

FORMAL COOPERATIVE PURCHASE AGREEMENT

THIS AGREEMENT (Agreement) is made and entered into, effective on _____, by and between CITY OF FRESNO, a California municipal corporation (City), and THE DRALA PROJECT INC. dba THE REDESIGN GROUP, a California Corporation (Vendor).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and promises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. The Charter for the City allows for cooperative purchase agreements for materials, supplies, and equipment. The City may use another government agency's agreement, as an exception to the competitive bid process. The Parties agree that the Vendor has entered a contract with California NASPO Participating Addendum No. 7-23-70-55-01 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program (Original Government Contract). The solicitation for the Original Government Contract is attached as **Exhibit A**.
2. Vendor's Obligation. Vendor shall provide those services and carry out that work described in the Original Government Contract, which is attached hereto as **Exhibit B** and is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
3. City's Obligation. City shall make to the Vendor those payments described in **Exhibits A and B**, subject to all the terms and condition contained or incorporated herein
4. Notwithstanding the requirements that the Original Government Contract is fully binding on the Parties, the parties have agreed to modify certain non-material provisions of the Original Government Contract as applied to this Agreement between the Vendor and the City, as follows:
 - a) City's Insurance and Indemnity provisions attached as **Exhibit C**.
 - b) Address change for the City: Notwithstanding the address and contract information for the government entity as set out in **Exhibit B**, the Vendor agrees that notices and invoices will be sent to:

City of Fresno
Attention: Luke Draper
5607 W Jensen Ave
Fresno, CA 93706
Phone: (559) 621-7151
E-mail: Luke.Draper@fresno.gov

- c) Notwithstanding anything in **Exhibits A and B** to the contrary, this Agreement shall be governed by, and construed and enforced in

accordance with , the laws of the State of California, excluding however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

- d) All other provisions in the Original Government Contract are fully binding on the parties and will represent the agreement between the City and the Vendor.
5. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

[Signatures follow on the next page.]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

By: _____
MELISSA PERALES
Purchasing Manager
General Services Department

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

Signed by: _____
By: Christine Charitar 4/14/2026
66086C14193B4F5...
Christine Charitar Date
Deputy City Attorney

ATTEST:
AMY K. ALLER
Interim City Clerk

By: _____
Deputy Date

Attachments:

Exhibit A - Original Solicitation
Exhibit B - Original Government Contract
Exhibit C - City's Insurance and Indemnity
Exhibit D - Vendor Quote

THE DRALA PROJECT INC. dba THE
REDESIGN GROUP, a California
Corporation

Signed by: _____
By: Phil Sanginario 4/13/2026
86C2F6D2D0DE4A6...

Name: Phil Sanginario

Title: President
(If corporation or LLC., Board Chair,
Pres. or Vice Pres.)

Signed by: _____
By: Leah Lane 4/13/2026
77160C9A8C0E462...

Name: Leah Lane

Title: Sales Operations Director
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

VENDOR:
THE DRALA PROJECT INC. dba THE
REDESIGN GROUP
Attention: Sarah Reynolds
2629 Manhattan Ave, Suite 307
Hermosa Beach, CA 90254
Phone: (405) 831-8395
E-mail: sreynolds@redesign-group.com

EXHIBIT A

Original Solicitation

The State of Minnesota



REQUEST FOR PROPOSAL

MINNESOTA NASPO VALUEPOINT

Master Agreement for: Computer Equipment

(Desktops, Laptops, Tablets, Servers, and Storage
including Related Peripherals & Services)



Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Voice: 651.296.2600
Fax: 651.297.3996

STATE OF MINNESOTA

REQUEST FOR PROPOSAL (RFP)

**COMPUTER EQUIPMENT:
(DESKTOPS, LAPTOPS, TABLETS,
SERVERS, STORAGE,
INCLUDING RELATED PERIPHERALS & SERVICES)**

~~ORIGINAL DUE DATE: JANUARY 11, 2021~~

~~REVISED DUE DATE (ADDENDUM 02): JANUARY 31, 2021~~

~~REVISED DUE DATE (ADDENDUM 03): FEBRUARY 26, 2021~~

REVISED DUE DATE (ADDENDUM 04): MARCH 18, 2021

TIME: 3:00 P.M., CENTRAL TIME

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SECTION 1: SCOPE OF WORK

A. INTRODUCTION

The State of Minnesota, Department of Administration, Office of State Procurement is requesting proposals on behalf of the State of Minnesota and NASPO ValuePoint. The purpose of this Request for Proposal (“RFP”) is to establish Minnesota-led NASPO ValuePoint Master Agreement(s) with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, Storage and Ruggedized Devices including related Peripherals & Services).

This RFP and any resulting contract are for qualified manufacturers only – responders that cannot provide verification that they are a manufacturer will not be considered. Manufacturers that do not sell products directly may receive a Contract Award, but they must clearly specify their relationship with sales partners as directed in the RFP.

This RFP describes a relationship to be established between the Lead State and a responder and also specifies contractual conditions and details the basis for the responses, the subsequent review, and the final selection process. Detailed Contract obligations and measures of performance may be further defined in the final negotiated Contracts. The RFP shall not be construed to limit the Lead State’s right to issue or not issue any Contract, to reject all proposals, or to negotiate with more than one responder.

Sealed responses must be received in the office of the Director of the Office of State Procurement and time-stamped no later than the date and time specified, at which time the names of the contractors responding to this RFP will be read. Late responses cannot be considered. The laws of Minn. Stat. Ch. 16C apply to this RFP.

For the purpose of this RFP, there are three product Bands identified below which may be awarded. Responders must only respond to Bands in which they manufacture the defined product. “Re-branding” a product that is manufactured by another company does not meet this requirement. The State of Minnesota (“Lead State”) intends to establish multiple awards per Band. The Lead State reserves the right to eliminate any Bands from the final award.

Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets

Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets

Band 3: Servers and Storage

The Master Agreement(s) resulting from this RFP will replace the current Minnesota WSCA/NASPO Computer Equipment Contracts awarded in 2015. Information on these contracts is available at:

<http://www.mmd.admin.state.mn.us/wsca/wsca.htm>.

All authorized governmental entities in any State or participating US Territory are welcome to use the resulting Master Agreements through NASPO ValuePoint with the approval of the State Chief Procurement Official. Upon final award of the overarching Master Agreements, Contractors are able to sign Participating Addendums (PA) at the option of Participating States. Participating States reserve the right to add State specific terms and conditions and modify the scope of the contract in their Participating Addendum as allowed by the Master Agreement.

Subject to the approval of the awarded Contractor(s), Canadian provincial governments and provincially funded entities may use the resulting Master Agreement, as set forth in Section 2.B.5.a.

This RFP will result in a Master Agreement. The Master Agreement contract terms will begin on the date of contract execution, to 24 months after the date of contract execution, with the option to extend up to 36 months, upon agreement by both parties. Participating States will have the option to participate and further refine their Terms and Conditions through a Participating Addendum.

B. OBJECTIVE

The objectives of this RFP are to:

- Obtain greater volume-based price discounts for quantity one purchases by leveraging the purchasing power of multiple states and their political subdivisions
- Reduce contracting costs for each Participating Entity through a cooperative competitive procurement process
- Obtain better contract terms for states through centralized negotiation on behalf of multiple states and their political subdivisions
- Obtain competitive pricing for specific standard configurations through a Premium Saving Package (PSP) program. Participation in PSP is not required, but is encouraged.

Proposers will provide an initial minimum discount for a quantity of one unit, plus minimum discounts based on volume purchasing tiers. Proposers are to base discounts on the collective volume of potential purchases by the numerous state and local government entities. The objective of the procurement is to consolidate spend for participating entities to receive highly competitive pricing at the quantity one unit. Further bulk/quantity savings are obtained when additional quantities are requested. Participating States and political subdivisions are encouraged to continually obtain competitive quotes from multiple manufacturers for further quantity discounts among the awarded contractors to obtain the lowest price.

The awarded contractors should realize significant savings by managing a single comprehensive Master Agreement establishing common terms, conditions, pricing and administrative structure.

After award of a Master Agreement, Contractors may provide promotions for deeply discounted products based on their inventory and sales. Promotions will also provide increased savings to States and other Participating Entities. The Contractors will be responsible to market these offers. These promotions may be included in the PSP.

C. NASPO VALUEPOINT BACKGROUND INFORMATION

NASPO ValuePoint, a division of the National Association of State Procurement Officials (“NASPO”), is a cooperative purchasing program of all 50 states, the District of Columbia and the territories of the United States. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO ValuePoint facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. For more information consult the following websites www.naspovaluepoint.org and www.naspo.org.

