

Participating Addendum Number NVP_23019
for
COMPUTER EQUIPMENT, PERIPHERALS & RELATED SERVICES
between
The State of Montana
and
Panasonic Connect North America, Division of Panasonic Corporation of North America

This Participating Addendum is entered into by the State of Montana ("Participating Entity," "State") and the following Contractor (each a "Party," collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number 23019, executed by Contractor and the State of Minnesota for Computer Equipment, Peripherals & Related Services ("Master Agreement"):

Panasonic Connect North America, Division of Panasonic Corporation of North America ("Contractor")
Two Riverfront Plaza, 9th Floor
Newark, NJ 07102-5490

I. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

Solomon Surles III
Government Contracts Manager
Solomon.SurlesIII@us.panasonic.com
(775) 895-2401

Participating Entity's contact for this Participating Addendum is:

Grace Waring
Contracts Officer
Cooppurchasing@mt.gov
406-444-2516

- II. TERM.** This Participating Addendum is effective as of the date of the last signature below 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. PARTICIPATION AND USAGE.** The NASPO ValuePoint Master Agreement may be used by all State agencies, institutions of higher institution, 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.
- 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 and Participating Entity's venue.
- V. 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 the Contractor and Participating Entity and Purchasing Entities.
- a. Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
- b. Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage 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.

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Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto.

Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.

VI. ORDER OF PRECEDENCE.

- a. Participating Entity's State Terms and Conditions (Attachment A);
- b. This Participating Addendum;
- c. The Master Agreement;
- d. The Solicitation including all Addenda; and
- e. Contractor's response to the Solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Except for the terms included in the Attachment(s) hereto, no other terms and conditions shall apply, including terms listed or referenced on Contractor's website, in Contractor's quotations or in similar documents subsequently provided by Contractor, unless otherwise agreed by the Parties. Participating Entity's Participating Addendum and Attachments shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with Contractor under the terms of the Master Agreement.

VII. ATTACHMENTS. This Participating Addendum includes the following attachments:

- a. Attachment A: State's Modifications and Additions to Master Agreement Terms and Conditions
- b. Attachment B: Federal Terms and Conditions (Reserved Pending Amendment and not incorporated herein)
- c. NASPO ValuePoint Master Agreement No.: 23019

VIII. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT. Upon execution, Contractor shall email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. While Participating Entity will maintain the official record of this Participating Addendum, the Parties agree that this Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

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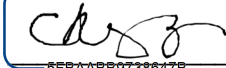
SIGNATURE

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 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.

PARTICIPATING ENTITY:

DocuSigned by:



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Signature

Cheryl Grey

Printed Name

SFSD Administrator

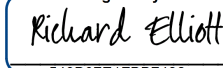
Title

3/26/2024

Date

CONTRACTOR:

DocuSigned by:



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Signature

Richard Elliott

Printed Name

President

Title

3/26/2024

Date

DocuSigned by:



3C947270DF6E49A...

Signature

Legal Counsel

3/25/2024

Date

DocuSigned by:



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Signature

Chief Information Officer

3/25/2024

Date

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.

Attachment A: State's Modifications and Additions to Master Agreement Terms and Conditions

The following terms and conditions govern during the term of the Participating Addendum (PA).

1. 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. State is 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.

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 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.

2. U.S. FUNDS

All prices and payments must be in U.S. dollars.

3. REFERENCE TO PA

The Purchase Order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the PA contract.

4. STATE OF MONTANA ADMINISTRATIVE FEE

The State of 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 Contract. 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. This Administrative Fee is effective upon execution of this PA.

5. REQUIRED REPORTING

Contractor shall submit quarterly reports to the Contracts Officer (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.

6. TAXES

- 6.1. **Payment.** Contractor shall pay all property and sales taxes, if any.
- 6.2. **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].
- 6.3. **Certificate.** All purchasers under this PA shall provide Contractor with a tax exemption certificate for all purchases.

7. DELIVERY

In addition to the Master Agreement Shipping and Delivery Section, Contractor shall:

- Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate; and
- Furnish a delivery schedule and designate the mode of delivery carrier.

8. INSURANCE

Contractor shall provide the Participating Entity the same insurance as it has provided the State of Minnesota in the Master Agreement and include the Participating Entity as an additional insured on these policies as it has the State of Minnesota. Electronic delivery of certificates of insurance and any endorsements shall be sent to the Primary Contact for the Participating Entity.

Contractor warrants that it performs all services using reasonable care and skill and according to its current description (including any completion criteria) contained in this Contract. State agrees to provide timely written notice of any failure to comply with this warranty so that Contractor can take corrective action.

