



Attachment E SAMPLE STATE OF MONTANA PARTICIPATING ADDENDUM

Participating Addendum Number [#####] for DATA COMMUNICATIONS between The State of Montana and [Contractor]

This Participating Addendum is entered into by The State of Montana ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in RFXPremier Master Agreement Number [#####], executed by Contractor and the The State of Montana ("Lead Entity") for Data Communications ("Master Agreement"):

[Contractor] ("Contractor")
[Contractor street address]
[Contractor city, state, and zip code]

I. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

[Contact name]
[Contact title]
[Contact email address]
[Contact phone number]

Participating Entity's contact for this Participating Addendum is:

[Contact name]
[Contact title]
[Contact email address]
[Contact phone number]

- II. **TERM.** This Participating Addendum is effective as of the date of the last signature below or [effective date], whichever is later, and will terminate upon termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- III. **AUTHORITY.** This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.
- IV. **GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Participating Entity's laws.
- V. **PARTICIPATION AND USAGE.** This Participating Addendum grants the usage of the Master Agreement for any eligible entity public, private, non-profit. Entities may add additional terms to this Participating Addendum or negotiate their own Participating Addendum. Montana has executed this PA on behalf of all eligible entities such as, but not limited to state agencies, state non-executive branch agencies, cities, counties, towns, townships, higher education (public and private), K-12, non-profits, etc.; however, execution of this PA does not obligate Participating Entity or any eligible entity to use or place an Order under the Master Agreement.

For Montana. This Master Agreement may be used by all State agencies, institutions of higher education, political subdivisions and other entities authorized to use statewide contracts in the State of Montana. Issues



of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

- VI. STATE OF MONTANA ADMINISTRATIVE FEE.** Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this Participating Addendum. The prices paid to Contractor must include the 1.5% Administrative Fee. Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to State of Montana Contracts Officer (CO). This Administrative Fee is effective upon execution of this PA.
- VII. REFERENCE TO THE PA.** The Participating Addendum number or identifier must appear on all invoices, packing lists, packages, and correspondence pertaining to this PA.
- VIII. PAYMENT TERM.** All payment terms are computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Participating Entities are allowed 30 days to pay such invoices. All contractors are required to provide banking information at the time of PA execution in order to facilitate State electronic funds transfer payments.
- IX. WITHHOLDING OF PAYMENT.** State may withhold disputed payments to Contractor under the subject Statement of Work (or where no Statement of Work exists, the applicable contract). The withholding may not be greater than, in the aggregate, fifteen percent (15%) of the total value of the subject Statement of Work, Purchase Order, or applicable contract. With respect to payments subject to milestone acceptance criteria, State may withhold payment only for such specific milestone if and until the subject milestone criteria are met. Contractor is not relieved of its performance obligation if such payment(s) is withheld.
- X. U.S. FUNDS.** All prices and payments must be in U.S. dollars.
- XI. REQUIRED REPORTING.** In addition to the reporting requirements found in Section 5.3 of the Master Agreement, the Contractor shall submit quarterly reports to the CO assigned by State to manage this Contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 30 days after the end of the quarter as follows:
- First Quarter: July 1 through September 30;
 - Second Quarter: October 1 through December 31;
 - Third Quarter: January 1 through March 31; and
 - Fourth Quarter: April 1 through June 30.
- XII. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to Contractor and Participating Entity and Purchasing Entities.
- a. Products.** All products available through the Master Agreement may be offered and sold by Contractor under this Participating Addendum.
 - b. Services.** All services available through the Master Agreement may be offered and sold by Contractor under this Participating Addendum.
 - c. Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's RFXPremier Master Agreement as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum. Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.



Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum.

Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum. The terms of this Participating Addendum, including those modifying or adding to the terms of the Master Agreement, apply only to the Parties and shall have no effect on Contractor's participating addenda with other participating entities or Contractor's Master Agreement with the Lead Entity.

