

CONTRACT BETWEEN
[INSERT AGENCY'S NAME]
AND
[INSERT CONTRACTOR'S FULL LEGAL NAME]

1. **Parties.** The parties to this Contract are [Insert Agency's full name] (Agency), whose address is: [Insert Agency's address], and [Insert Contractor's full legal name] (Contractor), whose address is: [Insert Contractor's Address].
2. **Purpose of Contract.** The purpose of this Contract is to set forth the terms and conditions by which the Contractor shall [Insert a brief description of what Contractor is to do.].
3. **Term of Contract.** This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from [Insert term starting date or Effective Date] through [Insert ending date]. All services shall be completed during this term.

[Instruction: For contracts that may be extended include the following language: *This Contract may be extended [Insert the number of times this Contract can be extended, e.g. "once", "twice" or other] by agreement of both parties in writing and subject to the required approvals. There is no right or expectation of extension and any extension will be determined at the discretion of the Agency.* **Remember: If the above language is used, delete the italics, highlighting and the instruction, which is highlighted in yellow.]**

4. **Payment.**
 - A. The Agency agrees to pay the Contractor for the services described [Insert either "in Section 5 below" or/and "in Attachment A, which is attached to and incorporated into this Contract by this reference."]. Total payment under this Contract shall not exceed [Insert total dollar amount, for example, five thousand, two hundred thirty-four dollars and twenty-five cents (\$5,234.25)]. Payment shall be made [Insert when the Contractor will be paid, for example: "when services are completed", "in accordance with the pay schedule attached hereto as Attachment B and incorporated herein by reference" or other appropriate time period. Remember to only use the "incorporation" language the first time you refer to the attachment.]. Payment shall be made within forty-five (45) days after submission of invoice pursuant to Wyo. Stat. § 16-6-602. Contractor shall submit invoices in sufficient detail to ensure that payments may be made in conformance with this Contract.
 - B. No payment shall be made for work performed before the Effective Date of this Contract. Should the Contractor fail to perform in a manner consistent with the terms and conditions set forth in this Contract, payment under this Contract may be withheld until such time as the Contractor performs its duties and responsibilities to the satisfaction of Agency.

[Instruction: CHOOSE ONE OF THE FOLLOWING THREE OPTIONS FOR TRAVEL EXPENSES:]

[Instruction: If Contractor will be responsible for its own costs and expenses, including travel, pick Option 1, remove the italics and delete the remaining options. Remember to delete this instruction.]

[Option 1]

- C. *Except as otherwise provided in this Contract, the Contractor shall pay all costs and expenses, including travel, incurred by Contractor or on its behalf in connection with Contractor's performance and compliance with all of Contractor's obligations under this Contract.*

[Instruction: If Agency is going to reimburse Contractor's travel expenses, pick Option 2 or 3, remove the italics and delete the remaining options. Remember to delete this instruction.]

[Option 2]

- C. *When the Contractor is working at a location requiring an overnight stay, the Contractor shall be reimbursed at the rates set out in Wyo. Stats. §§ 9-3-102 and 9-3-103.*

[Option 3]

- C. **Travel.** *The payment of travel expenses shall be allowed as set forth below. Contractor is expected to procure the most cost efficient travel arrangements.*

- (i) *Air Travel. The Agency agrees to reimburse the Contractor's air travel expenses related to the performance of this Contract. Air travel shall be reimbursed based on actual costs, supported by a copy of the original receipt with the invoice. Contractor must select the lowest airfare (fares available in the market at the time of booking, preferably well in advance of trip to attain the lowest possible airfare). Contractor shall book economy class fares for all domestic travel. First class bookings are not reimbursable. **[Helpful Hint: If the contractor provides adequate substantiation for the out-of-pocket air travel expenses, reimbursement for these expenses will NOT be reported as income on Form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.]***

[Use one of the following for personal or car rental]

- (ii) *Personal Vehicle. Mileage shall be reimbursed at the rate of **[Insert amount, for example, sixty-five cents (\$.65) or "the current State rate"]** per mile based on standard map mileage. **[Helpful Hint: If the reimbursement mileage rate is less than or equal to the federal standard mileage rate for the cost of operating the contractor's vehicle for performance of this contract, the reimbursement rate will NOT be reported as income on***

Form 1099 MISC. Should the reimbursement mileage rate exceed the federal standard mileage rate, the excess WILL be reported as income on form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.