The total spend in calendar year 2019 from Participating Entities in 45 states was approximately \$2,347,190,605. It is estimated that approximately \$1,595,000,000 of this spend will be Band 1 or Band 2 under this RFP, \$359,000,000 will be Band 3 under this RFP, and the remaining spend will be peripherals and accessories that cannot definitively be placed in Band 1, 2, or 3.

D. PARTICIPATING STATES

In addition to the Lead State conducting this RFP, the Participating States listed below have requested to be named in this RFP as potential users of the resulting Master Agreement. Other entities may become Participating Entities after award of the Master Agreement.

Some states may have included special or unique terms and conditions for their state that will govern their state Participating Addendum. These terms and conditions are being provided in Section 6 of this RFP as a courtesy to proposers to indicate which additional terms and conditions may be incorporated into the state Participating Addendum after award of the Master Agreement. The Lead State will not address questions or concerns or negotiate other Participating Entity’s terms and conditions. The Participating States will negotiate these terms and conditions directly with the contractor.

Individual Participating Addendums may use the contractor’s minimum discount percentage off and offered catalog as a base and may elect to negotiate an adjusted (i.e., greater) minimum discount.

Intent to Participate Notices have been received to date from the following states:

Alaska	Louisiana	South Carolina
Arizona	Maine	South Dakota
California	Maryland	Tennessee
Colorado	Minnesota	Utah
Connecticut	Montana	Vermont
Delaware	Nevada	Washington
Florida	New Jersey	Wisconsin
Hawaii	New Mexico	Wyoming
Idaho	North Dakota	Rhode Island
Iowa	Ohio	

E. PRODUCT BANDS

This RFP is divided into three (3) hardware product Bands. Each Band includes related peripherals and services. All products and services offered within each Band are subject to the restrictions provided in Product Restrictions, Section 1.G. Due to the continuous evolution of technology Bands will be flexible and may be redefined during the course of the contract.

Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets. Desktop, laptop, and tablet are all defined in Section 2.B.2, “Definitions”. Only products utilizing Windows operating systems for these devices are allowed. Zero clients, thin clients, all-in-ones, workstations, notebooks, and mobile thin clients are included in this Band. Ruggedized equipment may also be included in the Product and Service schedule for this Band. Responders do not need to manufacture all three types of devices to be considered for an award.

Band 2: Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets. Desktop, laptop, and tablet are all defined in Section 2.B.2, “Definitions”. Only products utilizing operating systems that are not Windows operating systems for these devices are allowed. Zero clients, thin clients, all-in-ones, workstations, notebooks, and mobile thin clients are included in this Band. Ruggedized equipment may also be included in the Product and Service schedule for this Band. Responders do not need to manufacture all three types of devices to be considered for an award.

Band 3: Servers and Storage. A server is a physical or virtual computer dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. This band also includes server appliances. Server appliances have their hardware and software preconfigured by the manufacturer. It also includes embedded networking components such as those found in blade chassis systems. Storage is hardware or a virtual appliance with the ability to store large amounts of data. This band includes SAN switching necessary for the proper functioning of the storage environment. All operating systems for these devices are allowed. Ruggedized equipment may also be included in the Product and Service Schedule for this band. Responders do not need to manufacture both types of devices to be considered for an award.

Examples of peripherals/accessories/options include but are not limited to: printers, monitors, multifunction printers, audiovisual equipment, instructional equipment, cabling, modems, networking to support server, storage and client applications such as hard-wired routers and switches. Peripherals may be purchased by themselves. A responder offering only peripherals in any Band, however, will not be considered for an award in that Band. Software is an option which must be related to the purchase of equipment and subject to configuration limits per the terms of Section 1.G.a.

F. CONFIGURATION LIMITS

Proposed product configurations provided by Contractor under the terms of the Master Agreement may not exceed the dollar amounts set forth below (“Configuration Limits”). Participating Entities may define alternative configuration limits in their Participating Addendum (“Entity Configuration Limits”).

The Participating Entity’s Chief Procurement Official may increase or decrease Entity Configuration Limits, as defined in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the State’s Product and Service Schedule.

The dollar limits identified below are based on a SINGLE computer/system configuration. This is NOT a restriction on the purchase of multiple configurations (e.g., an entity could purchase 10 laptops at \$15,000 each, for a total purchase price of \$150,000). Each configuration includes the combined total of hardware and software components that make up the total functioning system (e.g., a purchase of a laptop in Band 1 with a hardware cost of \$12,000 per unit and software at a cost of \$5,000 per unit would exceed the \$15,000 per configuration limit, and not be allowed).

ITEM	CONFIGURATION LIMIT
Band One	\$15,000
Band Two	\$15,000
Band Three	\$1,000,000
Peripherals	\$10,000
Services	Addressed in the Participating Addendum

G. PRODUCT RESTRICTIONS

The following restrictions apply to the Master Agreement. A Participating Entity may set further restrictions of products in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Entity's Product and Service Schedule.

a. Software

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.
2. Any software purchased must be related to the procurement of equipment.
3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment, except as set forth in Section 1.G.a.4, below.
4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 3) purchased, is allowed and may be procured after the initial purchase of equipment.

b. General Services

1. Services must be related to the procurement of equipment.
2. Service limits will be addressed by each State.
3. Wireless phone and internet service is not allowed.
4. Managed Print Services are not allowed.

c. Cloud Services

1. Cloud Services are restricted to Services that function as operating systems and software needed to support or configure hardware purchased under the scope of the contract and is subject to equipment configuration limits.
2. Any Cloud Service purchased must be related to the procurement of equipment.

d. Third Party Products

1. Third Party Products can be offered only in the Bands they have been awarded. All Third-Party Products must meet the definition(s) of the Band(s) in which they are being offered.
2. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.

e. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.
2. Lease/Rentals of equipment may be allowed and will be addressed by each State.
3. Cellular Phone Equipment is not allowed.
4. EPEAT Bronze requirement may be waived, on a State case-by-case basis, if approved by the State's Chief Procurement Officer. EPEAT Bronze requirement does not currently apply to storage.

SECTION 2: MASTER AGREEMENT TERMS AND CONDITIONS

A statement of acceptance of the Master Agreement Terms and Conditions, unless taken exception to, as specified in the RFP must be included in the response. Any suggestions for alternate language must be presented.

- A. SOLICITATION TERMS, CONDITIONS, AND INSTRUCTIONS
- B. NASPO VALUEPOINT TERMS AND CONDITIONS
- C. MINNESOTA TERMS AND CONDITIONS
- D. FORMS

A. SOLICITATION TERMS, CONDITIONS, AND INSTRUCTIONS

1. Award.

This RFP does not commit the Lead State to award any Master Agreement or to pay any costs incurred by a responder in responding.

The award of this RFP will be based upon the total accumulated points as established in the RFP, for separate items, by grouping items, or by total lot, and where at its sole discretion the Lead State believes it will receive the best value. The Lead State reserves the right to award this RFP to a single responder, or to multiple responders, whichever is in the best interest of the Lead State. It is the Lead State’s intent to award to multiple responders. The Lead State reserves the right to accept all or part of an offer, to reject all offers, to cancel the RFP, or to re-issue the RFP, whichever is in the best interest of the Lead State.

The Sourcing Team will make a recommendation on the award of this RFP. The Commissioner of Administration or designee may accept or reject the recommendation of the Sourcing Team. The final award decision will be made by the Commissioner of Administration and the NASPO ValuePoint Management Board.

2. Acceptance of Terms and Conditions.

As identified in the Sample Master Agreement attached in Section 6.C of this RFP, portions of the RFP and the response of the successful responder will become Master Agreement contractual obligations if acquisition action ensues.

A statement of acceptance of the proposed Contract Terms and Conditions, unless taken exception to, must be included in the response. Any suggestions for alternate language must be presented with the response (see Section 6.B, Terms, Conditions, and Response Requirements Exception Form). Any response which fails to comply with this requirement may be disqualified as nonresponsive. The Lead State is under no obligation to accept wording changes submitted by a responder. The Lead State is solely responsible for rendering decisions in matters of interpretation on all terms and conditions of Section 2.A.

3. Master Agreement Administrator.

The Master Agreement Administrator designated by NASPO ValuePoint and the Lead State is Andy Doran. Direct all correspondence and inquiries, legal questions, general issues, or technical issues regarding this RFP to:

Andy Doran
IT Acquisitions Supervisor
Department of Administration
Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Fax: 651.297.3996
E-mail: andy.doran@state.mn.us

4. Schedule of Events.

This paragraph provides a tentative schedule of the critical project dates. Responders should carefully examine and make certain they have a clear understanding of the requirements of the specified project milestones and the associated dates.