9. RECORD ACCESS AND RETENTION

- 9.1. **Access to Records.** Contractor shall provide State, the Montana legislative

auditor, or its authorized agents access to any records necessary to audit for Contract compliance. State may terminate this Agreement, without incurring liability, for Contractor's refusal to allow access as required by this Section. (18-1-118, MCA.)

- 9.2. **Retention Period.** Contractor shall retain all records related to this Contract for 8 years following the termination or expiration of this Contract.

10. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

Contractor shall not assign, transfer or subcontract any portion of this Contract without the express written consent of State, which shall not unreasonably withhold consent. (Section 18-4-141, MCA.)

11. WARRANTIES

11.1. Warranty of Products

Contractor warrants that the products supplied conform to the specifications requested, are fit and sufficient for the purpose manufactured, are of good material and workmanship, and are free from defect for a period of 90 days from the date of shipment. The length of warranty may vary by product. Contractor further warrants that the products are new and unused and of the latest model or manufacture.

11.2. Warranty of Services

Contractor warrants that the services provided conform to the Contract requirements, including all descriptions, specifications and attachments made a part of this Contract. State's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this Contract, at law, or in equity, State may require Contractor to promptly correct, at Contractor's expense, any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished.

11.3. Warranty of Title

Contractor warrants all Goods are free and clear of any liens or encumbrances, Contractor has full legal title to the Goods, and that no other person or entity has any right, title, or interest in the Goods which the rights granted to the Participating Entity.

11.4. Warranty on Safety and Health Requirements

Contractor warrants that all Goods comply with all applicable health and safety standards, including Occupational Safety and Health Administration (OSHA) health and safety standards.

11.5. Manufacturer Warranties

Contractor shall transfer all manufacturer warranties covering the Goods, if any, transferred to the Participating Entity at time of delivery at no charge.

11.6. Warranties Cumulative

The warranties in this Section are in addition to any other warranties provided in this Contract. All warranties are cumulative and are intended to afford the Participating Entity the broadest warranty protection available.

11.7. Warranty For Services

- A. Contractor warrants that it performs all services using reasonable care and skill and according to its current description (including any completion criteria) contained in this Contract.
- B. State agrees to provide timely written notice of any failure to comply with this warranty so that Contractor can take corrective action.
- C. Contractor has acquired any and all rights, grants, assignments, conveyances, licenses, permissions, and authorization for Contractor to provide the Services described in this Contract.
- D. Contractor will not interfere with State's access to and use of the Services it acquires from this Contract.
- E. The Services provided by Contractor are compatible with and will operate successfully with any environment (including web browser and operating system) specified by Contractor.
- F. Contractor warrants that the products it provides under this Contract are free of malware. Contractor must use industry-leading technology to detect and remove worms, Trojans, rootkits, rogues, dialers, spyware, etc.
- G. The parties agree that the warranties set forth above do not require uninterrupted or error-free operation of hardware or services unless otherwise stated in the specifications.

11.8. Exclusive Warranty

THESE WARRANTIES ARE STATE'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. PUBLIC INFORMATION

- A. This Contract and all related documents are subject to disclosure pursuant to Montana public information laws.
- B. Under Montana public information laws, this Contract, referenced documents, including pricing documents, are all deemed public information.

13. CIO 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 performing services. The CIO may require the issuance of a right to assurance or may issue a stop work order.

14. 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 Contractor give a written assurance of intent to perform. Contractor's failure to provide written assurance within the number of days specified in the demand (in no event less than five business days) may, at State's option, be the basis for termination and pursuing the rights and remedies available to State.

15. STOP WORK ORDER

State may, at any time, by written order to Contractor require Contractor to stop any or all parts of the required work for the period of days indicated by State after the order is delivered to Contractor. The order must be specifically identified as a stop work order issued under these terms and conditions. Upon receipt of the 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. The State Contract Manager shall make the necessary adjustment in the delivery schedule or price, or both, and the services shall be amended in writing accordingly.

16. BLIND OR VISUALLY IMPAIRED

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) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

17. DEFENSE, INDEMNIFICATION / HOLD HARMLESS

17.1. Indemnities by Contractor

Contractor, at its sole cost and expense, shall defend, indemnify and hold harmless the State of Montana, the contracting agency, or their officers, officials, directors, agents, employees, volunteers, contractors, successors, assignees, or designees from any and all liability, actions, claims, demands, causes of actions, judgments, suits, settlements, penalties, or fines, and all related costs, court

costs, attorney fees, expert fees, and other expenses, arising out of, resulting from, or related to:

- A. Any acts or omissions of Contractor, its employees, sub-contractors, assignees, or third-party providers in or in connection with the execution or performance of the Contract and any purchase order issued under the Contract, except for the sole negligence of State.
- B. Any and all third-party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in or in connection with the execution or performance of the Contract and any purchase orders issued under the Contract, or
- C. Tax liability, unemployment insurance, workers' compensation, or expectations of benefits by Contractor, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract.