XIII. ORDERS. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to RFXPremier and Participating Entity, if applicable.

XIV. LIMITATION OF LIABILITY.

- a. Contractor's liability for contract damages is limited to direct damages and further to no more than \$6,000,000 or three times the total Contract value, whichever is higher. Contractor shall not be liable for special incidental, consequential, or punitive damages.
- b. Any limitation of the Contractor's liability shall not apply to:
 - i. liability for damage or loss caused by injury to persons or tangible property;
 - ii. amounts due or obligations under a clause imposing a duty to defend or indemnify;
 - iii. related to intentional conduct or gross negligence of the Contractor;
 - iv. violation of intellectual property rights but not limited to patent, trademark, or copyright infringement;

XV. FEDERAL FUNDING REQUIREMENTS. Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. By accepting the Order, Contractor agrees to comply with the requirements set forth therein. Please see Exhibit C of this PA.

XVI. INFORMATION TECHNOLOGY STANDARDS. Please see Exhibit A of this PA.

XVII. EXHIBITS. This Participating Addendum includes the following exhibits:

- a. Exhibit A – IT Terms and Conditions
- b. Exhibit B – Participating Addendum Terms and Conditions for Montana Purchases Only
- c. Exhibit C – Federal Terms and Conditions for Montana Purchases Only

XVIII. NOTICE. Any notice required herein shall be sent to the following:

For Contractor:

[Contact name]
[Contact title]
[Contact email address]
[Contact phone number]

For Participating Entity:

[Contact name]
[Contact title]
[Contact email address]
[Contact phone number]

SIGNATURE

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that

Participating Addendum Number [#####] for
DATA COMMUNICATIONS

Between **The State of Montana** and
[Contractor]



the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

CONTRACTOR:

PARTICIPATING ENTITY:

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A - IT TERMS AND CONDITIONS

- 1. Subcontractor.** Contractor shall be responsible for ensuring its subcontractors' compliance with these terms and conditions.



2. **Security Awareness.** Upon request, Contractor agrees to certify that Contractor's officers, employees, agents, subcontractors, and affiliated users with access to the State information technology database have completed security awareness training within the past 12 months before gaining access to State information technology resources or may complete State-approved annual security awareness training.
3. **State-Approved Criminal Background Checks.** Contractor warrants to only assign employees and subcontractors who have completed and passed a background check. With Contractor's access to particularly sensitive data and at State's request, Contractor's employees and subcontractors shall complete an additional State IT background check, which includes fingerprinting.
4. **Physical Activities and Spoofing**
 - a. **Physical Activities**

Contractor and its officers, employees, agents, affiliated users, and any subcontractors shall not violate or attempt to violate the security of State's network or interfere or attempt to interfere with State's systems, networks, authentication measures, servers or equipment, or with the use of or access to State's network by any other user.
 - b. **Spoofing**

Contractor agrees to use State's secure email relay for sending email from cloud services to its users. Additionally, Contractor shall not perform unauthorized spoofing or scanning of any kind, including user account identity. Contractor's systems shall not spoof the mt.gov domain or engage in email spoofing. Email spoofing is the creation of email messages with a forged sender address. Email spoofing includes creating or sending emails using State's domain. Such prohibited activity includes but is not limited to:

 - i. Accessing or logging into a server where access is not authorized;
 - ii. Unauthorized probing, scanning, or testing the security or vulnerability of State's network or other systems; and
 - iii. Attempting to portray itself as State or an affiliate of State or otherwise attempting to gain access, without authorization, via State's network or systems to any account or information technology resource not belonging to Contractor or its officers, employees, agents, subcontractors, and affiliated users.
5. **Linked Terms and Conditions.** The parties specifically agree that any language or provisions contained on either party's website or product schedule, or contained in any "shrinkwrap" or "clickwrap" agreement, shall be of no force and effect and shall not in any way supersede, modify or amend these Terms and Conditions.
6. **Cyber Security Insurance.** Contractor shall purchase and maintain cyber/information security insurance coverage with combined single limits for each wrongful act of \$6,000,000 in the aggregate to cover unauthorized acquisitions of personal information such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with 2-6-1501-1503, MCA. If Contractor maintains higher limits than the minimums shown above, State requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to State. Such insurance must cover, at a minimum, privacy notification costs, credit monitoring, forensics investigations, legal fees/costs, regulatory fines and penalties, and third-party liability settlements or judgements as may be caused by any act, omission, or negligence of Contractor's officers, agents, representatives, assigns or subcontractors. Note: if occurrence coverage is unavailable or cost-prohibited, State will accept "claims made" coverage provided the following conditions are met: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of the contract work; 2) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work; and 3) if coverage is cancelled or non-renewed and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.
7. **Intellectual Property Rights.** In the event State suggests or requests and modifications or improvements to Contractor's software which are implemented by Contractor, such modifications or improvements shall become the sole property of Contractor. All right, title and interest in and to the software, and all copyrights, patents, trademarks, service marks or other intellectual property or proprietary rights relating thereto, belong exclusively to Contractor.
8. **Title and Ownership Rights.** State retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by State (the

