**Exhibit A**

**Bureau of Information and Telecommunications**

**Required IT Contract Terms**

**Any contract resulting from this RFP will include the State’s required IT terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties. Due to the changing landscape of IT security and data privacy, the State reserves the right to add additional IT terms and conditions or modify the IT terms and conditions listed below to the resulting contract:**

Pursuant to South Dakota Codified Law § 1-33-44, the Bureau of Information and Telecommunications ("BIT") oversees the acquisition of office systems technology, software, and services; telecommunication equipment, software, and services; and data processing equipment, software, and services for departments, agencies, commissions, institutions, and other units of state government. As part of its duties as the Executive Branch’s centralized IT agency, BIT requires the contract terms and conditions of this Exhibit XX. For purposes of this Exhibit, [Vendor Name] will be referred to as the “Vendor.”

It is understood and agreed to by all parties that BIT has reviewed and approved only this Exhibit. Due to the ever-changing security and regulatory landscape in IT and data privacy, before renewal of this Agreement BIT must review and approve the clauses found in this Exhibit as being the then current version of the clauses and if any additional required clauses are needed. Changes to clauses in this Exhibit must be approved in writing by all parties before they go into effect and a renewal of this Agreement is possible.

The Parties agree, when used in this Exhibit, the term “Vendor” will mean the Vendor and the Vendor’s employees, subcontractors, agents, assigns, and affiliated entities.

1. **Rejection or Ejection of Vendor**

The State, at its option, may require the vetting of any of the Vendor, and the Vendor‘s subcontractors, agents, Assigns, or affiliated entities. The Vendor is required to assist in this process as needed.

The State reserves the right to reject any person from participating in the project or require the Vendor to remove from the project any person the State believes is detrimental to the project or is considered by the State to be a security risk. The State will provide the Vendor with notice of its determination, and the reasons for the rejection or removal if requested by the Vendor. If the State signifies that a potential security violation exists with respect to the request, the Vendor must immediately remove the individual from the project.

1. **Service Level Agreements**

The Vendor warrants and agrees that the Vendor has provided to the State all Service Level Agreements (SLA) related to the deliverables of the Agreement. The Vendor further warrants that it will provide the deliverables to the State in compliance with the SLAs.

1. **Threat Notification**

A credible security threat consists of the discovery of an exploit that a person considered an expert on Information Technology security believes could be used to breach any aspect of a system that is holding State Data or a product provided by the Vendor. Upon becoming aware of a credible security threat with the Vendor’s product(s) and or service(s) being used by the State, the Vendor or any subcontractor supplying product(s) or service(s) to the Vendor needed to fulfill the terms of this Agreement will notify the State within two business days of any such threat. If the State requests, the Vendor will provide the State with information on the threat.

1. **Source Code**

The Vendor will provide to the South Dakota Bureau of Information and Telecommunications, for safekeeping, a copy of source code developed or maintained for use by the State under the terms of this Agreement. The source code provided will be the version currently running on the State’s production environment.

1. **Browser**

The system, site, or application must be compatible with Vendor supported versions of Edge, Chrome, Safari, and Firefox browsers. Silverlight, QuickTime, PHP, Adobe ColdFusion, and Adobe Flash will not be used in the system, site, or application. Adobe Animate CC is allowed if files that require third-party plugins are not required.

1. **Information Technology Standards**

Any service, software, or hardware provided under this Agreement will comply with State standards which can be found at <https://bit.sd.gov/bit?id=bit_standards_overview>.

1. **Malicious Code**

1. The Vendor warrants that the Agreement deliverables contain no code that does not support an application requirement.
2. The Vendor warrants that the Agreement deliverables contains no malicious code.
3. The Vendor warrants that the Vendor will not insert into the Agreement deliverables or any media on which the Agreement deliverables is delivered any malicious or intentionally destructive code.
4. In the event any malicious code is discovered in the Agreement deliverables, the Vendor must provide the State at no charge with a copy of or access to the applicable Agreement deliverables that contains no malicious code or otherwise correct the affected portion of the services provided to the State. The remedies in this Section are in addition to other additional remedies available to the State.
5. **Software License**

The State grants the Vendor a nonexclusive, worldwide, revocable, fully paid, nontransferable license to all code provided to the Vendor and all modifications to the licensed code, which becomes property of the State, pursuant to this Agreement. The license rights granted in this Agreement will continue so long as the Parties are under a contract regarding the licensed code.

* + 1. The State grants the Vendor the right to:

1. use the licensed code for only the State’s benefit pursuant to this Agreement,
2. make as many copies of the licensed code as necessary to fulfill its obligations under this Agreement,
3. modify the licensed code pursuant to the terms of this Agreement,
4. publicly perform the licensed code, if applicable; and
5. publicly display the licensed code, if applicable.
   * 1. The Vendor is not granted the following rights and is prohibited from doing the following:
6. creating derivative works from the licensed code,
7. distributing the licensed code, and
8. sublicensing the licensed code.

Copies of the licensed code created or transferred pursuant to this Agreement are licensed to the Vendor, not sold. The Vendor receives no title to or ownership of any copy or of the licensed code itself. Furthermore, the Vendor receives no rights to the licensed code other than those specifically granted in this Agreement.

1. **Transfer of Ownership of Work Product**

Upon the effective date of this Agreement, the Vendor hereby assigns to the State all of the Vendor’s ownership, right, title, and interest in and to any copyrights in any code and other assets created pursuant this Agreement (“Work Product”), including all modifications to the licensed code provided to the Vendor by the State. All modifications to the licensed code become part of the licensed code once accepted by the State and is subject to all the aspects of this Agreement regarding “licensed code.”

1. **License.** To the extent that this Section does not provide the State with full ownership, right, title, and interest in and to the Work Product, the Vendor hereby grants the State a perpetual, irrevocable, fully paid, royalty-free, worldwide license to reproduce, create derivative works from, distribute, publicly display, publicly perform, and use the Work Product, with the right to sublicense each such right.
2. **Further Assistance and Survival.** The Vendor will reasonably assist the State in obtaining and enforcing copyrights in the Work Product, at the State’s expense. The rights granted in this Section will survive any termination or expiration of this Agreement.
3. **Transfer of Employee Rights.** Prior to the effective date of this Agreement, the Vendor will ensure that all its employees and contractors who may in any way be involved in creating the Work Product are subject to written agreements with the Vendor that grants the Vendor all such employees’ or contractors’ present and future ownership and other rights in and to the Work Product.

1. **Banned Services**

The Vendor warrants that any hardware or hardware components used to provide the services covered by this Agreement were not manufactured by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities. Any company considered to be a security risk by the government of the United States under the International Emergency Economic Powers Act or in a United States appropriation bill will be included in this ban.

1. **Multifactor Authentication for Hosted Systems**

If the Vendor is hosting on their system or performing Software as a Service where there is the potential for the Vendor or the Vendor’s subcontractor to see protected State Data, then Multifactor Authentication (MFA) must be used before this data can be accessed. The Vendor’s MFA, at a minimum must adhere to the requirements of *Level 2 Authentication Assurance for MFA* as defined in NIST 800-63.