Date/Time	Event
November 4, 2020	Publish RFP
November 18, 2020, 3:00 PM CT	Registration Deadline for Pre-proposal Webinar (Section 2.A.6)
November 20, 2020, 1:00 PM CT	Optional Pre-Proposal Webinar (Section 2.A.6)
December 14, 2020	Questions Due (Sections 2.A.7 and Section 6.A)
January 11, 2021, 3:00 PM CT	Proposal Due Date/Proposal Opening

5. Electronic Files to Download, Complete, and Return.

Responders must download the entire RFP. The sections of the RFP will be in either Word, PDF, or Excel formats, depending on whether a response is required for that section. If you need assistance please contact the Lead State's HelpLine at (651) 201-8100, option 1.

6. Pre-Proposal Webinar Meeting.

A pre-proposal meeting will be held remotely via Microsoft Teams for all interested responders to review any concerns regarding this RFP. Attendance at this meeting is **NOT** MANDATORY, but is recommended. See the Schedule of Events for date and time (Section 2.A.4). Interested responders will register to attend the webinar by sending an email to the Master Agreement Administrator. The registration email should include the interested responder's name, and the name and email address of the person(s) attending the Pre-Proposal Webinar Meeting. The Master Agreement Administrator will send an invitation to the Pre-Proposal Webinar Meeting to all registered attendees by 10:00 AM CT on November 20, 2020.

7. Questions and Inquiries.

Questions or inquiries regarding this RFP must be submitted in writing to Master Agreement Administrator. All questions received by the cutoff date and time will be responded to via an addendum to official solicitation holders. If submitting a question be specific and cite the section, item, and page number to which the question refers. Contact regarding this RFP with any State personnel other than the Master Agreement Administrator may result in rejection of the response. See Schedule of Events for date and time.

8. Addenda to the RFP.

Any addendum issued will become a part of the RFP. The Lead State may modify or clarify the RFP by issuing one or more addenda to all parties who have received the RFP. Each responder must follow the directions on the addendum. Addenda will be numbered consecutively in the order they are issued.

9. Clarification.

If a responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the RFP, the responder shall immediately notify the Master Agreement Administrator in writing, as specified in Section 2.A.3, of such error and request modification or clarification of the document. This notification is due no later than five business days prior to the proposal due date and time.

Responders are cautioned that any activity or communication with a state employee or officer, or a member of the Evaluation Team, regarding this RFP's contents or process, is strictly prohibited and may, as a result, have its response rejected. Any communication regarding this RFP, its content or process, must be directed to the Master Agreement Administrator listed in the RFP documents.

10. Proposal Preparation.

Responses are to be prepared and presented in the same sequential order as the questions are presented in this document. Responses deviating from the request for proposal format and organization may be removed from further consideration. Responses are expected to provide a straightforward and concise description of the responder's ability to meet the requirements. Any materials submitted may be incorporated by reference in the final Master Agreement. Marketing materials will not be accepted as a response.

A responder's response to the RFP must be returned to the Lead State, addressed to the Master Agreement Administrator, sealed in a mailing envelope or package with the responder's name and address clearly written on the outside. Late responses cannot be considered. The laws of Minn. Stat. Ch. 16C and all other applicable laws apply to this RFP.

All costs incurred in responding to this RFP will be borne by the responder.

11. Authorized Signature.

The response must be in the legal name of the firm or business, and must be fully and properly executed and signed by an officer or other authorized representative who must state his/her title (see Section 6.B, Responder Declarations). The responder must provide proof of authority of the person signing the response upon request.

12. Narrative Response.

Responses to the Requirements of Sections 3.A-E should be provided in the order presented in the RFP, clearly marked and tabbed. A narrative response should describe how the responder will meet the requirement. For Sections without specific requirements or responses needed, a responder may add an acknowledgement that they read, understand, and comply with that Section. Forms that require a signature may be physically-signed and

scanned into PDF format or signed electronically via a signing software that includes verification capabilities such as DocuSign.

The responder must provide two digital copies of the Narrative Response. Each digital copy of the Narrative Response must be provided on its own flash drive, and each flash drive should be marked "Narrative Response."

Each digital copy of the Narrative Response should include:

- An electronic searchable PDF, and
- One editable Word document.

Include any signed addenda (if applicable) and all Solicitation Response Forms (see Section 6.B) with the Narrative Response. **Do not include the Cost Proposal or any cost-related information in the Narrative Response.**

13. **Cost Proposal.**

The responder must provide one complete digital copy of the Cost Proposal on a flash drive. The Cost Proposal must be submitted on a flash drive separate from the Narrative Response, and the drive should be marked "Cost Proposal." The digital copy of the Cost Proposal must include:

- Responses to Section 4,
- Baseline Price List,
- Proposed Product and Services Schedule, and
- Price Workbooks for all applicable Bands, including all tabs.

The Cost Proposal should be submitted in the following formats:

- Responses to Section 4 in either a searchable PDF or Word document, and
- The Baseline Price List, Proposed Product and Services Schedule, and Price Workbooks should be submitted as unlocked Excel documents.

14. **Accessibility.**

Responders should complete, in an accessible format, the Web Content Accessibility Guidelines (WCAG) sections in a Voluntary Product Accessibility Template (VPAT®) for all websites proposed in response to the solicitation. Responders can use the VPAT form from the ITIC VPAT site (<https://www.itic.org/policy/accessibility/vpat>), and select the "WCAG" option. These documents will be scored according to the solicitation evaluation.

Responders are encouraged to reference the "Vendor VPAT Guidance" in the "Products" tab on the Lead State's Accessible IT Procurement page (<https://mn.gov/mnit/about-mnit/accessibility/it-procurement.jsp>) for information and instructions on completing the VPAT. Responders should also review the related guidance documents on the same site for solicitation reviewers to understand expectations. Responders are strongly encouraged to provide remarks and explanation that both support compliance and detail any deficiencies, as even if you claim "supports" unless there are remarks and explanations, you may score low.

15. **Trade Secret/Confidential Information.**

- a. Responders must not submit as part of their response trade secret material, as defined by Minn. Stat. § 13.37.
- b. In the event trade secret data are submitted, Responder must defend any action seeking release of data it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the Lead State in favor of the party requesting the data, and any and all costs connected with that defense.
- c. The Lead State does not consider cost or prices to be trade secret material, as defined by Minn. Stat. § 13.37.
- d. A responder may present and discuss trade secret information during an interview or demonstration with the Lead State, if applicable.

16. **Irrevocable Offer.**

In accordance with this RFP, and subject to all conditions thereof, the undersigned agrees that its response to this RFP, or any part thereof, is an irrevocable offer for 180 calendar days following the submission deadline date

unless stated otherwise in the RFP. It is understood and agreed that the response, or any part thereof, when accepted by the appropriate department and State officials in writing, may become part of a legal and binding Master Agreement between the contractor and the Lead State.

17. **Alterations.**

Any alteration, particularly in the price used to determine the successful response, may be rejected unless the alteration is initialed by the person authorized to contractually obligate the responder. The responder must provide proof of authorization upon request.

18. **Material Deviation.**

A responder will be presumed to be in agreement with the terms and conditions of this RFP unless it takes specific exception to one or more of the conditions. Submission by the responder of its proposed language may not be viewed as an exception unless the responder specifically states in the response that its proposed changes are intended to supersede the terms and conditions.

Responders are cautioned that by taking any exception they may be materially deviating from the request for proposal. If a responder materially deviates from the solicitation terms, conditions, and instructions, the NASPO ValuePoint terms and conditions, the Minnesota terms and conditions, or Response Requirements, its response may be rejected.

A material deviation is an exception to the RFP Solicitation, NASPO ValuePoint terms and conditions, Minnesota terms and conditions, or specifications that:

- a. gives the responder taking the exception a competitive advantage over other responders; or,
- b. gives the Lead State something significantly different from that which the Lead State requested.

19. **Nonresponsive Responses.**

Responses that do not comply with the provisions in the RFP may be considered nonresponsive and may be rejected.

20. **Completion of Responses.**

A response may be rejected if it is conditional or incomplete. Responses that contain conflicting, false, or misleading statements or that provide references that contradict or do not support an attribute or condition stated by the responder, may be rejected.

