- Photocopies of organizing documents, operating agreements, management agreements, bylaws, or other legal documents relating to the applicant's business structure.

FROM PREVIOUS SECTION III

- Certification of compliance from the local municipality or county ensuring applicant's proposed plans and location meet all local zoning and ordinance requirements
- Copies of all required registrations, licenses, or permits (if applicable)
- Certification of no ordinance from the local municipality or county (if applicable)



SECTION VII. APPLICANT CERTIFICATIONS

As a condition of the registration certificate, the undersigned applicant representing the proposed medical establishment must attest to the following:

- The information provided in this form is complete and correct and that a change to any information provided in this form must be submitted to the department within 10 days of the change.
- Any misrepresentation to the department is grounds for denial, suspension, or revocation of certification.
- No principal officer or board member of the proposed medical establishment has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked in South Dakota or any other U.S. State or Territory.
- The principal officers and board members of the proposed medical establishment are 21 years of age or older.
- At least one principal officer is a resident of South Dakota.
- All principal officers and board members shall submit to and complete a background check within 90 days after submission of this application.
- Any person seeking to become a principal officer, board member, agent, volunteer, or employee of the establishment shall submit to and complete a criminal background check before the first day that person begins work in any capacity for, or at, the establishment.
- Upon receipt and review of all background checks for a principal officer, board member, agent, volunteer, or employee of the establishment, if there are any disqualifying offenses as defined by SDCL 34-20G, then that person shall not be allowed to perform work for, or at, the establishment in any capacity.
- All agents of the proposed medical establishment must have an agent identification badge issued by the establishment.
- Failure to comply with the operating plan, as approved by the department, may be grounds for certification suspension, revocation, or other action.
- The person signing the application is legally authorized to act on behalf of the applicant.
- Submission of the application constitutes permission to inspect premises, vehicles, and records (paper or electronic).
- The establishments applied for on this form will use the state managed seed to sale tracking system.

☐ In addition to the application, a nonrefundable fee of \$5000 is required for each medical establishment registration certificate. Individual certificates are required for cultivation, product manufacturing, and dispensary operations After you sign and submit this form, you will receive a confirmation email that includes a link to a payment voucher to include with your payment.

☐ I have read and attest to all certifications listed.

Full Name (Printed)	
Full Name (Signature)	Date



South Dakota Medical Cannabis Program

MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE APPLICATION FOR CULTIVATION, PRODUCT MANUFACTURING, AND DISPENSARY FACILITIES

The purpose of this form is to collect the necessary information from applicants who seek a registration medical cannabis establishment certificate pursuant to SDCL 34-20G.

SECTION I. Primary Contact Information for Application

First Name	Middle Name	Last Name	Date of Birth (mm/dd/yyyy)
Address			Apartment or Suite #
City	State	ZIP Code	
Telephone Number (xxx-xxx-xxxx)		Email Address	

SECTION II. Establishment Information

Please provide the following information for the prospective medical cannabis facility or facilities. Applicants may only apply for multiple establishment types on the same form **IF** the establishments are under common ownership and are to be co-located. Co-location is defined as having common entrances and exits with another establishment. Applications for any additional establishments must be on a separate form for each physical address. Applications for each license type will be evaluated independently.

Legal Business Name	Type of Establishment(s) <input type="checkbox"/> Cultivation <input type="checkbox"/> Manufacturing <input type="checkbox"/> Dispensary		
Doing Business As (DBA)	South Dakota Sale Tax License ID		
Establishment Physical Address		Apartment or Suite #	
City	County	State	ZIP Code



MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE
APPLICATION CULTIVATION, PRODUCT MANUFACTURING, AND DISPENSARY FACILITIES

FORM C

SECTION III. Zoning Certification

Copies of city and county registrations, licenses, and permits must be submitted with this application for it to be considered a complete application.

SECTION IV. Financial Interest

Is any person holding a financial interest in this application a South Dakota Physician licensed to prescribe drugs to humans? <i>If answering "NO", please skip to Section V.</i> () Yes () No	Please provide the full name of physician holding financial interest in this application.	Please provide the National Provider Identifier number of the physician holding financial interest in this application.
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SECTION V. Principal Officers and Board Members Information

Please provide the following information for **ALL** principal officers and board members of the proposed medical establishment. If there are more than 6 individuals to identify, please attach additional pages. If less, please leave the additional spaces blank.

