

by MOLHSA, its agents, employees, or contractors, in the conduct of the Project ECHO Activities in its use of the Licensed Intellectual Property.

## **ARTICLE V – DISCLAIMER OF WARRANTIES & LIMITATION OF LIABILITY**

**5.1 DISCLAIMER OF WARRANTIES.** THE LICENSED INTELLECTUAL PROPERTY AND ANY SERVICES PROVIDED BY UNMHSC OR UNM IS PROVIDED “AS IS.” NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO THE LICENSED INTELLECTUAL PROPERTY OR PROJECT ECHO AND UNMHSC AND UNM EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER IMPLIED WARRANTIES WITH RESPECT TO THE CAPABILITIES, SAFETY, UTILITY, APPLICATION OF THE LICENSED INTELLECTUAL PROPERTY OR PROJECT ECHO.

**5.2 LIMITATION OF LIABILITY.** IN NO EVENT SHALL UNMHSC, UNM OR PROJECT ECHO BE LIABLE TO MOLHSA OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES (INCLUDING LOST OR ANTICIPATED REVENUES OR PROFITS RELATING TO THE SAME), ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT OR THE CONDUCT OF THE PROJECT ECHO ACTIVITIES BY MOLHSA, WHETHER SUCH CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF AN AUTHORIZED REPRESENTATIVE OF SUCH PARTY IS ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SAME. THE LIABILITY OF UNMHSC, UNM OR PROJECT ECHO/THE ECHO INSTITUTE, WILL BE SUBJECT IN ALL CASES TO THE IMMUNITIES AND LIMITATIONS OF THE NEW MEXICO TORT CLAIMS ACT SECTION 41-4-1 ET SEQ. NMSA 1978 AS AMENDED.

## **ARTICLE VI – TERM**

**6.1 Term.** This Agreement will remain valid and in force until the date that is one year after the Effective Date, and thereafter shall automatically renew for consecutive one year terms unless either UNMHSC or MOLHSA shall provide the other with written notice of non-renewal at least ninety (90) days prior to the anniversary of the Effective Date. MOLHSA understands and hereby agrees that pursuant to UNMHC’s contract for the Zoom software, that software is only available to MOLHSA until December 31, 2019 at no cost to MOLHSA. After that date, UNMHSC shall no longer be responsible for providing access to that software to MOLHSA.

## **ARTICLE VII – MISCELLANEOUS**

**7.1 Miscellaneous Terms.** The following terms shall apply to this Agreement: (a) in the performance of its duties and obligations under this Agreement, each Party agrees that they shall not, directly or indirectly, violate any U.S. law, regulation or treaty, or any other international treaty or agreement, relating to the export or re-export of any material or associated technical data, to which the U.S. adheres or with which the U.S. complies. Nothing in this agreement, express or implied, is intended to confer any rights, remedies, claims, or interests upon a person not a party to this agreement; (b) MOLHSA is an independent contractor of UNMHSC; (c) MOLHSA may not transfer, assign, or sublicense any of its rights, powers, duties, or obligations under this Agreement; (d) this Agreement constitutes the entire agreement between UNMHSC and MOLHSA with respect to the subject matter hereof, supersedes all prior Agreements with respect thereto, and may not be modified except by written agreement; (e) this Agreement shall be construed under and governed by the laws of the State of New Mexico without regard to its conflicts of laws principles; (f) any legal action brought under this Agreement must be brought in state or Federal court in New Mexico; (g) any notices to be given under this Agreement shall be given in writing; (h) upon termination of this agreement, the obligations and responsibilities of clauses 2.1, 2.3 and 3.2 shall survive such termination, i.e. ECHO activities must retain the ECHO name and brand and restrictions on selling ECHO IP to third parties remain in effect.