[or]

- (iii) **Car Rental.** The Agency agrees to reimburse the Contractor's car rental expenses related to the performance of this Contract. Car rental expenses shall be reimbursed at actual costs, supported by a copy of the original receipt with the invoice. Contractor must select the lowest rental rates for an appropriate vehicle. **[Helpful Hint: If the contractor provides adequate substantiation for the out-of-pocket car rental expenses, reimbursement for these expenses will NOT be reported as income on Form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.]**

D. Lodging.

The Agency agrees to reimburse Contractor's lodging expenses related to the performance of this Contract. Lodging expenses shall be reimbursed at actual costs, supported by a copy of the original receipt with the invoice. The Contractor shall only invoice the Agency for the basic room rate, taxes, and lodging fees. The Agency is not responsible for incidental or miscellaneous expenses charged to the room. Incidental and miscellaneous expenses for which the Agency shall not be responsible include charges such as alcohol, internet, telephone charges, mini-bar, and movies. **[Helpful Hint: If the contractor provides adequate substantiation for the out-of-pocket lodging expenses, reimbursement for these expenses will NOT be reported as income on Form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.]**

[or]

The Agency agrees to reimburse Contractor's lodging expenses related to the performance of this Contract. The Contractor shall be reimbursed for lodging/hotel at the rate of **[Insert amount, for example, sixty-five dollars (\$65.00)]** per day. Requests for reimbursement shall state the amount allowed for lodging/hotel and list the actual number of travel days on the Contractor's invoice. **[Helpful Hint: If the lodging reimbursement is less than or equal to the federal standard per diem rate or under the high-low method for computing federal per diem rates for performance of this contract, the reimbursement rate will NOT be reported as income on Form 1099 MISC. Should the lodging reimbursement exceed the federal per diem rate or under the high-low method for computing federal per diem rates, the excess WILL be reported as income on form 1099-**

MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.

E. Meals.

The Agency agrees to reimburse Contractor’s meal expenses related to the performance of this Contract. Meal expenses shall be reimbursed based on actual costs, supported by a copy of the original receipt with the invoice. **[Helpful Hint: If the contractor provides adequate substantiation for the out-of-pocket meal expenses, reimbursement for these expenses will NOT be reported as income on Form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.]**

[or]

The Agency agrees to reimburse Contractor’s meal expenses related to the performance of this Contract. The Contractor shall be reimbursed for meals at the rate of [Insert amount, for example, thirty-five dollars (\$35.00)] per day. This reimbursement amount includes all meal, beverage, and refreshment expenses incurred during the day. Requests for reimbursement shall state the amount allowable for meals and list the actual number of travel days on the invoice. **[Helpful Hint: If the meal reimbursement is less than or equal to the federal standard meal allowance or under the high-low method for computing federal per diem rates for performance of this contract, the reimbursement rate will NOT be reported as income on Form 1099 MISC. Should the meal reimbursement exceed the federal standard meal allowance or under the high-low method for computing federal per diem rates, the excess WILL be reported as income on form 1099-MISC. For further detail on contractor travel reimbursement please review IRS publication 463 at <https://www.irs.gov/pub/irs-pdf/p463.pdf>. Remember to delete highlighting and hint.]**

5. Responsibilities of Contractor. The Contractor agrees to:

[Instruction: Provide an exact description of the Contractor’s responsibilities under this Contract in Subsections A., B., C., and so on. Contractor’s responsibilities should be stated clearly so that a third party could understand what the Contractor is required to do and be detailed enough to set clear standards for enforcement of the Contract. Remember to delete this instruction.]

A.

B.

C.

[Instruction: Alternatively, if the Contractor's responsibilities are exactly as stated in a proposal or a Statement of Work (SOW), then the Agency may attach such as a labeled Attachment to this Contract. If you have any questions, please contact your contracts attorney. If such documents are attached, use the following language. Remember to delete this instruction.]

A. Provide the services described in Attachment __.

6. **Responsibilities of Agency.** The Agency agrees to:

A. Pay Contractor in accordance with Section 4 above.

[Instruction: If the Agency has other duties to perform list them here as subsection B., C., D., and so on. Remember to delete this instruction.]