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
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Address			Apartment or Suite #
City	State	ZIP Code	

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	



MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE
APPLICATION CULTIVATION, PRODUCT MANUFACTURING, AND DISPENSARY FACILITIES

First Name	Middle Name	Last Name	Date of Birth
Address			Apartment or Suite #
City	State	ZIP Code	

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- Proof of property owner's consent to use of the property for cultivation, manufacturing and/or dispensing cannabis.
- Photocopies of a valid form of identification issued in South Dakota, or its equivalent issued in another U.S. jurisdiction, for all principal officers and board members.
- Photocopies of organizing documents, operating agreements, management agreements, bylaws, or other legal documents relating to the applicant's business structure.

FROM PREVIOUS SECTION III

- Certification of compliance from the local municipality or county ensuring applicant's proposed plans and location meet all local zoning and ordinance requirements
- Copies of all required registrations, licenses, or permits (if applicable)
- Certification of no ordinance from the local municipality or county (if applicable)



MEDICAL CANNABIS ESTABLISHMENT REGISTRATION CERTIFICATE
APPLICATION CULTIVATION, PRODUCT MANUFACTURING, AND DISPENSARY FACILITIES

FORM C

SECTION VII. APPLICANT CERTIFICATIONS

As a condition of the registration certificate, the undersigned applicant representing the proposed medical establishment must attest to the following:

- The information provided in this form is complete and correct and that a change to any information provided in this form must be submitted to the department within 10 days of the change.
- Any misrepresentation to the department is grounds for denial, suspension, or revocation of certification.
- No principal officer or board member of the proposed medical establishment has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked in South Dakota or any other U.S. State or Territory.
- The principal officers and board members of the proposed medical establishment are 21 years of age or older.
- At least one principal officer is a resident of South Dakota.
- All principal officers and board members shall submit to and complete a background check within 90 days after submission of this application.
- Any person seeking to become a principal officer, board member, agent, volunteer, or employee of the establishment shall submit to and complete a criminal background check before the first day that person begins work in any capacity for, or at, the establishment.
- Upon receipt and review of all background checks for a principal officer, board member, agent, volunteer, or employee of the establishment, if there are any disqualifying offenses as defined by SDCL 34-20G, then that person shall not be allowed to perform work for, or at, the establishment in any capacity.
- All agents of the proposed medical establishment must have an agent identification badge issued by the establishment.
- Failure to comply with the operating plan, as approved by the department, may be grounds for certification suspension, revocation, or other action.
- The person signing the application is legally authorized to act on behalf of the applicant.
- Submission of the application constitutes permission to inspect premises, vehicles, and records (paper or electronic).
- The establishments applied for on this form will use the state managed seed to sale tracking system.

☐ In addition to the application, a nonrefundable fee of \$_____ is required. (Nonrefundable \$5,000 application fee for each medical establishment registration certificate. Individual certificates are required for cultivation, product manufacturing, and dispensary operations). After you sign and submit this form, you will receive a confirmation email that includes a link to a payment voucher to include with your payment.

☐ I have read and attest to all certifications listed.

Full Name (Printed)	
Full Name (Signature)	Date



SOFTWARE LICENSE AGREEMENT

This Software License Agreement, herein "Agreement", is made and entered into as of the following effective date ("Effective Date") by Transcendent Technologies, LLC, herein "Transcendent", and the undersigned Licensee, herein "Licensee". Transcendent and Licensee may be referred to herein individually as "party" or collectively as "parties".

The Effective Date of this Agreement is the _____ day of _____, _____. The exhibits listed below are attached and made part of this agreement:

Exhibit "A" – Grant of License
Exhibit "B" – Maintenance Terms and Conditions
Exhibit "C" – License/Service Fees & Payment Terms

BACKGROUND INFORMATION

WHEREAS, Transcendent has developed and owns all intellectual property rights to certain software known as Ascent Land Records software, including various copyrighted, copyrightable, and trade secret information related in any way thereto, here collectively referred to as "Software"; and

WHEREAS, the Software may include one or more programs for performing distinct functions, each separate such program being referred to as a "Software Module"; and

WHEREAS, Licensee desires a License from Transcendent to use the Software in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, the parties agree to the following terms and conditions:

TERMS AND CONDITIONS

1. **Title.** Title and full ownership rights to the Software, copyrights, patents, trade secrets, and all other intellectual property rights connected therewith remain at all times under the sole and exclusive ownership of Transcendent, and no such rights are transferred to the Licensee excepting only the licensed rights and privileges set forth below.
2. **Grant of License.** Subject to the terms and conditions of this Agreement, and upon execution hereof by both Transcendent and Licensee, and further upon payment of the fees set forth below, Transcendent grants to Licensee a non-exclusive/non-transferable License to use the Software in a hosted environment managed by Transcendent, for the permitted uses set forth herein. The Software Modules, which are licensed for use, are identified on **Exhibit A**. The grant of license shall remain in effect as long as licensee continues to pay for maintenance and support annually as specified in **Exhibit B**.
3. **Permitted Uses.** Licensee's permitted uses for the License granted by Transcendent shall be limited to use of the Software solely for purposes of entering, updating, and searching the data base of the Licensee's records, displaying records lists, displaying copies of records in the Licensee's data base, and printing of

lists and/or records from the Licensee's data base, and any other use expressly authorized by Transcendent in writing. The Software shall not be used for any other purposes not expressly authorized herein.

4. **Restrictions on License.** The Licensee shall not engage in, cause or permit others to engage in, the reverse engineering, disassembly, decompilation, or similar manipulation of the Software to obtain the source code thereto, nor the modification, alteration, translation, or other change of the Software. Licensee shall not make copies, nor allow copies to be made, nor distribute copies of any of the Software to any other person or entity. Licensee agrees not to sell, assign, transfer, convey or publish any instruction materials, user manuals or related written documentation provided by Transcendent without first obtaining the express written consent of Transcendent.

5. **Installation.** As part of the License Fee described below, Transcendent will install the Software in the hosted environment managed by Transcendent for use by Licensee.

6. **Maintenance.** As a condition for the grant of License set forth herein, Transcendent shall provide maintenance in accordance with those "Maintenance Terms and Conditions" set forth on **Exhibit B** attached hereto.

7. **Training.** At time of installation Transcendent will demonstrate the use of the Software to the Licensee's personnel.

8. **Customized Programming Services.** Transcendent will provide or cause to be provided to the Licensee Customized Programming Services (CPS) beyond the initial installation and demonstration as requested by Licensee on an additional fee basis. Additional fees for CPS shall be based upon time actually spent plus out-of-pocket expenses incurred by Transcendent. Transcendent's fees are based upon established billing rates commensurate with the level and experience of Transcendent's personnel assigned to provide support. Invoices for CPS will be submitted monthly by Transcendent to the Licensee. Transcendent's billing rates range from \$100 per hour to \$200 per hour, depending upon experience level of the personnel involved. Billing rates for CPS are reviewed each January 1st, and are subject to change with notification.

9. **License Fees and Payments.**

A. **License Fees.** The fees for the License(s), installation, and demonstration services to be provided for each Software Module herein are set forth on **Exhibit C**. All such License Fees are non-refundable.

B. **Payments.** Licensee will be invoiced by Transcendent for the License(s) Fee based on payment terms defined in **Exhibit C**. License Fees or payments are due and payable within 30 days of invoice. Any invoice amount not paid when due shall bear a late fee at the rate of 18% per annum, or the maximum rate permitted by law, whichever is less.

C. **Maintenance Fees.** Maintenance Fees will be billed on an annual basis separately from License Fees in accordance with the fee schedule for Maintenance Fees attached as **Exhibit B**.

10. **Limited Warranty.** Transcendent warrants that the Software as delivered and installed by Transcendent to the Licensee shall perform as designed in accordance with the Software specifications. Transcendent's sole and exclusive responsibility pursuant to this warranty shall be to correct program errors or replace the Software so that the Software will perform as designed. This warranty and remedies herein are further limited as set forth in paragraph 11 below.

11. **Disclaimer of Other Warranties/Limitations.**

A. **Disclaimer of Warranties.** Licensor warrants that the Software has been developed in a workmanlike manner, and in conformity with generally prevailing industry standards. Licensee must report any material deficiencies in the Software to Licensor in writing within the first year after all functions have been used in a production environment. Licensee's

exclusive remedy for the breach of the above warranties will be the correction of the material deficiency within a commercially reasonable time. This warranty is exclusive and is in lieu of all other warranties, whether express or implied, including any warranties of merchantability or fitness for a particular purpose and any oral or written representations, proposals, or statements made on or prior to the Effective Date of this agreement. Licensor expressly disclaims all other warranties.