Participating Addendum Number [#####] for
DATA COMMUNICATIONS



Between **The State of Montana** and
[Contractor]

"Content"), and grants Contractor the right to access and use Content for the purpose of complying with its obligations under this Contract and any applicable statement of work.

9. Violation of Terms and Conditions Sanction. Violation of these terms and conditions may also be a violation of state and federal law and include both civil and criminal penalties.

10. Indemnification. State shall not indemnify Contractor or its subcontractor.

The products and services provided by Contractor involve information technology resources.

Data Security Checklist (check all that apply):

<input type="checkbox"/> On premise system services	<input type="checkbox"/> On premise system <input type="checkbox"/> Software <input type="checkbox"/> Hardware
<input type="checkbox"/> Internet Of Things Systems	<input type="checkbox"/> Professional IT Services
<input type="checkbox"/> SaaS	<input type="checkbox"/> Cloud System
<input type="checkbox"/> PaaS	<input type="checkbox"/> Not listed [please describe]
<input type="checkbox"/> IaaS	

NOTE: (The Participating Entity should check the box of the highest classification of public and non-public data owned by the Participating Entity that may be stored, transmitted, accessed, or processed by the information technology resources available under this PA). **EACH DATA LEVEL ONLY OBLIGATES CONTRACTOR TO THE CHECKED BOXES IN THE TABLE BELOW.**

No Data (such as IT peripherals)

Public Data - mapped to Federal Information Processing Standards (FIPS) 199 LOW. “Low Level Data” is information residing in information systems categorized as Low and available to the general public and eligible for public access.

Non-public Data - mapped to FIPS 199 MODERATE. “Moderate Level Data” is information residing in information systems categorized as Moderate and governed by specific laws on disclosure to third parties or the public which determine and protect confidentiality.

Non-public Data - mapped to FIPS 199 HIGH. “High Level Data” is information residing in information systems categorized as High and, if divulged, could compromise or endanger citizens, employees, or safety assets of State. (A separate Data Level Contract will be attached.)

*Contractor agrees this Contract does **not** include any IT System that contains High Level Data.

These services are for (check all that apply):

Public Data (Low)	Non-Public Data (Moderate)	Heading Applicable data	IT Terms and Conditions
✓	✓	Data Ownership and Access	Data Ownership State owns all right, title, and interest in its data that is related to the services provided. State data may also include data from a third party. Data Access



			Contractor shall not access State of Montana user accounts, or State data, except: (i) in response to service or technical issues; (ii) as required by the express terms of services engagement document; or (iii) at State's written request.
	✓	Data Location	Data Location Contractor shall not store, process, or transfer any non-public State data outside of the United States, including for back-up and disaster recovery purposes.
✓	✓	Data Disclosure and Usage	<p>Data Disclosure-Prohibition At no time will any information belonging to or intended for State, be copied, disclosed, or retained by Contractor or any party related to Contractor for subsequent use in any transaction.</p> <p>Confidential Data-Usage Contractor will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data to the minimum degree necessary to accomplish the services. Privacy protection of personal identifiable information, personal identifiable health information, and sensitive data shall be an integral part of the business activities of Contractor to ensure that there is no inappropriate or unauthorized use of State information at any time.</p> <p>Limitation on Usage to Purpose of Services Contractor may not use any information collected for any purpose other than fulfilling the service.</p> <p>Data Safeguards Contractor shall safeguard the confidentiality, integrity, and availability of State information.</p> <p>Subsequent Use Contractor shall not use any data for subsequent use that has not been expressly authorized by State.</p> <p>Syndicated Data Contractor agrees any use of Syndicated Data is expressly prohibited.</p>
✓	✓	Authorized Personnel	Authorized Personnel Only duly authorized personnel will have access to State data and may be required to obtain security clearance from State.
✓	✓	Use of AI	<p>Use of AI or State Sub Domain: Prior to providing State any goods or services, Contractor must inform State of any generative Artificial Intelligence ("AI") in Goods or Services relating to this Contract. Additionally, utilization of generative AI in the creation of Goods and Services impacting State's Intellectual Property Rights shall include annotations.</p> <p>Contractor is prohibited from using State materials or data in generative AI queries without prior written permission from State, as well as from building or training proprietary generative AI programs. Contractor attests that its AI models use only properly licensed material. Should Contract be found in violation of this requirement, Contractor shall fully indemnify and defend State from all claims related thereto. Should</p>