21. **Dispute Resolution Procedures.**

Any issue a responder has with the RFP document, which includes, but is not limited to, the terms, conditions, and specifications, must be submitted in writing to and received by the Master Agreement Administrator prior to the opening due date and time. Any issue a responder has with the Master Agreement award must be submitted in writing to the Master Agreement Administrator within five business days from the time the notice of the intent to award is issued. This notice may be made by any of the following methods: notification by letter, fax or email, or posted on the Office of State Procurement website, <http://www.mmd.admin.state.mn.us/>. The Lead State will respond to any protest received that follows the above procedure. For those protests that meet the above submission requirements, the appeal process is, in sequence: The Master Agreement Administrator, the Office of State Procurement (OSP) Acquisitions Manager, and the OSP Director. Responders wishing to take exception to the terms, conditions, or specifications outlined in this RFP must do so using the form provided in Section 6.A.

22. **Disposition of Responses.**

All materials submitted in response to this RFP will become property of the Lead State and will become public record after the evaluation process is completed. The evaluation process is complete when negotiations with the selected contractor(s) are final. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the responder must:

- a. clearly mark all trade secret materials in its response at the time the response is submitted;
- b. include a statement with its response justifying the trade secret designation for each item; and
- c. defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the Lead State, its agents and employees, from any judgments awarded against the Lead State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the Lead State's award of a Master Agreement. In submitting a response to the RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in

possession of the Lead State. The Lead State will not consider the prices submitted by the responder to be trade secret materials.

23. Public Information.

Once the information contained in the responses is deemed public information, interested parties may request to obtain the public information. You may submit your request through the Lead State's online portal at <http://www.mmd.admin.state.mn.us/process/admin/dataRequest.asp>.

24. Solicitation Governing Law and Venue.

The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the Lead State for claims relating to the procurement, evaluation, award.

25. Organizational Conflicts of Interest.

The Responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a. the Responder is unable or potentially unable to render impartial assistance or advice to the State;
- b. the Responder's objectivity in performing the work is or might be otherwise impaired; or
- c. the Responder has an unfair competitive advantage.

B. NASPO VALUEPOINT TERMS AND CONDITIONS

1. Conflict of Terms/Order of Precedence.

- a. Any order placed under this Master Agreement shall consist of the following documents:
 1. A Participating Entity's Participating Addendum ("PA");
 2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;
 3. A Purchase Order issued against a PA (terms and conditions set forth in a Purchase Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).
- b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- c. Contractor terms and conditions may be incorporated if expressly accepted by the Lead State and attached to the Master Agreement as an Exhibit or Attachment, or by written reference (including reference to information contained in a URL or referenced policy). A written reference, including by URL or policy, is incorporated into the Master Agreement only if the Master Agreement expressly identifies that reference. URL's must be explicitly referenced to be incorporated into the Master Agreement. URL's contained within the URL's that are explicitly referenced are not incorporated into the Master Agreement. Any Contractor term or condition incorporated by URL or written reference applies to this Master Agreement only to the extent such term or condition is not prohibited by applicable law. Any change to information contained in a URL or referenced policy will not affect any financial obligation, place any additional material obligation on an ordering entity, or materially diminish an ordering entity's ability to use the product or service.
- d. A written Master Agreement (which may include the contents of this RFP and selected portions of Contractor's response incorporated therein by reference) will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement, in the Contractor quotation/sales order, or in similar documents subsequently provided by the Contractor.
- e. Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

2. Definitions.

- a. **Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.
- b. **Accessory** means a product that enhances the user experience but does not extend the functionality of the computer (e.g. mouse pad or monitor stand). For the purposes of this RFP, accessories are considered peripherals.
- c. **_____ as a Service** (_aaS) refers to any good provided in a subscription-based model that is defined in the industry as "_____ as a Service". Examples are "Software as a Service", "Infrastructure as a Service", and "Storage as a Service", and shall follow the NIST definitions of those services. _____ as a Service are permitted only when they meet the restrictions found in Section 1.G.c.
- d. **Band** means a category of products. There are three product bands which may be awarded through this RFP. Each product band includes related peripherals and services.
- e. **Components** are the parts that make up a computer configuration.
- f. **Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

- g. **Configuration** means the combination of hardware and software components that make up the total functioning system.
- h. **Customer** (see Purchasing Entity).
- i. **Desktop** means a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: (1) the processor, 2) display monitor, and 3) input devices usually a keyboard and a mouse. Desktops, including desktop virtualization endpoints such as zero and thin clients, are included in Bands 1 and 2 of this RFP.
- j. **Embedded Software** means one or more software applications which permanently reside on a computing device.
- k. **Energy Star®** is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes it easy to identify energy efficient computers by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at <http://www.energystar.gov>.
- l. **EPEAT** is a type-1 ecolabel for identifying and purchasing sustainable IT products. EPEAT-registered products must meet sustainability criteria detailed in voluntary consensus-based standards that are free and publicly available on the Green Electronics Council's website at www.greenelectronicscouncil.org. Products are classified as Bronze, Silver, or Gold based on meeting criteria that address the life cycle of the products. Product life cycle includes material extraction, hazardous substance reduction, end-of-life management, packaging, and corporate sustainability. Only products listed as Active in the online EPEAT Registry are considered to meet the EPEAT criteria.
- m. **FOB Destination** means that shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.
- n. **FOB Inside Delivery** means that shipping charges are included in the price of the item, and that the shipped item becomes the legal property and responsibility of the receiver when it reaches the inside delivery point, which is beyond the front door or loading dock. FOB Inside Delivery is a special shipping arrangement that may include additional fees payable by the Purchasing Entity. FOB Inside Delivery must be annotated on the Purchasing Entity ordering document.
- o. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- p. **Laptop** means a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad, and speakers in a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptops include notebooks, ultrabooks, netbooks, Zero and thin client devices, and computers with mobile operating systems. Laptops are included in Bands 1 and 2 of this RFP.
- q. **Lead State** means the State centrally administering any resulting Master Agreement(s).
- r. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.
- s. **Manufacturer** means a company that, as one of its primary business functions, designs, assembles, owns the trademark/patent for, and markets branded computer equipment.
- t. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor.
- u. **Middleware** means the software "glue" that helps programs and databases (which may be on different computers) work together. The most basic function of middleware is to enable communication between different pieces of software.

- v. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.
- w. **Option** means an item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.
- x. **Order** or **Purchase Order** means any purchase order, sales order, contract or other method used by a Purchasing Entity to order the Products.
- y. **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.
- z. **Participating Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- aa. **Participating State** means a state that has executed a Participating Addendum.
- bb. **Partner** means a company, authorized by the Contractor and approved by the Participating State, to provide marketing, support, or other authorized contract services on behalf of the Contractor in accordance with the terms and conditions of the Contractor’s Master Agreement. A Partner may include, but is not limited to, an agent, subcontractor, fulfillment partner, channel partner, business partner, servicing subcontractor, etc.
- cc. **Peripherals** means any hardware product that can be attached to, added within, or networked with personal computers, servers, or storage. Peripherals extend the functionality of a computer without modifying the core components of the system.
- dd. **Per Transaction Multiple Unit Discount** means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase.
- ee. **Premium Savings Package(s) (PSP)** are deeply discounted standard configurations available to Purchasing Entities using the Master Agreement. NASPO ValuePoint reserves the right to expand and modify the PSP throughout the life of the contract. For more information see: <https://www.naspovaluepoint.org/portfolio/57/>.
- ff. **Product** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.
- gg. **Purchasing Entity** means a state (including the District of Columbia and U.S. territories), city, county, district, other political subdivision of a state, other public entities domestic or foreign, and nonprofit organizations under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order under the terms of the Master Agreement, or any Participating Addendum thereto, and becomes financially committed to the purchase.
- hh. **Ruggedized** means equipment specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures, and wet or dusty conditions. Ruggedized equipment may be proposed under the band that most closely fits the equipment being proposed.
- ii. **Server** means computer hardware dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. Servers may be either physical or virtual. Servers, including server appliances, are included in Band 3 of this RFP. Server appliances have their hardware and software preconfigured by the manufacturer, and include embedded networking components such as those found in blade chassis systems.

- jj. **Services** are broadly classified as installation or de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Agreement. These classifications of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or hardware components), asset management, recycling or disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk or helpdesk, imaging, and any other directly related technical support service required for the effective operation of a product offered or supplied. Contractors may offer limited professional services related ONLY to the equipment and configuration of the equipment purchased through the resulting contracts.

EACH PARTICIPATING ENTITY WILL DETERMINE RESTRICTIONS AND NEGOTIATE TERMS FOR SERVICES THROUGH THEIR PARTICIPATING ADDENDUM.