B. **Modifications.** Licensee acknowledges that Transcendent shall have no obligation to ensure that the Software operates in conjunction with Licensee's other software systems, or hardware, except as otherwise expressly agreed in writing by Transcendent. Licensee shall be responsible for all costs it incurs in connection with any modifications it elects to make to its own software, systems, or hardware.

C. **Limitation of Liability.** Notwithstanding anything to the contrary contained in this Agreement: (a) Transcendent's aggregate liability in connection with this Agreement, the Software, the documentation, and the rendering of installation, maintenance training, CPS, or other support services, regardless of the form of action giving rise to such liability (whether in contract, tort or otherwise), shall not exceed the aggregate fees paid by Licensee to Transcendent under this Agreement; (b) Transcendent shall not be liable for any indirect, punitive, exemplary, economic consequential or incidental damages of any kind (including without limitation lost profits), even if Transcendent has been advised of the possibility of such damages; and (c) Transcendent shall not be liable for any claims of third parties relating to the Software, the documentation, the maintenance or other support services.

12. **Term of Agreement.** The term ("Initial Term") of this Agreement shall continue for ten (10) years unless otherwise terminated in accordance with paragraph 13 below.

13. **Termination.** This Agreement may be terminated by Licensee or Transcendent at any time upon 30 days written notice by either party to the other. If Licensee terminates the Agreement prior to the expiration of the Initial Term, all remaining unpaid Annual Maintenance Fees listed in Exhibit B pursuant to the Initial Term will be due to within 30 days to Transcendent. If Transcendent terminates the Agreement prior to expiration of the Initial Term or if Transcendent or Licensee terminates the Agreement prior to the expiration of a Renewal Term, a pro-rated portion of the Maintenance fee will be refunded based upon the number of months or partial months elapsed under the term of the Agreement and the number of full months remaining, based upon a 12 month year. Transcendent has relied upon Sections 12 and 13 of the Agreement as it is offering a License Fee of \$0.00 to Licensee, and Licensee expressly acknowledges that these provisions are essential to the Agreement. Duties and responsibilities of Licensee in Section 16, Non-Disclosure of Information, will survive the termination of this agreement for any reason.

14. **Relationship of Parties.** Nothing in this Agreement is intended nor shall be construed to create any form of partnership joint venture or employee and employer relationship between the parties hereto.

15. **Waivers.** No waiver of any party's rights to this Agreement shall be deemed to have occurred unless in writing signed by the party against whom the waiver is asserted. The failure of either party to insist upon strict performance of any provision to this Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver of the right of future performance on the part of either party hereto.

16. **Non-Disclosure of Information.** Licensee agrees that it will not disclose any of the following information without the express authorization of Transcendent:

A. Source codes, trade secrets, or other proprietary information disclosed by Transcendent to the Licensee for operational purposes, which has not generally been made known to the public by Transcendent.

B. Documentation, drawings, instructional materials, manuals, and other written communications and documentations provided to Licensee by Transcendent pertaining to the Software.

16.1 Confidential Information shall not include information that:

A. Is or becomes generally available to the public other than through your breach of this Agreement; or

B. Is communicated to you by a third party that had no confidentiality obligations with respect to such information.

16.2 Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Licensee agrees to provide written notice of any such order to an authorized officer of Transcendent within 14 business days of receiving such order, but in any event sufficiently in advance of making any disclosure to permit Transcendent to contest the order or seek confidentiality protections, as determined in Transcendent's sole discretion.

16.3 Notice of Immunity Under the Defend Trade Secrets Act of 2016 ("DTSA"). Notwithstanding any other provision of this Agreement:

(A) Licensee will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that:

(i) is made: (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (2) solely for the purpose of reporting or investigating a suspected violation of law; or

(ii) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(B) If Licensee files a lawsuit for retaliation by Transcendent for reporting a suspected violation of law, Licensee may disclose Transcendent's trade secrets to Licensee's attorney and use the trade secret information in the court proceeding if Licensee:

(i) files any document containing the trade secret under seal; and

(ii) does not disclose the trade secret, except pursuant to court order.