			Contractor learn that State materials or Data has been used in generative AI queries without permission from State, Contractor shall immediately notify State of the use and cover the full expense of any remediation.
	✓	Breach and Notification	<p>Notification to State Without unreasonable delay, Contractor must notify the State of Montana Chief Information Security Officer, without undue delay, of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Montana data.</p> <p>Notification to Person Upon discovery or notification of a breach of the security of a data system, Contractor shall comply with 2-6-1503, MCA, including if the data is unencrypted. Without unreasonable delay, consistent with the legitimate needs of law enforcement, Contractor shall make reasonable efforts upon discovery or notification to the impacted State agency of a breach and will notify any person whose personal information is reasonably believed to have been acquired by an unauthorized person. This notification may be delayed at the request of law enforcement.</p> <p>No Limitation of Liability for Contractor Negligence Contractor cannot limit its liability to relieve Contractor or its subcontractors from its own security incident or data breach that materially compromises the security, confidentiality, or integrity of personal information maintained by a state agency or by a third party on behalf of a state agency (2-6-1501, MCA), negligence, or to the extent that it creates an obligation on the part of State to indemnify or hold a Contractor harmless.</p>
✓	✓	Termination and Suspension of Service	<p>Suspension of Services During any period of suspension, negotiation, or disputes, Contractor shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State data.</p> <p>Termination of a portion or of the entire services provided. In the event of termination of any services or Contract in entirety, Contractor shall not take any action in intentionally alter, erase, or otherwise render inaccessible any State data for a period of 90 days after the effective date of the termination. Within this 90-day timeframe, Contractor will continue to secure and backup State data covered under the provided services. After such 90- day period, Contractor shall have no obligation to maintain or provide any State data. Thereafter, unless legally prohibited, Contractor shall dispose securely of all State data in its systems or otherwise in its possession or control, as specified herein.</p> <p>Post-Termination Assistance State shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangements has been established as part of the Contract or Service Level Agreement.</p>



✓		Data Disposition	<p>State's data may be disposed at the termination of services using one of the following methods:</p> <ol style="list-style-type: none"> 1. State Removal with Contractor's Tools State may remove or destroy State's data using Contractor's tools. 2. Contractor to Return State Data Contractor will account for and return all State data in all of its forms. The data shall be returned in a format acceptable to State. At no time shall any data or processes that either belong to or are intended for the use of State or its officers, agents, or employees, be copied, disclosed, or retained by Contractor. 3. Contractor to Destroy State Data When required by State, Contractor shall destroy all requested data in all of its forms Data shall be permanently deleted, and shall not be recoverable, in accordance with National Institute of Standards and Technology (NIST) SP 800-88 "Media Sanitization Guidelines." 4. Certificate of Destruction In all cases, Contractor will certify that all State information process during the performance of the services will be completely purged from all physical and electronic data storage with no output to be retained by Contractor at the time the work is completed, the Contract is terminated, or upon written request of State.
✓	✓	Notifications of Legal Requests	<p>Notification of Requirement to Access State Data Contractor shall contact State upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of State.</p> <p>Legal Request for State Data Regarding the State of Montana data and processes, Contractor shall not respond to subpoenas, service of process, and other legal requests without first notifying State unless prohibited by law from providing such notice.</p>
✓	✓	Data Encryption	<p>In Transit and At Rest Contractor shall encrypt all data in transit, regardless of transit mechanism, and at rest.</p> <p>Encryption Standards Contractor's encryption shall meet validation cryptography standards as specified by NIST in FIPS 140-2 and subsequent security requirements guidelines. Contractor and State will negotiate mutually acceptable key location and key management details.</p>
✓	✓	System Security	<p>Contractor Responsibility Contractor shall ensure systems delivered are adequately secure. Adequate security is defined to require compliance with Federal and State of Montana security requirements and to ensure freedom from those conditions that may impair State's use of its data and information technology or permit unauthorized access to State's data or information technology.</p>



