Data Processing Addendum

This Data Processing Addendum ("DPA") sets forth Vendor's duties and obligations with respect to Vendor's processing of Owner Personal Data for Owner, its instrumentalities, or its Affiliates. This DPA supplements the Agreement and in the event of any conflict between the terms of this DPA and the terms of the Agreement, the terms of this DPA will supersede and prevail. This DPA will continue to be in effect for the term of the Agreement.

1. **Definitions**

Definitions used in this DPA are available at [https://www.sanmanuel-nsn.gov/Procurement/Privacy-and-Data-Security] and are incorporated as if set forth herein.

2. **Roles of the Parties**

The parties acknowledge and agree that Vendor will Process the Owner Personal Data in the capacity of a Processor, and that Owner will be the Controller of Owner Personal Data.

3. **Obligations of the Processor**

3.1 **Compliance with Data Protection Laws**. Vendor shall at all times comply with Data Protection Laws when Processing Owner Personal Data. Vendor represents and warrants that nothing in Data Protection Laws prevents it from performing its obligations as described in this DPA.

3.2 **Scope of Processing**.

3.2.1 Vendor will only Process Owner Personal Data on behalf of Owner (i) to the extent, and in such a manner, as is necessary for the limited and specified purposes of providing the Services under the Agreement; and (ii) in accordance with the terms of the Agreement, the DSA, and this DPA, which together constitute Vendor's binding agreement with Owner and Owner's instructions. The restrictions set forth in this section will not restrict Vendor's ability to Process Owner Personal Data where required to do so by applicable laws to which Vendor is subject; provided, however, Vendor will promptly notify Owner of such legal requirement before Processing, unless such law prohibits such notification. Vendor will immediately inform Owner if a Processing instruction violates applicable Data Protection Laws.

3.2.2 Vendor agrees it will not: (i) retain, use, or disclose Owner Personal Data for any purpose other than to provide the Services under the Agreement; (ii) "sell" or "share" (as those terms are defined by SMPA) Owner Personal Data; (iii) combine Owner Personal Data with Personal Data that Vendor receives from or on behalf of another person or entity or collects from its own interactions with a Data Subject except to perform a business purpose as defined under the Data Protection Laws; or (iv) Process Owner Personal Data for any purpose except for the business purpose. Vendor agrees that it (a) understands the obligations and restrictions imposed on it by applicable Data Protection Laws in its role as a Processor; and (b) will comply with all such obligations, including providing the same level of privacy protection as required by applicable Data Protection Laws. In the event that Vendor uses artificial intelligence, Vendor may not use inputs provided by or on behalf of Owner or outputs generated therefrom to train or otherwise improve artificial intelligence or the Services.

3.3 **Individual Requests**.

3.3.1 **Responding**. If Vendor, directly or indirectly, receives a request for an Individual relating to Owner Personal Data ("Request"), Vendor will provide a copy of the Request to Owner within two (2) business days of receipt. Vendor shall not further communicate with the Individual without the written permission of Owner.

3.3.2 **Assisting**. Vendor will provide all necessary assistance at Owner's request to enable Owner to respond to a Request, including by deleting Owner Personal Data in Vendor's possession and correcting inaccurate Owner Personal Data in Vendor's possession. In all instances where Vendor's assistance is requested, Vendor shall provide written confirmation it has completed the requested assistance.

3.4 **Regulator Requests**. Vendor will assist Owner in addressing any communications and abiding by any advice or orders from any Regulator relating to Owner Personal Data within the timeframe specified by the Regulator.

3.5 **Deletion or Return of Owner Personal Data**. Vendor will retain Owner Data as directed by Owner or as required by applicable laws. Within 28 days of the termination of the Agreement or this DPA, whichever is earlier, or at Owner's written request, Vendor will either destroy Owner Data, or return it to Owner, unless the Vendor is required to retain Owner Data to comply with its own legal obligations. If Vendor is required to retain Owner Data to comply with its own legal obligations, then Vendor, unless prohibited by law, must inform Owner of the legal obligation in writing and Vendor shall continue to safeguard Owner Data in accordance with this DPA.