17. **Equitable Remedies.** The parties acknowledge that breach by Licensee of any of the restrictions of the License herein will result in irreparable harm to Transcendent and accordingly may be enforced by equitable remedies, including, without limitation, injunctive relief and/or specific performance in addition to, or as an alternative to, remedies available to Transcendent at law.

18. **Return of Property.** Upon termination of this Agreement by either party for any reason all Software, manuals, materials, and documentation related thereto, including any authorized and unauthorized copies thereof shall be immediately returned to Transcendent by the Licensee.

19. **Force Majeure.** Transcendent shall have no liability for damages due to: fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities of the public enemy, epidemics, pandemics, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, unauthorized use of the products, or other causes beyond Transcendent's control whether or not similar to the foregoing.

20. **Assignments.** This Agreement shall not be assigned by the Licensee to any other party without the express written authorization of Transcendent, which shall not be unreasonably withheld. Transcendent will not assign the responsibilities under this Agreement to any other entity without the express written authorization of the Licensee, which shall not be unreasonably withheld.

21. **Construction of Agreement.** The headings within this Agreement are purely for convenience and are not to be used as an aid in interpretation.

22. **Notices.** Any notice or communication permitted or required hereunder shall be in writing and given to the party at the address shown in this Agreement unless another address is submitted to the other party in writing. All notices given in person, by courier, or by fax shall be effective upon receipt and if any notice is given by mail it shall be deemed effective three business days following the date deposited in the mail.

23. **Modifications and Amendments.** This Agreement may be modified only in writing specifying the terms and conditions of the modifications signed by both parties.

24. **Complete Agreement.** This Agreement and all attached Exhibits constitutes the complete agreement between the parties and there have been no other oral representations, warranties, or agreements upon which either party has relied. The only other agreements between the parties that shall be binding shall be in writing and signed by both parties.

25. **Governing Law.** This Agreement shall be governed by and subject to the laws of the State of South Dakota.

26. **Persons Bound.** This agreement is binding on the parties hereto and their respective heirs, successors, and assigns.

TRANSCENDENT TECHNOLOGIES, LLC.

BY: _____
Steve Moore, Business Development Manager

LICENSEE: **FALL RIVER COUNTY**

BY: _____ (Signature)
Authorized Representative/Title

Address: _____

Telephone Number: _____

EXHIBIT A

GRANT OF LICENSE

Software Modules licensed use by Licensee:

Ascent Property Tax & Receipting Software

Auditor Functions

- Levy & Mill Rate Computation
 - DOR reporting
 - Opt Out Management
- Assessment Management
 - Import/Update from Vanguard CAMA
 - Entry of centrally assessed values
- Tax Bill Generation
- Compute/Verify
 - Generate PDF and/or File
- Revenue Apportionment / Settlement
 - Reporting
- Special Assessment Management
- Tax Account Management
- Tax Adjustments/Abatements

Treasurer Functions

- Tax Receipting
- Mobile Home Advanced Tax
- Treasurer Trust
 - Advanced payments / Payment plans
- Miscellaneous/General Receipting
- Tax Certificate Processing
- Monthly Reconciliation Reporting
- Reporting / Exports
- Public tax record search