- kk. **Software** means, for the purposes of this RFP, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified in Section 1.G.a. "Software" applies to all parts of software and documentation, including new releases, updates, and modifications of software.
- ll. **Storage** means hardware or a virtual appliance with the ability to store large amounts of data. Storage, including SAN switching necessary for the proper functioning of storage equipment, is included in Band 3 of this RFP
- mm. **Storage Area Network (SAN)** is a high-speed special-purpose network (or subnetwork) that interconnects different kinds of data storage devices with associated data servers on behalf of a larger network of users.
- nn. **Tablet** means a mobile computer that provides a touchscreen that acts as the primary means of control. Tablets, including notebooks, ultrabooks, and netbooks with touchscreen capabilities, are included in Bands 1 and 2 of this RFP.
- oo. **Takeback Program** means the Contractor's process for accepting the return of equipment or other products at the end of the product's life.
- pp. **Thin Client** is a lightweight computer that has been optimized for establishing a remote connection with a server-based computing environment.
- qq. **Third Party Product** is a good sold by the Contractor that is manufactured by another company. Third Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of any Contractor's total sales under this Master Agreement.
- rr. **Upgrade** means the replacement of existing software, hardware, or hardware component with a newer version.
- ss. **Warranty** means the Manufacturer's general warranty tied to the product at the time of purchase.
- tt. **Wide Area Network (WAN)** is a data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers.

3. **Term of the Master Agreement.**

- a. The initial term of this Master Agreement is for 2 years. This Master Agreement may be extended beyond the original contract period for 36 additional months at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.
- b. The Master Agreement may be extended for a reasonable period of time if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. **Amendments.**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without a written amendment to the Master Agreement executed by the Contractor and Lead State as required by law. Master Agreement amendments will be negotiated by the Lead State with the Contractor

whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work.

5. Participants and Scope.

- a. **Canadian Participation.** Subject to the approval of the Contractor, any Canadian provincial government or provincially funded entity in Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta, Northwest Territories, Nunavut, Yukon, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.
- b. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.
- c. Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- d. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.
- e. NASPO and NASPO ValuePoint are not parties to the Master Agreement.
- f. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.
- g. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- h. **Resale.** "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the Master Agreement, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or

nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Individual Customers.

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

7. Independent Contractor.

The Contractor is an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as an agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

8. Contracting Personnel.

Contractor must provide adequate contracting personnel to assist states with the completing and processing Participating Addenda. It is preferred that each Contractor be able to provide each Participating Entity with a primary contact person for that Participating Entity.

9. Changes in Contractor Representation.

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. Such approval shall not be unreasonably withheld. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

10. Contractor Verification.

The Contractor is responsible for delivering products or performing services under the terms and conditions set forth in the Master Agreement. The Contractor must ensure partners utilized in the performance of this contract adhere to all the terms and conditions. The term Partner will be utilized in naming the relationship a Contractor has with another company to market and sell under the contract. Participating Entities will have final determination/approval if a Partner may be approved for that state in the role identified by the Contractor.

11. Contractor Performance Meeting.

An annual performance meeting may be held each year with the NASPO ValuePoint Sourcing Team. Historically performance meetings have been held in Minnesota, but the Lead State may hold the meetings in person or virtually at the Lead State's discretion.

All contractors that are invited to participate must send their Primary Account Representative, unless an exception is granted in writing by the Lead State. It is possible that not all contractors will be invited to participate in a performance meeting.

12. Laws and Regulations.

Any and all Products offered and furnished shall comply fully with all applicable Federal, State, and local laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Office of the Minnesota Secretary of State. To the extent any purchase is subject to Federal Acquisition Regulations, as may be required by the terms of a federal grant, a Participating Entity and Contractor may include in their Participating Addendum terms that reflect such a requirement.

13. Price and Rate Guarantee Period.

All minimum discounts and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for minimum discount or rate adjustment must be for a guarantee period as offered by the Contractor, and must be made at least 30 days prior to the effective date. Requests for minimum discount or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to minimum discounts or rates will be allowed.

14. Premium Savings Package Program.

The Lead State reserves the right to create a Premium Savings Package Program (PSP) as outlined in the Definitions, Section 2.B.2. Participation by Contractor is voluntary. The details and commitments of the PSP will be detailed as a part of any request for Contractor to participate.

15. Services.

Participating Entities must explicitly allow services in their Participating Addenda for the approved services to be allowed under that Participating Addendum. The Participating Addendum by each Participating Entity will address service agreement terms and related travel.

16. Ordering.

- a. Master Agreement and purchase order numbers shall be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies or services contemplated by this Master Agreement.
- d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.
- f. All Orders pursuant to this Master Agreement, at a minimum, shall include:
 1. The service description or supplies being delivered;
 2. The place and requested time of delivery;
 3. A billing address;
 4. The name, phone number, and address of the Purchasing Entity representative;
 5. The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
 6. A ceiling amount of the order for services being ordered;
 7. The Master Agreement identifier; and
 8. Statement of Work, when applicable.
- g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- i. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

17. Trade-In.

Any trade-in programs offered during the life of the Master Agreement must be approved by the Lead State. Participating Entities must explicitly allow trade-in programs in their Participating Addenda for the approved programs to be allowed under that Participating Addendum. Trade-in value shall not decrease the discounts offered through the Master Agreement.

18. Shipping and Delivery.

- a. The prices are the delivered price to any Purchasing Entity for standard 3-5 day shipping. If an order is requested with expedited shipping, the Contractor must provide a firm "not to exceed" price for the expedited shipping on the quote. All deliveries shall be FOB Destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.
- b. Specific delivery instructions, including FOB Inside Delivery, will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to promptly notify the Purchasing Entity placing the Order.
- c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipment shall be marked with the Purchasing Entity's Purchase Order number and other information sufficient for the Purchasing Entity to properly identify the shipment as outlined in the Participating Addendum of the Purchasing Entity.

19. Inspection and Acceptance.

- a. Where the Master Agreement, a Participating Addendum, or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.
- b. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and quality assurance requirements under this Master Agreement. Upon delivery, the Purchasing Entity shall have 30 days to inspect. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- c. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.
- d. The warranty period shall begin upon Acceptance. The Purchasing Entity will make every effort to notify the Contractor, within thirty (30) calendar days following delivery, of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.
- e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s)

which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in this Master Agreement or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

20. Title of Product.

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include a license to use any Embedded Software in the Product, as follows:

- a. To the extent that the Software sold under the Master Agreement is Commercial Off-the-Shelf Software, such Software is licensed, not sold, to the Purchasing Entity. The Contractor and its licensors reserve and retain all rights not expressly granted to the Purchasing Entity. No right, title or interest to any trademark, service mark, logo or trade name of Contractor or its licensors is granted to the Purchasing Entity. Licenses to such Software is provided in accordance with the terms of the manufacturer's written End User License Agreement tied to the product at the time of purchase.
- b. Contractor will perform services for the Purchasing Entity, subject to the following section pursuant to a fully executed Statement of Work entered into between the Purchasing Entity and the Contractor.
- c. The Contractor grants the Purchasing Entity a perpetual, non-exclusive, royalty free the license in Contractor's pre-existing intellectual property that is contained in the products, materials, equipment or services, excluding software, that are purchased through this Master Agreement.
- d. Any and all licensing, maintenance, or order specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the terms of the Master Agreement as incorporated into the Participating Addendum, and to the extent the terms are not in conflict with the Participating Entities' applicable laws. In the event of a conflict in the terms and conditions, the conflict shall be resolved as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance agreements, or order specific agreements may be further negotiated by the Contractor and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

21. Warranty.

The Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

22. System Failure or Damage.

In the event of system failure or damage caused by the Contractor or its Product, the Contractor shall use reasonable efforts to restore or assist in restoring the system to operational capacity. The Contractor shall be responsible under this provision to the extent a 'system' is defined at the time of the Order; otherwise the rights of the Purchasing Entity shall be governed by the Warranty.

23. Payment.

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law.

Payments will be remitted by mail or electronically. Payments may be made via a State or political subdivision

“Purchasing Card” with no additional charge.

Prices are exclusive of taxes, duties, and fees, unless otherwise quoted. If a withholding tax is required by law, the tax will be added and identified on the applicable invoice. All applicable taxes, duties, and fees must be identified on the quote.

24. Leasing or Alternative Financing Methods.

Lease purchase and term leases are allowable only for Purchasing Entities whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process and if the applicable PAs permit leasing. No lease agreements will be reviewed or evaluated as part of this RFP evaluation process.

