

## MASTER SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") between **Browning High School** ("Provider"), with its principal place of business located at **105 US-89, PO Box 809, Browning, MT 59417** and Montana Technology Enterprise Center ("MonTEC", DBA "Accelerate Montana"), with its principal place of business located at 1121 East Broadway, Missoula, MT 59802 and shall be effective as of **October 30, 2024** (the "Effective Date") and shall terminate on 12/31/2024 (the "Termination Date").

### RECITALS

WHEREAS, Provider is engaged in the business of providing professional education and training;

WHEREAS, Provider is working under Assistance Listing Number and Title: 21.027 (formerly CFDA Number), a subaward under Federal Award Number: SLFRP174; and

WHEREAS, MonTEC wishes to utilize the services of Provider in connection with delivery of professional education and training services as specified in approved Statements of Work as described below and attached as Exhibits.

NOW, THEREFORE, Provider and MonTEC agree as follows:

#### **1. Scope of Services**

Provider will prepare and deliver professional education and training courses, programs, presentations, and workshops ("Provider's Work" or the "Work") using MonTEC provided funds per a Statement of Work (SOW) where SOWs may be entered into where such SOWs include by reference all terms in this Agreement. Should any term in this Agreement conflict with terms in any then current SOW, the terms of the then current SOW shall supersede the terms of this Agreement. Such Work includes, but is not limited to, providing professional education and training as part of a degree or non-degree program. Work further includes preparing coursework and delivering education and training materials ancillary to such activities. In any case, the Work shall encompass activities provided in-person or through remote learning.

#### **2. Price and Payment Terms**

MonTEC agrees to cooperate with Provider's reasonable requests with respect to the scheduling and performance of the work and to provide Provider with funds which Provider agrees shall be used to provide services per the then current SOW which shall include a specific budget, prepared in conformance with the example SOW shown in Exhibit A. Any funds delivered to Provider and not expended as specified in the then SOW shall be returned to MonTEC, unless the Parties agree to an alternative use of the funds allowed under the Award and approved by the granting agency.

#### **3. Term and Termination**

Unless terminated as provided herein, this Agreement shall extend to and terminate in each SOW agreed to by the Parties. Either party may terminate this Agreement for material breach, provided, however, that

the terminating party has given the other party at least twenty-one (21) days written notice of and the opportunity to cure the breach. Termination for breach shall not preclude the terminating party from exercising any other remedies for breach. MonTEC may also terminate for convenience with thirty (30) days' notice but shall be bound to pay the Service Provider for all services provided through the termination date. Either party may terminate this Agreement following completion of the then current SOW by notifying the other party upon completion of said current SOW.

#### **4. Intellectual Property**

Provider Intellectual Property. Provider intellectual property includes: any software, technology, methods, methodologies, procedures, processes, know-how, inventions, information, drawings, graphics, specifications, documents, designs, techniques, models, utilities, styles, tools, system frameworks, analysis frameworks, architectures, techniques, modules, components, objects, and systems owned by Provider, and any derivative works since created of, modifications, or improvements to any of the foregoing items ("Provider IP"). Provider retains all right, title, and interest, including all intellectual property rights in and to Provider IP. This section shall survive termination of this agreement or termination of any then current SOW.

#### **5. Warranty and Disclaimer**

Provider warrants that Provider's Work will be provided in a workmanlike manner, and in conformity with generally prevailing industry standards. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

#### **6. Limitation of Remedies**

MonTEC's sole and exclusive remedy for any claim against Provider with respect to the quality of Provider's Work completed by Provider shall be, at MonTEC's discretion, (i) the correction by Provider of any material defects or deficiencies therein, of which MonTEC notifies Provider in writing, or (ii) MonTEC shall withhold any payment (and Provider shall return any payment) in respect of the defective Work. In the absence of any such notice, Provider's Work shall be deemed satisfactory to and accepted by MonTEC.

#### **7. Limitation of Liability, Indemnification and Insurance.**

A. Each party to this Agreement shall be responsible for claims and damages to persons or property resulting from acts or omissions on the part of itself, its employees, or its officers. Neither party assumes any responsibility to the other party for the consequences of any act or omission of any person firm or corporation not a party to this Agreement. Neither party to this Agreement shall be considered the agent of the other party.

B. Provider agrees to carry adequate property, liability and other insurance protecting itself against any claims arising from any activities supported by funds delivered by MonTEC associated with the performance of this Agreement.

C. The parties' obligations under this Section shall survive completion or earlier termination of this Agreement.

## **8. Relation of Parties**

A. MonTEC and Provider acknowledge and agree that Provider is an independent organization and not an affiliate of MonTEC.

B. The performance by Provider of its duties and obligations under this Agreement shall be that of an independent Provider, and nothing herein shall create or imply an affiliate or agency relationship between Provider and MonTEC, nor shall this Agreement be deemed to constitute a joint venture or partnership between the parties.

C. Neither Party hereto shall be liable for the debts or obligations of the other, and Provider shall have the responsibility for payment of all federal, state and local taxes with respect to any monies received from MonTEC. Provider shall indemnify, hold harmless and defend MonTEC from any and all claims, liabilities, damages, taxes, fines or penalties sought or recovered by any governmental entity, including but not limited to the Internal Revenue Service or any state taxing authority, arising out of Provider's alleged failure to pay such taxes or make such contributions.