17.2. Coordination of Defense

State shall give Contractor prompt notice of any Claim, and at Contractor's expense, State shall cooperate in the defense of the Claim. Contractor acknowledges that under Montana law, the Montana Attorney General may participate in an action involving State.

17.3. State Reimbursement

If Contractor fails to comply with its defense obligations under this Section, State may undertake its own defense. If State undertakes its own defense, Contractor shall reimburse State for all costs to State resulting from: (1) settlements, judgments, losses, damages, liabilities, and penalties, fines; and (2) defense of the Claim, including but not limited to attorney fees, court costs, and the costs of investigation, discovery, and experts.

18. LIMITATION OF LIABILITY

Contractor shall provide the Participating Entity the same limitation of liability as it has provided the State of Minnesota in the Master Agreement.

19. COMPLIANCE WITH LAWS

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.

Any subcontracting by Contractor obligates subcontractors to the above.

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.

20. CONTRACT TERMINATION

20.1. Termination for Convenience

State may, by written notice to Contractor, terminate this Contract without cause and without incurring liability to Contractor. State shall give notice of termination to Contractor at least 30 days before the effective date of termination. State shall pay Contractor only that amount, or prorated portion thereof, 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.

20.2. Termination for Cause with Notice to Cure Requirement

Either party may terminate this Contract for the other's failure to perform any of its duties under this Contract after giving written notice of the failure to the other. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

20.3. 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.

20.4. Terrorism, Suspension or Debarment, or Otherwise Ineligible

State has the absolute right to terminate the Contract without recourse in the following circumstances:

- A. 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;
- B. 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
- C. Contractor is found to be ineligible to hold the Contract under the laws of State.

21. EVENT OF BREACH – REMEDIES

21.1. Event of Breach by Contractor

Any one or more of the following Contractor acts or omissions constitute an event of material breach under this Contract:

- Products or services furnished fail to materially conform to any requirement;
- Failure to perform any of the other terms and conditions of this Contract, including but not limited to beginning work under this Contract without prior State approval or breaching Section 25.1, Technical or Contractual Problems, obligations; or
- Voluntary or involuntary bankruptcy or receivership.

21.2. Event of Breach by State

State's failure to perform any material terms or conditions of this Contract constitutes an event of breach.

21.3. Actions in Event of Breach

A. Upon Contractor's material breach, State may:

- Terminate this Contract under Section 20.1, Termination for Convenience and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and pursue any of its remedies under this Contract, at law, or in equity.

B. Upon State's material breach, Contractor may:

- Terminate this Contract under Section 20.2, Termination for Cause with Notice to Cure, and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and, except as the remedy is limited in this Contract, pursue any of its remedies under this Contract, at law, or in equity.

22. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

23. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Contract, unless the parties mutually agree that the obligation is excused because of the condition.

24. 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.

25. MEETINGS

25.1. Technical or Contractual Problems.

Contractor shall meet with State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and State in the performance of their respective obligations, at no additional cost to State. State may request the meetings as problems arise and will be coordinated by State. State shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

25.2. 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.

25.3. 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.

25.4. 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.

26. TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, if the Contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this Contract or particular work under this Contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to State or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance. State shall pay Contractor for any resources utilized in performing such transition assistance at the most current Contract rates. If State terminates a project or this Contract for cause, then State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages State may have sustained as a result of Contractor's breach.

- 27.** Contractor shall verify on the Purchase Order that any purchase under this Participating Addendum does not use federal grant money. This Section is only applicable until Contractor and State mutually agree on Federal Terms and Conditions.

28. CHOICE OF LAW AND VENUE

Montana law governs this Contract. 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 Section 17, Defense, Indemnification/Hold Harmless.

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.

29. AUTHORITY

This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

30. SEVERABILITY

A declaration by any court or any other binding legal source that any provision of the Contract is illegal, and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually and materially dependent.

31. WAIVER

State's waiver of any Contractor obligation or responsibility in a specific situation is not

a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

32. PUBLIC DISCLOSURE

Contractor may publicize the Contract term, scope and price without prior written approval. However, Contractor may not use the State seal, any State logo, or claim any State endorsement as to the Contract without prior written approval by State.

33. SURVIVAL

All provisions in this Contract that relate to warranties, Audit, Payment, Indemnification, Defense, and Hold Harmless, and Limitation of Liability, shall survive any termination of this Contract.

(The remainder of this page is intentionally left blank)