25. Contract Provisions for Orders Utilizing Federal Funds.

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

26. Self Audit.

The Contractor must conduct at a minimum a quarterly self-audit, unless approved by the Lead State. The audit will sample a minimum of one tenth of one percent (.001) of orders with a maximum of 100 audits per quarter conducted. For example: Up to 1,000 sales = 1 audit; 10,000 sales = 10 audits; Up to 100,000 sales = 100 audits. This will be a random sample of orders and invoices and must include documentation of pricing. Summary findings must be reported to Lead State with actions to correct documented findings.

27. Assignment/Subcontracts.

- a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.
- b. The Lead State, or Participating Entity, shall not assign, delegate or otherwise transfer all or any part of this Master Agreement without prior written consent from Contractor, except for assignment or delegation to a Participating Entity State agency or eligible Purchasing Entity. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO ValuePoint and other third parties.

28. Insurance.

- a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:
 1. Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
 2. Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

- d. Prior to commencement of performance, Contractor shall provide to the Purchasing Entity with a certificate of insurance showing the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.
- e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. Administrative Fees.

- a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable.
- b. The NASPO ValuePoint Administrative Fee in this section shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.
- c. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Purchasing Entity may allow the Contractor to adjust the Master Agreement pricing to account for these additional fees for purchases made by Purchasing Entities within the jurisdiction of the Participating Entity. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

30. NASPO ValuePoint Summary and Detailed Usage Reports.

In addition to other reports that may be required by this RFP, the Contractor shall provide the following NASPO ValuePoint reports.

- a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).
- b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (5) Purchasing Entity and Contractor Purchase Order identifier/number(s); (6) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (7) Purchase Order date; (8) Ship Date; (9) and line item description, including product number if used. The report shall be submitted in any form required by the RFP. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive, ftp site, or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data

reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is shown in Section 6.G.

- c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the RFP and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report.
- d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.
- e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

31. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review.

- a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.
- b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the Participating Entity.
- c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.
- d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.
- e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.
- f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to Section 2.B.42, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to Section 2.B.42 or to terminate for default pursuant to Section 2.B.44.
- g. Contractor agrees to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in any Cooperative Purchasing Agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions. For the purposes of this paragraph, Cooperative Purchasing Agreement shall mean a cooperative purchasing program facilitating public procurement solicitations and

agreements using a lead agency model. This does not include contracts with any federal agency or any federal contract.

32. **Right to Publish.**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the public release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

33. **Records Administration and Audit.**

- a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.
- b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.
- c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

34. **Indemnification**

- a. **General Indemnity.** Contractor shall indemnify, defend (to the extent permitted by a state's Attorney General), and hold harmless an Indemnified Party from any claims or causes of action, including attorney's fees, to the extent arising from Contractor's intentional, willful, or negligent acts or omissions; actions that give rise to strict liability; and actions arising from breach of contract or warranty.

"Indemnified Party" means NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

- b. **Intellectual Property Indemnification.** Notwithstanding Section 2.B.34.a., the Contractor shall indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the Purchasing Entity, at the Contractor's expense, from any action or claim brought against the Purchasing Entity to the extent that it is based on a claim that all or part of the works or documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees.
 1. If such a claim or action arises, or in the Contractor's or the Purchasing Entity's opinion is likely to arise, the Contractor must, at the Purchasing Entity's discretion, either procure for the Purchasing Entity the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the Purchasing Entity will be in addition to and not exclusive of other remedies provided by law.

2. Notwithstanding the foregoing, Contractor will not be liable under this section to the extent the infringement was caused by: 1) Contractor modification of the infringing material where such modification is made specifically for the Purchasing Entity, and where the Purchasing Entity has set forth the specific manner in which the modifications shall be made, as opposed to where the Purchasing Entity has requested modifications and given Contractor discretion over how to implement said modifications; 2) Purchasing Entity modification of the infringing material where such modification is not made under the direction of Contractor; 3) Use of the Deliverables or the System in a manner not contemplated by this Contract or as otherwise authorized by the Contractor in writing; 4) use of the Deliverables or the System in combination, operation, or use with other products in a manner other than as contemplated by the Contract or otherwise authorized by the Contractor in writing.

35. Limitations of Liability

- a. The Parties agree that neither Contractor nor the indemnified party shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except any claim related to bodily injury or death; an unauthorized release or breach of not public data as set forth more fully in Minn. Ch. 13; or a claim or demand based on patent, copyright, or other intellectual property infringement.
- b. Contractor's liability is limited to the aggregate annual value of all purchases made by the Purchasing Entity during the contract year the cause of action arose. This limit on liability does not apply to claims for bodily injury or death or for intellectual property infringement.
- c. Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
 1. provided by the Contractor or the Contractor's subsidiaries or affiliates;
 2. specified by the Contractor to work with the Product; or
 3. reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 4. It would be reasonably expected to use the Product in combination with such product, system or method.

36. License of Pre-Existing Intellectual Property.

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third party rights in the Pre-existing Intellectual Property.

37. Assignment of Antitrust Rights.

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

38. Debarment.

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

39. Governing Law and Venue.

- a. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the

Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

- b. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.
- c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

40. Confidentiality, Non-Disclosure, and Injunctive Relief.

- a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.
- b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.
- c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.
- d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or

transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to Section 2.B.33. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

41. Public Information.

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

42. Cancellation.

Unless otherwise set forth in this Master Agreement, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate as set forth in Section 2.B.44.

43. Force Majeure.

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

44. Defaults and Remedies.

- a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
 1. Nonperformance of contractual requirements; or
 2. A material breach of this Master Agreement; or
 3. Any certification, representation or warranty by Contractor in response to the RFP or in this Master Agreement that proves to be untrue or materially misleading; or
 4. Institution of proceedings under any bankruptcy, insolvency, court-ordered reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
 5. Any default specified in another section of this Master Agreement.
- b. Upon the occurrence of an event of default, except for material breach, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 30 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement. The Lead State may immediately terminate this Master Agreement upon material breach of the Master Agreement by Contractor.
- c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
 1. Exercise any remedy provided by law; and
 2. Terminate this Master Agreement and any related contracts or portions thereof; and
 3. Impose liquidated damages as provided in this Master Agreement; and
 4. Suspend Contractor from being able to respond to future bid solicitations; and
 5. Suspend Contractor's performance; and
 6. Withhold payment until the default is remedied.

- d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

45. Waiver of Breach.

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

46. Notices.

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile or electronic transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed as follows:

Andy Doran, IT Acquisitions Supervisor
112 Administration Bldg.
50 Sherburne Avenue
St. Paul, MN 55155
andy.doran@state.mn.us

47. No Waiver of Sovereign Immunity.

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

C. MINNESOTA TERMS AND CONDITIONS

1. Change Requests.

The Lead State reserves the right to request, during the term of the Master Agreement, changes to the products offered within the Band(s). Products introduced during the term of the Master Agreement shall go through a formal review process. The process for updating the products offered within a Band is outline in Section 2.C.2. The Contractor shall evaluate and recommend products for which agencies have an expressed need. The Lead State shall require the Contractor to provide a summary of its research of those products being recommended for inclusion in the Master Agreement as well as defining how adding the product will enhance the Master Agreement. The Lead State may request that products, other than those recommended, are added to the Master Agreement.

In the event that the Lead State desires to add new products and services that are not included in the original Master Agreement, the Lead State requires that independent manufacturers and resellers cooperate with the already established Contractor in order to meet the Lead State's requirements. Evidence of the need to add products or services should be demonstrated to the Lead State. The Master Agreement shall be modified via supplement or amendment. The Lead State will negotiate the inclusion of the products and services with the Contractor. No products or services will be added to the Master Agreement without the Lead State's prior approval.

2. Product and Service Schedule (PSS).

- a. **Creating the Product and Service Schedule (PSS).** Contractor will use the attached sample PSS to create and maintain a complete listing of all products and services offered under the Master Agreement. The PSS must conform to the contracted minimum discounts. Contractor may create and maintain a separate PSS for a Participating Entity based on the requirements and restrictions of the Participating Entity.

Contractors are encouraged to provide remote learning bundles for K-12 Education. These bundles can be included in the response to the PSS.

- b. **Maintaining the PSS.**

- 1) In General. Throughout the term of the Master Agreement, on a quarterly basis, Contractor may update the PSS to make model changes, add new products or services, or remove obsolete or discontinued products or services. Any updates to the PSS must conform to the Master Agreement requirements, including the scope of the Master Agreement and contracted minimum discounts.

- 2) Process. Contractor must provide notification to the Lead State of any changes to their PSS using the attached Action Request Form (ARF).