## **9. Compliance With Workers' Compensation Act**

In accordance with §§ 39-71-401, 39-71-405, and 39-71-417, MCA, Provider agrees to provide workers' compensation insurance for its employees while performing work under this Agreement. Provider shall provide proof of compliance in the form of workers' compensation insurance, an independent Provider's exemption or documentation of corporate officer status; and maintain such insurance/exemption or corporate officer status for the duration of the contract.

## **10. American Rescue Plan Act of 2021 ("ARPA") Compliance.**

This contract is part of a sub-award to the Provider as an eligible entity under ARPA. MonTEC has in place standard grant assurances and review procedures to effectively monitor the civil rights compliance of Provider. Provider is administering this contract in compliance with granting agency request and direction.

MonTEC and any contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 US C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42

U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

Provider also agrees to the following ARPA grant requirements:

A. Provider ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

B. Provider acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Sub-Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Sub-Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Provider understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Sub-Recipient's programs, services, and activities.

C. Provider agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.

D. Provider acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Provider and Provider's successors, transferees and assignees for the period in which such assistance is provided.

## **11. Miscellaneous Provisions**

A. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, together with their respective legal representatives, successors, and assigns, as permitted herein.

B. The parties agree that this Agreement shall be governed by and construed and interpreted in accordance with the laws of Montana. Any litigation concerning this Agreement must be brought in

the fourth Judicial District in and for the County of Missoula, State of Montana, and each party shall pay its own costs and attorney fees.

C. If any term of this Agreement is found to be unenforceable or contrary to law, it shall be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect.

D. Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay is caused by events or circumstances beyond the delayed party's reasonable control.

E. Provider shall work collaboratively with MonTEC to obtain accurate data required by MonTEC to provide to the State of Montana per the award of these ARPA funds to MonTEC. Such data is detailed in Exhibit B

F. The waiver by any party of any breach of covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights. This Agreement may be modified only by a written instrument executed by authorized representatives of the parties hereto.

G. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, proposals, negotiations, representations or communications relating to the subject matter. Both parties acknowledge that they have not been induced to enter into this Agreement by any representations or promises not specifically stated herein.

***The Remainder of This Page Intentionally Left Blank***

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

**Name of Contractor**

**Montana Technology Enterprise Center**

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Sandi Campbell  
**Browning High School**

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Scott Whittenburg  
President

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Date

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Date

## Exhibit A

# Scope of Work

**Provider:** {INSERT NAME}

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**Contracted Project:** {INSERT PROJECT}

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**Start Date:** {INSERT START DATE}

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**Expected Project End Date:** {INSERT END DATE} if all resources are available.

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**Total Compensation:** {INSERT TOTAL COMPENSATION}

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This Statement of Work (SOW) integrated in its entirety that Master Services Agreement (MSA) signed between the parties as of Month Day, Year, and all revisions and amendments thereto. Should any terms contained herein conflict with those in the associated MSA, the terms herein shall prevail. Specifically, termination shall be governed by the MSA unless specifically revised herein.

### Activities and Deliverables

The Provider shall provide the following services on or during the dates as specified:

- Service 1: *description; date or start date – end date;*
- Service 2: *description; date or start date – end date;*

The Provider shall provide the following deliverables on or during the dates as specified:

- Deliverable 1: *description and format; date or start date – end date;*
- Deliverable 2: *description and format; date or start date – end date;*

### Budget

Budget will be attached.

### Payment Terms

{INSERT PAYMENT TERMS. This could be a lump sum or payments based on deliverables – each of these should match with one or more of the services or deliverables.}

Upon successful completion of the service or deliverable, as determined by MonTEC, MonTEC shall provide the following payment(s):

- Payment 1: *[upon contract execution/prior to delivery of any services of deliverables];*
- Service 1: *[at the start of service delivery: \$X]; [conclusion of service \$X; OR within Y days of acceptance of service \$X];*
- Deliverable 1; *[at the start of deliverable drafting: \$X]; [conclusion of deliverable \$X; OR within Y days of acceptance of deliverable \$X];*

### SOW Specific Terms

Notwithstanding terms within the MSA, for this SOW only, the Parties agree the following terms supersede the MSA terms:

- Termination: *MonTEC may terminate immediately on notification following completion of any service with no further financial obligation to the Provider should MonTEC deem such completed service as unacceptable, unsuccessful, or otherwise rejected for any reason that risks rejection of any pending or future services specified herein;*

**Authorizing Signatures**

\_\_\_\_\_  
Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
PROJECT MANAGER  
Accelerate Montana

\_\_\_\_\_  
Date



## **Exhibit B**

### **Rapid Training Program Metrics Required by State of Montana**

- Number of regional cohorts established.
- Number of trainees enrolled in each AccelerateMT Rapid Training program (broken down by regional cohort and training program).
- Number of course completions (broken down by regional cohort and training program).
- Number of trainees hired in related field after course completion.
- Number of training programs (broken down by industry and occupation).
- Cost per training program (broken down by industry and regional cohort).
- Cost per trainee (broken down by industry and regional cohort).