			<p>State Security Policy, Framework, Standards and Controls State has established security policy, framework, standards, and controls that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199.</p> <p>Managerial, Operational, and Technical Controls All computer systems receiving, process, storing, or transmitting State data must meet the control requirements for the associated security categorization within NIST SP 800-53 (latest revision). To meet functional and assurance requirements, the security features of the environment must provide managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to State data.</p> <p>Independent Security Audits Contractor shall provide reasonable proof, through independent audit reports, typically AICPA SOC 2 Type 2, that the system specified in delivering the services meets or exceeds federal and State security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of State's data and information technology.</p> <p>Annual Assurance The delivery of annual assurance statements shall be facilitated by the Contract Manager. Annual assurance statements must contain a detailed accounting of the security controls implemented.</p> <p>Security Audits and Annual Statements State considers the security audits and annual statements to be confidential and upon Contractor's request route a Nondisclosure Agreement. In compliance with SOC 2 security compliance, State will destroy all confidential information upon completion of any Security Audit or review of Annual Statements.</p> <p>System Security Plan Contractor agrees to include within their Statement of Work a provision assisting with the creation of a System Security Plan (SSP). This typically includes Contractor to supply a Cloud/Customer Responsibility Matrix which denotes responsibilities as either Shared Contractor or State.</p>
✓	✓	<p>Security Standard Compliance Certificate</p>	<p>Security Certification Contractor shall meet, and provide proof of, one or more of the following Security Certifications.</p> <ul style="list-style-type: none"> • GovRAMP- Authorized Product Certification • FedRAMP- Federal Risk and Authorization Management Program • ISO 27001:2013 • HITRUST CSF • Other industry-recognized certification, as approved by State and only if the Contractor cannot provide one of the above certifications.

Participating Addendum Number [#####] for
DATA COMMUNICATIONS

Between **The State of Montana** and
[Contractor]



EXHIBIT B - PA TERMS AND CONDITIONS FOR MONTANA PURCHASES ONLY

I. Taxes

- a. Payment. Contractor shall pay all property and sales taxes, if any.
- b. Exemption. State of Montana is exempt from Federal Excise Taxes (#81- 0302402), except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111- 148, 124 Stat. 119].
- c. Certificate. All purchasers under this PA shall provide Contractor with a tax exemption certificate for all purchases.

II. Shipping and Delivery

- a. In addition to complying with the Master Agreement Shipping and Delivery Section, Contractor shall:
- b. Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate; and
- c. Furnish a delivery schedule and designate the mode of delivery carrier.