(a) The Lead State does not need to approve Contractor's request to make model changes, add their own manufactured products, or remove discontinued or obsolete products or services, and Contractor does not need the Lead State's approval prior to posting an updated PSS.

(b) The Lead State must approve Contractor's request to add new third party manufacturers to Contractor's PSS. If the proposed third-party manufacturer holds a NASPO Master Agreement for Computer Equipment, Contractor must obtain written authorization from that manufacturer. Contractor must have the Lead State's approval prior to posting the updated PSS.

(c) Contractor must maintain a historic record of all past PSSs on their dedicated NASPO ValuePoint website.

(d) Pursuant to the audit provisions of the Master Agreement, upon the request of NASPO ValuePoint, the Lead State, or a Participating Entity, Contractor must provide an historic version of any Baseline Price List.

3. Purchase Orders.

There will be no minimum order requirements or charges to process an individual purchase order. The Participating Addendum number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.). The Ordering Entity's purchase order constitutes a binding contract.

4. Risk of Loss or Damage.

The Purchasing Entity is relieved of all risks of loss or damage to the goods or equipment during periods of transportation, and installation by the Contractor and in the possession of the Contractor or their authorized agent.

5. Payment Card Industry Data Security Standard and Cardholder Information Security.

Contractor assures all of its Network Components, Applications, Servers, and Subcontractors (if any) comply with the Payment Card Industry Data Security Standard ("PCIDSS"). "Network Components" shall include, but are not limited to, Contractor's firewalls, switches, routers, wireless access points, network appliances, and other security appliances; "Applications" shall include, but are not limited to, all purchased and custom external (web) applications. "Servers" shall include, but are not limited to, all of Contractor's web, database, authentication, DNS, mail, proxy, and NTP servers. "Cardholder Data" shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder's account number, expiration date, name, address, social security number, or telephone number.

Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. Contractor must have a business continuity program which conforms to PCIDSS to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and ensure that a representative or agent of the payment card industry and a representative or agent of the Purchasing Entity shall be provided with full cooperation and access to conduct a thorough security review of Contractor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

6. Foreign Outsourcing of Work.

Upon request, the Contractor is required to provide information regarding the location of where services, data storage, and location of data processing under the Master Agreement will be performed.

7. State Audits (Minn. Stat. § 16C.05, subd. 5).

The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Lead State's Legislative Auditor or State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The Lead State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

8. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the contractor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

9. Human Rights/Affirmative Action.

The Lead State requires affirmative action compliance by its Contractors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

- a. Covered contracts and Contractors. One-time acquisitions, or a contract for a predetermined amount of goods and/or services, where the amount of your response is in excess of \$100,000 requires completion of the Affirmative Action Certification page. If the solicitation is for a contract for an indeterminate amount of goods and/or services, and the State estimated total value of the contract exceeds \$100,000 whether it will be a multiple award contract or not, you must complete the Affirmative Action Certification page. If the contract dollar amount or the State estimated total contract amount exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, the Contractor must comply with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600. A Contractor covered by Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600 that had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months must have a certificate of compliance issued by the commissioner of the Department of Human Rights (certificate of compliance). A Contractor covered by Minn. Stat. § 363A.36, subd. 1 that did not have more than 40 full-time employees on a single working day during the previous 12 months within Minnesota but that did have more than 40 full-time

employees in the state where it has its principal place of business and that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.

- b. Minn. Stat. § 363A.36, subd. 1 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of the Department of Human Rights (commissioner) as indicated by a certificate of compliance. Minn. Stat. § 363A.36 addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
- c. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552-5000.3559.
- d. Disabled Workers. Minn. R. 5000.3550 provides the Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- (a) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- (e) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- e. Consequences. The consequences of a Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.
- f. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

10. Equal Pay Certification.

If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the Lead State may require Contractor to verify its exempt status.

11. Americans with Disabilities Act (ADA).

Products provided under the Master Agreement must comply with the requirements of the Americans with Disabilities Act (ADA). The Contractor's catalog and other marketing materials utilized to offer products under the Master Agreement must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contractor agrees that the customer can assume the product meets or exceeds the ADA requirements.

12. Nonvisual Access Standards.

Pursuant to Minn. Stat. § 16C.145, the Contractor shall comply with the following nonvisual technology access standards:

- a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

13. Accessibility Standards.

Contractor acknowledges and is fully aware that the Lead State (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at:
<https://mn.gov/mnit/government/policies/accessibility/>.

The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.

When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the Lead State in advance of the change, occurring within an agreed upon timeframe sufficient for the state to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the Lead State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the Lead State to consider the Contractor in default.

14. Conflict Minerals.

Contractor agrees to provide information upon request regarding adherence to the Conflict Minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502). See:
<http://beta.congress.gov/111/bills/hr4173/111hr4173enr.pdf#page=838>
<http://www.sec.gov/news/press/2012/2012-163.htm>

15. Hazardous Substances.

To the extent that the goods to be supplied by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable state and federal laws and regulations, the Contractor must provide Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

16. Copyrighted Material Waiver.

The Lead State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the Lead State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response and agrees to indemnify, protect, save and hold the Lead State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the Lead State in the defense of any such action.

17. Publicity.

The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products or services that are the subject of the Master Agreement without the prior written consent of the State's Assistant Director or designee of Office of State Procurement. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

18. Performance While Dispute is Pending.

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Master Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under the Master Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

19. Organizational Conflicts of Interest.

An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a. the Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- b. the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- c. the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Lead State's Department of Administration's Office of State Procurement that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the Master Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Master Agreement and did not disclose the conflict to the Master Agreement Administrator, the Lead State may terminate the Master Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," "Master Agreement", "Master Agreement Administrator" and "Contract Administrator" modified appropriately to preserve the State's rights.

20. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

- a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions. Instructions for certification:
 1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.
 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal

government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
 4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
 5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding \$25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
 6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from federal procurement and nonprocurement programs.
 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.
- b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.
1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

21. Government Data Practices.

The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with the Master Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the

Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the Lead State. The Lead State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the Lead State.

The Contractor agrees to indemnify, save, and hold the Lead State, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Master Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Master Agreement, the Contractor shall retain responsibility under the terms of this article for such work.

22. Survivability.

Certain rights and duties of the Lead State and Contractor will survive the expiration or cancellation of the RFP and resulting Master Agreement. These rights and duties include but are not limited to paragraphs: Indemnification; Limitations of Liability; State Audits; Government Data Practices; Governing Law and Venue; Publicity; and Administrative Fees.

23. Severability.

If any provision of the Master Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the Lead State and the Contractor shall be relieved of all obligations arising under such provisions. If the remainder of the Master Agreement is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.

SECTION 3: RESPONSE REQUIREMENTS

A Word version of the Section 3, Response Requirements is available at:

http://www.mmd.admin.state.mn.us/doc/Section3_ResponseRequirements.docx

- A. Product Deployment
- B. Ability to Perform
- C. Environmental
- D. Business Capabilities
- E. Customer Support

A. RESPONSE REQUIREMENTS: PRODUCT DEPLOYMENT

This Section requires a Narrative Response. In the Narrative Response, Responder should clearly identify the applicable Section. The Narrative Response must fully describe and provide detail about how the proposal satisfies each requirement. The Lead State reserves the right to only evaluate information explicitly included in these forms in the evaluation of the Section to which it applies.

1. Bands Offered. Responder must indicate which Bands they are proposing products in:

- ☐ Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets
- ☐ Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets
- ☐ Band 3: Servers and Storage

2. Product Deployment. Responder must provide a high-level description of their proposed product's deployment in the following industries in the United States. The complete description should not exceed one page per industry, per Band.

- a. State and local government;
- b. K-12 Education;
- c. Higher Education; and
- d. Federal government.

B. RESPONSE REQUIREMENTS: ABILITY TO PERFORM

This Section requires a Narrative Response. In the Narrative Response, Responder should clearly identify the applicable Section. The Narrative Response must fully describe and provide detail about how the proposal satisfies each requirement. The Lead State reserves the right to only evaluate information explicitly included in these forms in the evaluation of the Section to which it applies.

Portions of this section, as negotiated, will become terms in the Master Agreement.

1. Contractor Verification. Contractor must be a manufacturer of a Product in the Band(s) it is awarded a Master Agreement. "Re-branding" a product that is manufactured by another company does not meet this requirement. If the Contractor ceases production, sells or assigns their manufacturing to another vendor, or otherwise no longer manufactures a product during the life of the Master Agreement the Lead State reserves the right to terminate the Contractor's Master Agreement.

Responder must verify that it is a manufacturer of at least one product in each Band proposed. Responder must determine the best way to provide this verification, but are encouraged to be brief. The Lead State reserves the right to request additional verification as needed.