EXHIBIT B

MAINTENANCE TERMS AND CONDITIONS

1. **Term.** As stated in Section 12 of the Agreement, the Initial Term of this Agreement shall be ten (10) years from the Effective Date of this Agreement dated above, and subject to the termination and renewal provisions set forth below.
2. **Renewals.** This Agreement shall automatically be renewed for successive one-year Renewal Terms ("Renewal Term") unless terminated by either party pursuant to the termination provisions set forth below. This Agreement automatically will cease and terminate upon failure of the Licensee to pay the Annual Maintenance Fee.
3. **Maintenance Service.** Transcendent will provide Maintenance Service to the Licensee during the term of this Agreement. For purposes of this Agreement the term "Maintenance Service" consists of the following items and will be provided as set forth in this section:
 - A. **Enhancements.** Providing enhancements for the Software which shall mean any modification or addition that, when made or added to the Software, materially changes its utility, efficiency, functional capability, or application.
 - B. **Program Error Correction.** Transcendent will provide program error correction service, which shall mean a modification or addition that, when added to the Software, causes the licensed Software to function substantially as designed, and in accordance with its published specifications, or otherwise eliminates material adverse effects of the Software to function substantially in accordance with its design and specifications. The error correction procedures shall apply to verifiable and reproducible Program Errors. Error correction service will be provided upon error reporting by the Licensee to Transcendent.
 - C. **Support.** Support will consist of response by Transcendent personnel to Licensee's questions with regard to use of the Software within a reasonable time after request for such support. Support service responses will include reasonably acceptable answers or suggested approaches to solving problems, if known, or if not then known, an answer will be provided as soon as practical.
 - D. **Provision of Services.** Maintenance services set forth herein will be provided Monday through Friday. Maintenance services will be provided by telephone or other appropriate electronic means. Transcendent's Maintenance personnel will respond to Licensee's questions with regard to the use of the Software within a reasonable time after request for such Maintenance. Maintenance services responses will include reasonably acceptable answers or suggested approaches to solving problems, if known, or if not then known, an answer as soon as practical.
4. **Annual Maintenance Fee.** The Annual Maintenance Fee for each year of the Initial Term and for each Renewal Term of this Agreement shall be shown on page 2 of **Exhibit B**. The Annual Maintenance Fee shall be paid within 30 days of billing. Billing for this Agreement will be submitted by Transcendent to the Licensee within the first 10 days of production use of the software. Each calendar year thereafter the Licensee will be billed on a calendar basis beginning in January.
5. **Program Error Reporting.** In the event Licensee experiences a program error and desires Maintenance Service from Transcendent, Licensee shall promptly describe the program error in writing and submit the report of this error to the online Support Ticket program together with the Licensee's request for Maintenance Service. The Licensee shall include the name and telephone number of the person or persons who have either

experienced or can reproduce and demonstrate the program error. A support telephone number will also be provided.

6. **Limited Maintenance Warranty.** Maintenance Services to be provided pursuant to this Agreement will be provided free from defects in materials and workmanship. No other warranty of any nature whatsoever is granted by Transcendent pursuant to this Agreement, either expressed or implied, including without limitation, there is no implied warranty of merchantability, fitness for particular purpose, or non-infringement of third party rights. Under no circumstances will Transcendent be liable for an amount pertaining to Maintenance Services greater than the amount paid by the Licensee to Transcendent for such Maintenance Services.

7. **Limitation of Liabilities/Remedies.** In the event of any alleged breach, misrepresentation, or failure to comply with this Agreement by or on behalf of Transcendent, the sole and exclusive remedy of the Licensee shall be refund of the Annual Maintenance Fee pursuant to this Agreement. Transcendent is not liable for any incidental or consequential damages, if any, incurred by the Licensee.

ANNUAL MAINTENANCE FEES

<u>SOFTWARE MODULE LICENSED</u>	<u>FIRST PARTIAL YEAR FEE</u>	<u>FULL ANNUAL FEE*</u>
1. <u>Ascent Property Tax & Receipting</u>	\$ <u>TBD</u>	\$ <u>\$26,800</u>
2. <u></u>	\$ <u></u>	\$ <u></u>
3. <u></u>	\$ <u></u>	\$ <u></u>
4. <u></u>	\$ <u></u>	\$ <u></u>
5. <u></u>	\$ <u></u>	\$ <u></u>

*These fees are subject to change based on increased functionality of products in the future and general price increases in the list price of the software.

Any pro-rated maintenance for products installed in 2022/2023 will be invoiced immediately following the use of the software in a production environment.

A separate maintenance fee is applicable for each software module licensed in accordance with paragraph 4 of this **Exhibit B** entitled "MAINTENANCE TERMS AND CONDITIONS". The above license fee shall be filled in by the software provider for approval by the Licensee and Transcendent as part of this Agreement.

EXHIBIT C

LICENSE/SERVICE FEES & PAYMENT TERMS

License Fees: Licensee will be invoiced pursuant to the License fees listed below for the Software in this Agreement:

	<u>Software Module</u>	<u>Amount of One Time License Fee</u>
1.	<u>Ascent Property Tax & Receipting</u>	\$ <u>\$000.00</u>
2.	<u></u>	\$ <u></u>
3.	<u></u>	\$ <u></u>
4.	<u></u>	\$ <u></u>
5.	<u></u>	\$ <u></u>

Payment Terms: None