B.

C.

D.

7. **Special Provisions.**

A. **Assumption of Risk.** The Contractor shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to the Contractor's failure to comply with state or federal requirements. The Agency shall notify the Contractor of any state or federal determination of noncompliance.

B. **Environmental Policy Acts.** Contractor agrees all activities under this Contract will comply with the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and other related provisions of federal environmental protection laws, rules or regulations.

C. **Human Trafficking.** As required by 22 U.S.C. § 7104(g) and 2 CFR Part 175, this Contract may be terminated without penalty if a private entity that receives funds under this Contract:

- (i) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
- (ii) Procures a commercial sex act during the period of time that the award is in effect; or
- (iii) Uses forced labor in the performance of the award or subawards under the award.

D. **Kickbacks.** Contractor certifies and warrants that no gratuities, kickbacks, or

contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If Contractor breaches or violates this warranty, Agency may, at its discretion, terminate this Contract without liability to Agency, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

[Include the following language under the Kickbacks provision if, and ONLY if, the contract involves a construction project.] *The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. § 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that the Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works to give up any part of the compensation to which he or she is otherwise entitled.*

- E. Limitations on Lobbying Activities.** By signing this Contract, Contractor certifies and agrees that, in accordance with P.L. 101-121, payments made from a federal grant shall not be utilized by Contractor or its subcontractors in connection with lobbying member(s) of Congress, or any federal agency in connection with the award of a federal grant, contract, cooperative agreement, or loan.

[Include the following language in construction contracts.] *Contractor and subcontractors may also be required to submit an additional certification statement and disclosure form acceptable to the Agency before commencement of the work.*

- F. Monitoring Activities.** Agency shall have the right to monitor all activities related to this Contract that are performed by Contractor or its subcontractors. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine or evaluate completed work or work in progress; to examine the books, ledgers, documents, papers, and records pertinent to this Contract; and to observe personnel in every phase of performance of Contract related work.

- G. Nondiscrimination.** The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.*, and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Contract. **[Ensure this provision is not duplicated in the General Provisions section.]**

[Optional language: Use the following only if subcontracts are permitted under the Contract.] *Federal law requires the Contractor to include all relevant special provisions of this Contract in every subcontract awarded over ten thousand dollars (\$10,000.00) so that such provisions are binding on each subcontractor.*

- H. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the procurement of this Contract, shall be paid by either party.

- I. Publicity.** Any publicity given to the projects, programs, or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Contractor and related to the services and work to be performed under this Contract, shall identify the Agency as the sponsoring agency and shall not be released without prior written approval of Agency. [Ensure this provision is not duplicated in the General Provisions section.]
- J. Suspension and Debarment.** By signing this Contract, Contractor certifies that neither it nor its principals/agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or from receiving federal financial or nonfinancial assistance, nor are any of the participants involved in the execution of this Contract suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension), or 2 CFR Part 180, or are on the debarred, or otherwise ineligible, vendors lists maintained by the federal government. Further, Contractor agrees to notify Agency by certified mail should it or any of its principals/agents become ineligible for payment, debarred, suspended, or voluntarily excluded from receiving federal funds during the term of this Contract.

[NOTE: Also include the following provisions in any grant award that involves FEDERAL FUNDS. Choose “Contractor” or “Subrecipient”, as appropriate to your Contract, and DELETE the other term, and this instruction.]

- K. Administration of Federal Funds.** Contractor/Subrecipient agrees its use of the funds awarded herein is subject to the Uniform Administrative Requirements of 2 CFR Part 200, *et seq.*; [Insert additional requirements specific to federal grant or program]; any additional requirements set forth by the federal funding agency; all applicable regulations published in the Code of Federal Regulations; and other program guidance as provided to it by Agency.
- L. Copyright License and Patent Rights.** Contractor/Subrecipient acknowledges that federal grantor, the State of Wyoming, and Agency reserve a royalty-free, nonexclusive, unlimited, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal and state government purposes: (1) the copyright in any work developed under this Contract; and (2) any rights of copyright to which Contractor/Subrecipient purchases ownership using funds awarded under this Contract. Contractor/Subrecipient must consult with Agency regarding any patent rights that arise from, or are purchased with, funds awarded under this Contract.
- M. Federal Audit Requirements.** Contractor/Subrecipient agrees that if it expends an aggregate amount in excess of the amount set forth in 2 CFR Part 200, Subpart F in federal awards during its fiscal year, it must undergo an organization-wide financial and compliance single audit. Contractor/Subrecipient agrees to comply with the audit requirements of the U.S. General Accounting Office Government

