

MONTANA STATE REFERENCE NETWORK EDUCATIONAL USE AGREEMENT

This Montana State Reference Network Educational Use Agreement (the "Agreement") is entered into by and between the State of Montana, **Montana State Library**, (MSL), whose address is **1201 11th Ave., Helena, MT 59901** and **[Name of Education User/Organization]**, (User), whose address is **[User/Org. Address]**.

RECITALS

- A. Administrative Rule 10.102.7002 provides defines "Contributing Organization". provides a framework to define "Contributing Organization".
1. "Contributing organization" means an individual or organization that contributes equipment, equipment maintenance, network connectivity, or other comparable service to the state reference network of value equal to or greater than cost of an individual subscription rate [in accordance with ARM 10.102.7003].
 2. "Contributing organization agreement" is an agreement between the Montana State Library and a contributing organization that depicts the value of the contribution and any credit the contributing organization will receive.
- B. Based on the definition, this document establishes purpose, roles and responsibilities of both parties as below:

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Agreement Term. The Agreement's term is five (5) years, and shall begin upon contract execution. In no event is this Contract binding on State unless State's authorized representative has signed it. The legal counsel signature approving legal content of the Contract and the procurement officer signature approving the form of the Contract do not constitute an authorized signature.

1.2 Renewal. MSL and the User may renew this Contract by mutual agreement, under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in any interval that is advantageous to both parties. This Contract, including any renewals, may not exceed a total of 10 years.

2. EDUCATIONAL USE

- 2.1 Educational Use subscriptions shall be used exclusively in connection with non-commercial research and educational activities conducted by academic institutions. Research efforts sponsored by or conducted on behalf of commercial entities do not qualify for Educational Use.
- 2.2 User shall develop and share with the MTSRN Coordinator a proposal of the intended educational use of the MTSRN, including the intended audience, the size and duration of the course or lab, the extent to which the MTSRN will be used and/or discussed,
- 2.2 MSL will provide Contributor with MTSRN subscriber login(s) according to section 3. Access will be maintained annually, provided that the user demonstrates that the use is in compliance with Section 2.1.

3 CONSIDERATION/PAYMENT

- 3.1 Payment Schedule. In Consideration of Section 2, Educational Use, MSL shall waive costs to the Contributing Organization for the following:

- 3.1.1 Login/Subscription Costs for the MTSRN

- 3.2 Subscription Terms. Educational Users hereby agree to and shall abide by the MTSRN Subscription Terms and Conditions.

4 LIABILITY DISCALIMER

- 4.1 The Montana State Library (MSL) and the MTSRN partners disclaim any warranty of merchantability or warranty for fitness of use for a particular purpose, express or implied, with respect to these digital products.
- 4.2 Use of MTSRN services, applications, and features of this website, or any information contained on this website or through any links provided on this website, is at the user's sole risk. MSL and the MTSRN partners provide MTSRN services on an 'as is' basis. Neither MTSRN Partners nor MSL, its officers, employees, vendors, or third-party service providers (collectively or individually) makes any express or implied representation or warranty of any kind with respect to MTSRN Services. By way of example and not of limitation, there is no representation or warranty (a) that MTSRN Services will be uninterrupted or error-free, (b) that the results obtained from using MTSRN Services will be accurate, reliable, complete, or current, or (c) of merchantability or fitness for a particular purpose. MTSRN Services and information related thereto are subject to change without prior notice.
- 4.3 Neither MSL nor the subscriber, or MTSRN Partners, is liable for any damages arising out of or in connection with MTSRN Services, including without limitation mistakes, omissions, interruptions, deletion of files, errors, defects, viruses, delays in operation or transmission, or failures of

the Continuously Operating Reference Stations (CORS). This is a comprehensive limitation of liability that applies to all damages of any kind, including compensatory, direct, indirect, or consequential damages; loss of data, income, or profit; loss of or damage to property; and claims of third parties.

4.4 Except for any suits, claims, actions, losses, costs, or damages which are solely the result of the negligent acts or omissions or misconduct of MSL, the Contributing Organization agrees to protect, indemnify, hold harmless, and defend the State and MSL from any claim, damage, or loss arising from, due to, or allegedly due to the failure of the installation, operation, or maintenance of the CORS.

5 OTHER PROVISIONS:

5.1 Nothing contained herein is intended to, nor shall be construed to, create any rights in any party not a signatory to this Agreement, or to form the basis for any liability on the part of the MSL, the subscriber, or their officials, employees, agents, or representatives, to any party not a signatory to this Agreement.

5.2 Each party and its counsel (if the party so desires) has reviewed and revised this Agreement.

5.3 This Agreement may be amended only by an instrument in writing, duly executed by both parties.

5.4 This Agreement shall be governed and construed in accordance with the laws of the State of Montana. The parties agree that any litigation concerning this bid, proposal, or 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.

5.5 Either party may amend, revise, or terminate this agreement with a minimum 90 days written notice.

5.6 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 Agreement, unless the parties mutually agree that the obligation is excused because of the condition.

6 EXECUTION

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date last written below.

STATE OF MONTANA
Montana State Library
1201 11th Avenue
Helena, MT 59601

(INSERT Organization NAME)
(Insert Address)
(Insert City, State, Zip)
FEDERAL ID #

BY: _____
(Name/Title)

BY: _____
(Name/Title)

(Signature)

(Signature)

DATE: _____

DATE: _____