III. CIO Oversight



- a. Chief Information Officer Approval. Contractor is notified that, under the provisions of 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.
 - b. Chief Information Officer Oversight. The Chief Information Officer (CIO) for the State of Montana, or designee, may perform oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur while Contractor is performing services. The CIO may require the issuance of a Right to Assurance or may issue a Stop Work Order.
 - c. Right to Assurance. If State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under these Terms and Conditions, State may demand in writing that within a certain number of days (no less than 5 business days) specified in the demand for Contractor to provide a written assurance of intent to perform. State may, at State's option, find this a basis for termination allowing State to pursue all available rights and remedies.
 - d. Stop Work Order. State may, at any time by written order to Contractor require Contractor to stop any or all parts of required work for the period of days indicated by State after the order is delivered to Contractor. This order must be specifically identified as a Stop Work Order issued under these terms and conditions. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a Stop Work Order issued under these terms and conditions is canceled or the period of the order or any extension expires, Contractor shall resume work. State's Contract Manager shall make the necessary adjustment in the delivery schedule or price, or both, and the services shall accordingly be amended in writing.
 - e. Remote Access. Contractor agrees that Montana information technology resources will not be accessed by Contractor, including all officers, employees, agents, subcontractors, affiliated users, and any subcontractors located outside of the legal jurisdictional boundary of the United States (outside of the United States, its territories, embassies, or military installations).
- IV. Blind or Visually Impaired Access.** No State funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (18-5-603, MCA.) State Procurement Services Division at (406) 444-2575 has more information concerning nonvisual access standards.
- V. IT Accessibility Requirements.** On or before April 24, 2026, Contractor understands and agrees to comply with federal law, if applicable, on compliance with Health and Human Services (HHS) Section 508 and Accessibility Standards Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (P.L. 105-220), which requires that when State develops, procures, maintains, or uses information and communication technology (ICT), it shall be accessible to people with disabilities. State employees and members of the public who have disabilities must have access to, and use of, information and data that is comparable to people without disabilities. All products, platforms and services delivered as part of this Contract that are ICT, or contain ICT, must conform to the Revised 508 Standards, which are located at 36 CFR 1194.1 & Apps. A, B, & C, and available at <https://www.access-board.gov/ict/>. All requirements are applicable to support services and documentation deliverables. All functional performance criteria apply when using an alternative design or technology that achieves substantially equivalent or greater accessibility and usability by individuals with disabilities, than would be provided by conformance to one or more of the requirements in Chapters 4-6 of the Revised 508 Standards, or when Chapters 4-6 do not address one or more functions of ICT. For each proposed product or platform, a fully completed Accessibility Conformance Report (ACR) using the Voluntary Product Accessibility Template (VPAT) must be submitted. See (<https://www.itic.org/policy/accessibility/vpat>) or HHS conformance checklist(s) (<https://www.hhs.gov/web/section-508/accessibility-checklists/index.html>). Prior to commencing performance, Contractor must demonstrate conformance to the HHS Section 508 requirements via HHS Section 508 checklist(s) (<https://www.hhs.gov/web/section508/accessibility-checklists/index.html>). State reserves the right



to perform testing on required ICT items to validate Contractor's Section 508 conformance claims. If State determines at any time that Section 508 conformance does not meet the HHS Section 508 requirements, State shall, at its option, require Contractor to remediate the item, at no additional fee or cost to State and align with HHS Section 508 conformance requirements or immediately terminate this Contract with no additional fee or cost.

- VI. Compliance With Workers' Compensation Act.** Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire Contract term and any renewal. Upon expiration, a renewal document must be sent to State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135.
- VII. Cyber/Data Information Security Insurance.** Contractor shall maintain Computer/Network Security & Privacy Liability (aka cyber) with a limit of USD \$6,000,000 per claim and in aggregate providing coverage where permissible by law for Contractor's errors, omissions, negligence or damages in rendering or failing to render computer or information technology services and technology products and/or from: (a) data theft and/or loss of confidential information; (b) unauthorized dissemination and/or unauthorized disclosure and/or unauthorized access or use of nonpublic personally identifiable information, confidential non-public corporate information; (c) credit monitoring, notification expenses, and other related costs associated with mitigating a data security or privacy breach; (d) the failure to prevent the introduction of a computer virus into, or otherwise causing damage to State's computer, computer system, network or similar computer-related property and the electronic data used thereon; and (e) denial of service arising from Contractor's performance of services under this Contract. The retroactive date must be before the date of this Contract or the beginning of Contract work and coverage will be maintained for a period of three years following termination or expiration of this Contract, whichever is later, or State may purchase an extended coverage period if commercially available.
- VIII.** In performing its duties in this Contract, Contractor shall comply with all applicable federal, state, or local laws, rules, ordinances, policies, and executive orders. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, Contractor agrees that:
- a. the hiring of persons to fulfill Contractor's duties in this Contract will be made based on merit and qualifications; and
 - b. there will be no discrimination based on race, color, sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.
 - c. Any subcontracting by Contractor obligates subcontractors to the above.
- IX. Nondiscrimination Against Firearms Entities/Trade Associations.** Contractor shall not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and Contractor shall not discriminate during the term of the contract against a firearm entity or firearm trade association. This Section shall be construed in accordance with 30-20-301, MCA.
- X. Reduction of Funding.** State must, by law, terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through State's budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the



Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this Section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