Auditing Standards and Audit Requirements of 2 CFR Part 200, Subpart F. If findings are made which cover any part of this Contract, Contractor/Subrecipient shall provide one (1) copy of the audit report to Agency and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to Agency's records.

- N. **Non-Supplanting Certification.** Contractor/Subrecipient hereby affirms that federal grant funds shall be used to supplement existing funds, and shall not replace (supplant) funds that have been appropriated for the same purpose. Contractor/Subrecipient should be able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this Contract.
- O. **Program Income.** Contractor/Subrecipient shall not deposit grant funds in an interest bearing account without prior approval of Agency. Any income attributable to the grant funds distributed under this Contract must be used to increase the scope of the program or returned to Agency.
- P. **Applicability of Appendix II to 2 CFR Part 200.** This Contract/Agreement has been funded, in whole or in part, with an Award of Federal funds and is bound by the federal contract provisions required by the Uniform Guidance Appendix II of 2 CFR Part 200 (the Federal Contract Provisions), incorporated herein by this reference. In the event of a conflict between the Special Provisions section of this Contract/Agreement, or any attachments or exhibits incorporated herein, and the Federal Contract Provisions, the Federal Contract Provisions shall control. Failure to comply with the Federal Contract Provisions shall constitute an event of default under this Contract/Agreement. If such a default remains uncured five (5) calendar days following the termination of a thirty (30) day prior written notice period, the Agency may terminate this Contract/Agreement. This remedy will be in addition to any other remedy available to the State of Wyoming and the Agency under this Contract/Agreement, at law, or in equity.

8. General Provisions.

- A. **Amendments.** Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed by all parties to this Contract.
- B. **Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms "hereof," "hereunder," "herein," and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.

- C. **Assignment Prohibited and Contract Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof, for collateral for any financial obligation without the prior written permission of the Agency.
- D. **Audit and Access to Records.** The Agency and its representatives shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract. **[Instruction: Use the following Additional Optional Language in cases where an independent audit is required. Consult your agency's Assistant Attorney General regarding additional language which is needed to address special requirements. Remember to delete this instruction and remove italics.] [Additional Optional Language:]** *The Contractor shall immediately, upon receiving written instruction from the Agency, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract. The Contractor shall cooperate fully with any such independent auditor or accountant during the entire course of any audit authorized by the Agency.*
- E. **Availability of Funds.** Each payment obligation of the Agency is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Contract, the Contract may be terminated by the Agency at the end of the period for which the funds are available. The Agency shall notify the Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Agency in the event this provision is exercised, and the Agency shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- F. **Award of Related Contracts.** The Agency may award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Contractor shall cooperate fully with other contractors and the Agency in all such cases.
- G. **Certificate of Good Standing.** *The Contractor shall provide to the Agency a Certificate of Good Standing from the Wyoming Secretary of State, or other proof that Contractor is authorized to conduct business in the State of Wyoming, if required, before performing work under this Contract. Contractor shall ensure that annual filings and corporate taxes due and owing to the Secretary of State's office are up-to-date before signing this Contract.*
- H. **Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state, and local laws and regulations, and all federal grant requirements and executive orders in the performance of this Contract.

- I. **Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract shall be kept confidential by the Contractor unless written permission is granted by the Agency for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify Agency within ten (10) days of such request and shall not release such information to a third party unless directed to do so by Agency.

[Government Contractor Option]

[Instruction: If Agency is contracting with other governmental entities, including the University of Wyoming, other state entities, or federal entities, insert the following provision and delete the above standard provision. Remember to delete this instruction and remove italics.]