3.6 **Disclosure to Third Parties**. Vendor will not disclose Owner Data to third parties except as permitted by this DPA or the Agreement or as required by applicable law. In the event Vendor is required to disclose Owner Data by applicable law, Vendor shall (to the extent permitted by law) notify Owner in writing and assist Owner before complying with such disclosure request.

3.7 **Confidentiality**. Vendor will treat all Owner Data as strictly confidential. Vendor will limit access to Owner Data only to those Authorized Persons who need access to perform the Services. Vendor shall ensure that all Authorized Persons are aware of the confidential nature of Owner Data and have signed a confidentiality agreement. Vendor shall ensure that all Authorized Persons complete adequate and appropriate privacy and data security training prior to having access to Owner Data. Vendor will ensure that Owner Data is not exported, copied, or saved to insecure storage locations, such as external unencrypted drives or insecure online storage.

3.8 **Security**. Vendor shall comply with the Data Security Addendum ("DSA") available at www.sanmanuel-nsn.gov/procurement and incorporated as if set forth herein .

3.9 **Cooperation**. Vendor shall reasonably cooperate with and assist Owner in: (a) fulfilling its legal obligations; (b) assisting Owner with a correct response; and (c) taking suitable further steps in respect to any Security Incident, Individual request, or Regulator request. If requested, Vendor shall provide reasonable assistance to Owner in completing any privacy impact assessments and/or data protection impact assessment, and any consultations with government authorities, that Owner considers necessary to comply with applicable Data Protection Laws.

4. **Subprocessors**

4.1 **Consent**. In the event Owner provides written consent to Vendor to subcontract any of its activities under the Agreement to any Subprocessor, Vendor shall enter into a written contract where Subprocessor is bound by the same data protection obligations of Vendor under this DPA. Vendor agrees to conduct an annual review of its Subprocessors to ensure such Subprocessors have in place proper organizational and technical safeguards to ensure the protection of Owner Data. Upon request, Vendor shall provide Owner with a list of its Subprocessors that Process Owner Personal Data.

4.2 **Objection**. Vendor shall not transfer Owner Data to a new Subprocessor without providing prior written notice to Owner. Owner may object to Vendor's use of a new Subprocessor by notifying Vendor in writing within twenty-one (21) business days after receipt of such notice. In the event Owner objects to a new Subprocessor, Vendor will use reasonable efforts to make available to Owner a change in the Services or recommend a commercially reasonable change to Owner within a reasonable period of time. If Vendor is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Owner may terminate the Agreement, by providing written notice to Vendor. Owner may elect to suspend or terminate the Agreement without penalty and receive a prorated refund of any prepaid fees for the period following such termination. In such case, Vendor must assist Owner in extracting all Owner Data from Vendor in an externally-readable format at no charge to Owner.

4.3	**Liability**. Vendor will be liable for the acts and omissions of its Subprocessors to the same extent that Vendor would be liable if performing the services of each Subprocessor directly under the terms of the Agreement and this DPA.

5.	**Miscellaneous**

5.1	**Obligations Post-Termination**. Termination or expiration of this DPA shall not discharge Vendor from its obligations meant to survive the termination or expiration of this DPA.

5.2	**Severability**. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invaliding the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute and shall incorporate such substitute provision into this Agreement.

5.3	**Changes in Data Protection Laws**. If any variation is required to this DPA as a result of a change in or subsequently applicable Data Protection Laws, the parties agree to discuss and negotiate in good faith any modifications to this DPA necessary to address such new legal requirements, as soon as reasonably practicable.

5.4	**Breach of Obligations**. In the event that Vendor is in breach of any of its obligations under this DPA, Owner may terminate the Agreement or in lieu of terminating the Agreement, Owner may suspend access to Owner Personal Data.

5.5	**Modifications and Amendments**. The DPA may only be amended by a written instrument executed by the parties.