- XI. Terrorism, Suspension or Debarment, or Otherwise Ineligible.** State has the absolute right to terminate the Contract without recourse in the following circumstances:
- Contractor is listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control;
 - Contractor is suspended or debarred from doing business with the federal government as listed in the System for Award Management maintained by the General Services Administration; or
 - Contractor is found to be ineligible to hold the Contract under the laws of State.
- XII. Conformance with Contract.** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the Contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.
- XIII. Venue, Sovereignty, and Attorney Fees.** The parties agree that any litigation concerning this this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as provided in Master Agreement Section XII, Indemnification. Nothing in these provisions shall be construed as a waiver of the sovereignty or governmental immunity State enjoys, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or consent to jurisdiction based thereon.
- XIV. Progress Meetings.** During the term of this Contract, State's Project Manager shall plan and schedule progress meetings with Contractor to discuss Contractor's and State's progress in the performance of their respective obligations. These progress meetings will include State's Project Manager, Contractor's Project Manager, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of State to perform its obligation under this Contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.
- XV. Failure to Notify.** If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by State, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.
- XVI. State's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of State's failure or delay in discharging any State obligation, State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If State agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any additional charges by Contractor. This is Contractor's sole remedy. If State does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

Participating Addendum Number [#####] for
DATA COMMUNICATIONS

Between **The State of Montana** and
[Contractor]



CONTRACTOR:

Signature

Printed Name

Title

Date

MONTANA LEGAL:

Signature

Printed Name

Title

Date

MONTANA CHIEF INFORMATION OFFICER

Signature

Printed Name

Title

Date

PARTICIPATING ENTITY:

Signature

Printed Name

Title

Date

CONTRACING OFFICER:

Signature

Printed Name

Title

Date



EXHIBIT C – FEDERAL TERMS AND CONDITIONS (NON-CONSTRUCTION) FOR MONTANA PURCHASES ONLY

NOTE: NO EXCEPTIONS TO THE LISTED FEDERAL TERMS AND CONDITIONS WILL BE CONSIDERED. THE STATE IS NOT PERMITTED TO ALTER THESE TERMS AND CONDITIONS THROUGH OUR FEDERAL PARTNER.

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the contractor/vendor agrees to acceptance of the following Federal Terms and Conditions along with all other provisions that are specific to this solicitation or contract as applicable.

1. Nondiscrimination

Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Contractor agrees to comply with the following national policies prohibiting discrimination:

- a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.
- b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.
- c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.



- d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
- e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

2. Lobbying

Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

3. Drug Free Work Place

Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

4. Environmental Protection

- a. Contractor agrees that its performance under this contract shall comply with:
 - 1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
 - 2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
 - 3) The Resources Conservation and Recovery Act (RCRA);
 - 4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
 - 5) The National Environmental Policy Act (NEPA);
 - 6) The Solid Waste Disposal Act (SWDA);
 - 7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
 - 8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.
- b. In accordance with the EPA rules, the parties further agree that the Contractor/Vendor shall also identify to the state any impact this contract may have on:
 - 1) The quality of the human environment and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as



breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

- 2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
- 3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
- 4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
- 5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
- 6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

5. Use of United States Flag Vessels

Contacto agrees that travel under this contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

The Contactor/Vendor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

6. Debarment and Suspension.

Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the Contractors contract files and shall be subject to audit by Federal and State audit agencies.

7. Buy American Act.

Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America, and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

8. Uniform Relocation Assistance and Real Property Acquisition Polices



Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

9. Copeland "Anti-Kickback" Act

Contractor agrees that it will comply with the Copeland "Anti Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

10. Contract Work Hours and Safety Standards Act

Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

11. Rights to Inventions Made Under a Contract or Agreement.

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor/Vendor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

12. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended

Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

13. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

14. System For Award Management and Unique Entity Identification Number Requirements.

Contractor agrees to comply with the System for Award Management (Sam.gov) maintained by the General Services Administration. Contractor shall provide a Unique Entity ID assigned to it.

15. Procurement of Recovered Materials.

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage

Participating Addendum Number [#####] for
DATA COMMUNICATIONS

Between **The State of Montana** and
[Contractor]



of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

16. 2 C.F.R. 200.326, Appendix II, Required Contract Clauses

2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this agreement with the state.

17. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.