- I. **Confidentiality of Information.** *Except when disclosure is required by the Wyoming Public Records Act or court order, all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract shall be kept confidential by the Contractor unless written permission is granted by the Agency for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify Agency within ten (10) days of such request and shall not release such information to a third party unless directed to do so by Agency.*
- J. **Entirety of Contract.** This Contract, consisting of [Insert number of pages, for example, “fourteen (14)”] () pages; Attachment A, [Title of document], consisting of _____ () page(s); and Attachment B, [Title of document], consisting of _____ () page(s); and the Federal Contract Provisions, represent the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.
- K. **Ethics.** Contractor shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, *et seq.*) and any and all ethical standards governing Contractor’s profession.
- L. **Extensions.** Nothing in this Contract shall be interpreted or deemed to create an expectation that this Contract will be extended beyond the term described herein. **[Additional Optional Language]:** *Any extension of this Contract shall be initiated by the Agency and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Contract or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Contract.*

- M. Force Majeure.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- N. Indemnification.** The Contractor shall release, indemnify, and hold harmless the State, the Agency, and their officers, agents, and employees from any and all claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's negligence or other tortious conduct.

[Government Contractor Option]

[**Instruction:** If Agency is contracting with other governmental entities, including the University of Wyoming, other state entities or federal entities, insert the following provision and delete the above standard provision. **Remember to delete this instruction and remove italics.**]

- N. Indemnification.** *Each party to this Contract shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.*
- O. Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Contractor shall be free from control or direction over the details of the performance of services under this Contract. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Agency or to incur any obligation of any kind on behalf of the State of Wyoming or the Agency. The Contractor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents or employees as a result of this Contract.

- P. Notices.** All notices arising out of, or from, the provisions of this Contract shall be in writing either by regular mail or delivery in person at the addresses provided under this Contract.
- Q. *Notice of Sale or Transfer.*** *The Contractor shall provide the Agency with notice of any sale, transfer, merger, or consolidation of the assets of the Contractor. Such notice shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Agency determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Contractor’s obligations under this Contract, then the Agency may, at its discretion, terminate or renegotiate the Contract. [Instruction: If Agency is contracting with individuals or other governmental entities, including the University of Wyoming, or other state or federal entities that are unlikely to be “sold or transferred” then this provision may be deleted. Remember to delete this instruction and remove italics.]*
- R. Ownership and Return of Documents and Information.** Agency is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract. Upon termination of services, for any reason, Contractor agrees to return all such original and derivative information and documents to the Agency in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers. Upon Agency’s verified receipt of such information, Contractor agrees to physically and electronically destroy any residual Agency-owned data, regardless of format, and any other storage media or areas containing such information. Contractor agrees to provide written notice to Agency confirming the destruction of any such residual Agency-owned data.
- [Government Contractor Option]
- [Instruction: If Agency is contracting with other governmental entities, including the University of Wyoming, other state entities, counties, or federal entities, insert the following provision and delete the above standard provision. Remember to delete this instruction and remove italics.]:
- R. *Ownership and Return of Documents and Information.*** *Agency is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract. Upon termination of services, for any reason, Contractor agrees to return all such original and derivative information and documents to the Agency in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers.*
- S. *Patent or Copyright Protection.*** *The Contractor recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright,*

license, or other similar restrictions, and warrants that no work performed by the Contractor or its subcontractors will violate any such restriction. The Contractor shall defend and indemnify the Agency for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

T. Prior Approval. This Contract shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Contract has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).

U. Insurance Requirements.

- (i) During the term of this Contract, the Contractor shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage, below.
- (ii) All policies shall be primary over any insurance or self-insurance program carried by the Contractor or the State of Wyoming. All policies shall include clauses stating that each insurance carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- (iii) The Contractor shall provide Certificates of Insurance to the Agency verifying each type of coverage required herein. If the policy is a “claims made” policy instead of an “occurrence” policy, the information provided shall include, but is not limited to, retroactive dates and extended reporting periods or tails.
- (iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Agency. A copy of the policy endorsement shall be provided with the Certificate of Insurance.
- (v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Agency may, at the Agency’s option, obtain and maintain, at the expense of the Contractor, such insurance in the name of the Contractor, or subcontractor, as the Agency may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Contractor under this Contract.
- (vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.
- (vii) The Agency reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

[Government Contractor Option]

[Instruction: The following option is strictly for use in contracting with counties or other Wyoming governmental entities. Verify if Contractor has private insurance or is a member of a liability pool. If contractor is a member of WARM or LGLP, use the following in lieu of the Insurance Requirements and Insurance Coverage sections]:

U. **Insurance Requirements.** Contractor is protected by the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, et seq., and certifies that it is a member of the Wyoming Association of Risk Management (WARM) pool or the Local Government Liability Pool (LGLP), Wyo. Stat. § 1-42-201, et seq., and shall provide a letter verifying its participation in the WARM or LGLP to the Agency.

V. **Insurance Coverage.** The Contractor shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth above:

[Instruction: Most contracts include, at a minimum, the first four types of insurance coverage listed below. Select the most appropriate insurance coverage for the type of work you are procuring under this contract. More than one type of coverage may be necessary depending on the type and scope of work the Contractor is performing on behalf of the State. If you have questions, review the Explanation of Insurance Provisions document on the AG's website, or consult with A&I Risk Management. Remember to remove the italics and delete this instruction.]

(i) Commercial General Liability Insurance. Commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as follows:

- (a) \$1,000,000.00 each occurrence;
- (b) \$1,000,000.00 personal injury and advertising injury;
- (c) \$2,000,000.00 general aggregate; and
- (d) \$2,000,000.00 products and completed operations.

The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by endorsement.

(ii) Workers' Compensation and Employer's Liability Insurance. Employees hired in Wyoming to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program, if statutorily required. Employees brought into Wyoming from Contractor's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program or other state or private workers' compensation insurance approved by the

Wyoming Department of Workforce Services, if statutorily required.

The Contractor shall provide the Agency with a Certificate of Good Standing or other proof of workers' compensation coverage for all of its employees who are to perform work under this Contract, if such coverage is required by law. If workers' compensation coverage is obtained by Contractor through the Wyoming Department of Workforce Services' workers' compensation program, Contractor shall also obtain Employer's Liability "Stop Gap" coverage through an endorsement to the CGL policy required by this Contract, with minimum limits as follows:

- (a) Bodily Injury by Accident: \$1,000,000.00 each accident;*
- (b) Bodily Injury by Disease: \$1,000,000.00 each employee; and*
- (c) Bodily Injury by Disease: \$1,000,000.00 policy limit.*

(iii) Unemployment Insurance. The Contractor shall be duly registered with the Department of Workforce Services and obtain such unemployment insurance coverage as required. The Contractor shall supply Agency with a Certificate of Good Standing or other proof of unemployment insurance coverage.

(iv) Automobile Liability Insurance. Automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000.00 each accident combined single limit.

(v) Professional Liability or Errors and Omissions Liability Insurance. Professional liability insurance or errors and omissions liability insurance protecting against any and all claims arising from the Contractor's alleged or real professional errors, omissions, or mistakes in the performance of professional duties under this Contract, with minimum limits as follows:

- (a) \$1,000,000.00 each occurrence; and*
- (b) \$1,000,000.00 general aggregate.*

The policy shall have an extended reporting period of two (2) years.

(vi) Commercial Crime Insurance. Commercial crime insurance including employee dishonesty coverage with minimum limits of \$1,000,000.00 each occurrence.

(vii) Cyber Liability Insurance. Cyber liability insurance which shall be sufficiently broad to cover all duties and obligations undertaken by Contractor and shall include, but not be limited to, claims involving infringement of intellectual property, including, but not limited to, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic

information, extortion, and network security, with minimum limits as follows:

- (a) \$2,000,000.00 each occurrence; and*
- (b) \$2,000,000.00 general aggregate.*

Coverage shall include breach response costs, regulatory fines and penalties, and credit monitoring expenses, with limits sufficient to respond to these obligations.

[Instruction: Higher limits may be required when contract involves large amounts of protected information or is high risk. The Agency should consult with Risk Management.]

- W. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

- X. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and Agency expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. **[The following italicized portion should be added if the Contractor is attaching any of its own terms and conditions to the Contract. It can otherwise be deleted].** *The parties further acknowledge that there are constitutional and statutory limitations on the authority of the State of Wyoming and its agencies or instrumentalities to agree to certain terms and conditions supplied by the Contractor, including, but not limited to, the following: liability for damages; choice of law; conflicts of law; venue and forum-selection clauses; defense or control of litigation or settlement; liability for acts or omissions of third parties; payment of attorneys' fees or costs; additional insured provisions; dispute resolution, including, but not limited to, arbitration; indemnification of another party; and confidentiality. Any such provisions in the Contract, or in any attachments or documents incorporated by reference, will not be binding on the State of Wyoming. [The remaining sentences are mandatory].* Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

[Government Contractor Option 1]

[Instruction: Use the following alternative ONLY when contracting with political subdivisions, for example, cities, counties, special districts. Remember to delete this instruction.]

X. **Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and Agency expressly reserve sovereign immunity by entering into this Contract and the Contractor expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 1-39-101, *et seq.*, and all other applicable law. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. [The following italicized portion should be added if the Contractor is attaching any of its own terms and conditions to the Contract. It can otherwise be deleted]. *The parties further acknowledge that there are constitutional and statutory limitations on the authority of the State of Wyoming and its agencies or instrumentalities to agree to certain terms and conditions supplied by the Contractor, including, but not limited to, the following: liability for damages; choice of law; conflicts of law; venue and forum-selection clauses; defense or control of litigation or settlement; liability for acts or omissions of third parties; payment of attorneys' fees or costs; additional insured provisions; dispute resolution, including, but not limited to, arbitration; indemnification of another party; and confidentiality. Any such provisions in the Contract, or in any attachments or documents incorporated by reference, will not be binding on the State of Wyoming. [The remaining sentences are mandatory].* Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.

[Government Contractor Option 2]

[Instruction: Use the following alternative ONLY when contracting with other State agencies, the University of Wyoming and other states. Remember to delete this instruction.]

X. **Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming, the Agency and the Contractor expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. [The following italicized portion should be added if the Contractor is attaching any of its own terms and conditions to the Contract. It can otherwise be deleted]. *The parties further acknowledge that there are constitutional and statutory limitations on the authority of the State of Wyoming and its agencies or instrumentalities to agree to certain terms and conditions supplied by the Contractor, including, but not limited to, the following: liability for damages; choice of law; conflicts of law; venue and forum-selection clauses; defense or control of litigation or settlement; liability for acts or omissions of third parties; payment of attorneys' fees or costs; additional insured provisions; dispute resolution, including, but not limited to, arbitration; indemnification of another party; and confidentiality. Any such provisions in the Contract, or in any attachments or documents incorporated by reference, will not be binding on the*

State of Wyoming. [The remaining sentences are mandatory]. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

- Y. Taxes.** The Contractor shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.
- Z. Termination of Contract.** This Contract may be terminated, without cause, by the Agency upon thirty (30) days written notice. This Contract may be terminated by the Agency immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract.

[**Instruction:** The following provision may be added to any contract involving complex services. **Remember to delete the italics and this instruction.**]

If at any time during the performance of this Contract, in the opinion of the Agency, the work is not progressing satisfactorily or within the terms of this Contract, then, at the discretion of the Agency and after written notice to the Contractor, the Agency may terminate this Contract or any part of it. As of the termination date, the Contractor will be entitled to a pro rata payment for all work accomplished and accepted by the Agency; however, the Contractor shall be liable to the Agency for the entire cost of replacement services for the duration of the Contract term.

- AA. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the parties to this Contract and shall inure solely to the benefit of the parties to this Contract. The provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.
- BB. Time is of the Essence.** Time is of the essence in all provisions of this Contract.
- CC. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- DD. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- EE. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by the Contractor of

an originally signed counterpart of this Contract by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to the Agency. **[Additional Optional Language]:** *The Contractor's failure to deliver, either personally or via US Mail, postage prepaid, the originally signed counterpart to the Agency within five (5) business days shall be considered a material breach and may result in immediate termination of this Contract by the Agency.*

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

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9. **Signatures.** The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract.

The Effective Date of this Contract is the date of the signature last affixed to this page.

AGENCY:

[Insert Agency's name]

[Insert name and title of person signing for Agency]

Date

CONTRACTOR:

[Insert full legal name of Contractor]

[Insert name and title of person signing for Contractor]

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

[Insert name of attorney], Senior Assistant Attorney General

Date