Responders must provide a brief description of the products proposed for each Band that are manufactured by the Responder. This description should include the approximate number and type (desktop, laptop, accessory, etc.) of the offered products. This description should not exceed one page per Band.

2. Company Capacity and Capabilities. Responder must provide a high-level description of their company detailing how they will support this Master Agreement in no more than one page per section below:

- a. Facilities. Responder must indicate which facilities have been ISO 14001 certified.
- b. Manufacturing Process. Responder must describe, at a high level, their manufacturing process.
- c. Personnel. Responder must include documentation that indicates the number and type of sales, support personnel, or other resources that are employed to service purchase orders or equipment for non-federal governmental customers.

- d. **Organization.** Responder must include a brief overview describing how the Master Agreement will be supported from senior management down to field technicians, including the use of any wholly owned subsidiaries or subcontractors.
- e. **Production Viability.** The average sales per Contractor under the Contracts in calendar year 2019 was approximately \$78,000,000. Briefly describe your company's capacity to meet this level of sales volume, including any previous publicly-available sales numbers and publicly-announced future plans. A responder without sufficient capacity should describe the extent of their current capacity and describe their plans of increasing that capacity over the life of the contract.

3. Equipment and Services Overview. Describe the ability to provide computer equipment and the services related to supporting the equipment. Include an overview of how the equipment is delivered and serviced. A list of potential services is below. Responder must provide a list and a brief description of the services offered under each Band. The lists and descriptions must be separated out by Band and must be two pages or less per Band. Not all services may be applicable to each Band.

- a. Warranty – Break Fix – Non-Warranty
- b. Standard non-customized training
- c. Installation/de-installation
- d. Support
- e. Migration
- f. Asset tagging
- g. Staging/deployment
- h. Image loading
- i. Image consulting
- j. System and server configuration
- k. Rack and stack configuration
- l. Maintenance
- m. Custom service solutions
- n. Asset management
- o. Recycling/disposal
- p. Training and certification
- q. Other services available as allowed in the RFP – provide list with your response

4. Warranty and Maintenance. The Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

- a. Describe in detail how Responder will secure warranties for all products and services.
- b. Describe proposed warranty service and maintenance.

5. Website. Contractor must develop and maintain a URL to a web site specific to the awarded Master Agreement. Contractor's Master Agreement website must offer twenty-four (24) hours per day, seven (7) days per week availability, except for regularly scheduled maintenance times. The website must be separate from the Contractor's commercially available (i.e., public) on-line catalog and ordering systems. No other items or pricing may be shown on the website without written approval from the Lead State

Mandatory Requirements:

- Designated Baseline Price List(s) (e.g., MSRP, List, or Education)
- Product and Service Schedule (PSS)
- Product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote,
- Service options and service agreements available on the contract. Please refer to Section 1.G.b.
- Contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns
- Sales representatives for participating entities

Desirable Requirements:

- Purchase order tracking
- Links to environmental certification, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.
- Information on accessibility and accessible products
- Signed Master Agreement
- Online ordering capability with the ability to remember multiple ship to locations (if applicable to product)

Within 30 calendar days of the notice of intent to award a Master Agreement, Contractor must provide a sample URL of the Master Agreement webpage to the Lead State for review and approval. The Lead State will review and determine acceptability of the website format and data. If the information is determined to be unacceptable or incorrect, the Contractor will have 15 calendar days to provide revisions to the Lead State. After the Lead State approves the website, Contractor may not make material changes to the website without notifying the Lead State through the ARF process and receiving written approval of the changes.

- a. Describe the proposed website, including all mandatory and desirable capabilities being offered. Responses to this section should be no more than two pages. Screenshots that will help enhance the response are allowed, and do not count toward the page limit.
- b. Describe your commitment to maintaining a website in adherence to the website requirements. Responses to this section should be no more than one page.

If Responder has an example URL of a current website to demonstrate their capabilities, that may be included in the response to this Section. If elements of the website require a secure log-in, Responder must provide listing of items that would require a secure sign-in option (e.g. reprinting of invoices, or purchase order tracking).

The WCAG requested in Section 6.B applies to Responder's website to be offered under the Master Agreement.

6. **Baseline Price List Verification.** Describe how the designated Baseline Price List(s) will be accessed and verified by potential end users, contract administrators, etc.
7. **Implementation Plan and Marketing Methodology.** In two pages or less, describe a thorough implementation rollout plan for the first year as part of the proposal. At a minimum, the response should include a description of the methodology (mailings, meetings, seminars, press releases, personal contacts) proposed, estimated dates and location of activities, including tasks to be performed and the timeframe for the completion of each task. Marketing materials are subject to approval by NASPO ValuePoint, the Lead State, and any relevant Participating Entity. Responder is reminded that after a statewide Participating Addendum is in place, nearly every governmental entity, public school, and university within the state may use the Contractor's Master Agreement.

C. RESPONSE REQUIREMENTS: ENVIRONMENTAL

1. **Environmentally Preferable Purchasing Commitment.** Explain your commitment to environmentally preferable purchases specifically in the areas below.
 - a. **End of life management.** Include detailed information regarding takeback, recycling and trade in programs available. Any available programs for cords and chargers should be included in this information. Responses should be no more than two pages.
 - b. **Environmental solutions.** Provide detail on how additional value is provided regarding environmental solutions such as selling refurbished/remanufactured toner and equipment. Outline how your company is willing to work with the Lead State and the manufacturers to minimize impact on the environment. Specifically address the following areas in one page or less total:

Materials – manufacturer declaration on reduction/elimination of hazardous materials (e.g., mercury and lead).

Product – in general how does Responder identify product longevity, percent of packaging and packing materials that are recycled/reusable, availability of service and replacement parts for life extension, cost, and complication to upgrade.

Corporate – detail if Responder has in place programs for sale/procurement of refurbished/remanufactured products. Responder must agree that all refurbished products proposed through this Master Agreement will be clearly labeled as refurbished during the sales process.

- c. **Environmental Certifications.** Contractor must include environmental or supply chain responsibility certifications and registrations for products sold through this Contract on their website. Contractor must provide these certifications and registrations for specific products to Participating Entities upon request.

Responder must describe in no more than one page how certifications/registrations are identified on the website; as well as labels on equipment and/or packing list. It is preferable that Purchasing Entities be able to view certifications and registrations at the product level.

2. **EPEAT Registration.** Contractor agrees that applicable products offered that have EPEAT Standards provided under the Master Agreement must have achieved a minimum EPEAT Bronze registration. This requirement does not apply to Band 3.

Contractor may propose the addition of a product that has not yet achieved a minimum EPEAT Bronze registration. The Lead State, in its sole discretion may require Contractor to provide the following documentation to support the addition of the proposed product:

- a. A letter from the Green Electronics Council (GEC) on GEC's letterhead confirming that the verification process is underway; or
- b. A copy of Contractor's GEC contract, Conformity Assurance Board (CAB) contract, and a letter from Contractor's CAB stating that the relevant product has been registered with the CAB and that verification is underway.

The Lead State reserves the right to reject the inclusion of such product, or if approved, require Contractor to remove the product at a later date if the product does not achieve a minimum EPEAT Bronze registration. The Contractor must remove any products that subsequently exit the verification process without achieving EPEAT Bronze or greater from the Master Agreement.

Responder must describe how they meet these requirements in no more than one page, and include a list of all products that are in the process of being verified for EPEAT certification for which a. or b. below applies.

If Responder has products that are in the process of being verified for EPEAT certification, these products may be considered if Responder provides one of the following for each product in the process of being verified:

- a. A letter from the GEC confirming that the verification process is underway. This letter must be on the GEC letterhead and be dated after January 1, 2020; or
- b. The Responder's GEC contract, CAB contract, and a letter from their CAB stating that the relevant products have been registered with the CAB and that verification is underway.

3. **Total Cost of Ownership.** Describe in no more than one page any tools your company provides users to assist in evaluating the Total Cost of Ownership of products offered during the purchasing process (i.e., Contractor tools to assist buyers in identifying equipment that runs more efficiently or that utilizes fewer supplies, etc.).
4. **ENERGY STAR® Compliant Products.** Describe Responder's commitment to the ENERGY STAR Program in one page or less.
5. **TCO Certified.** Describe whether any of Responder's proposed products are TCO Certified and any other engagement with the TCO Development organization in one page or less.
6. **Environmental Improvement Program.** Describe in one page or less any product environmental improvement program for products that have not yet received the applicable standards or certification. In addition, describe environmental efforts in each of the following areas: (1) reduction/minimization/avoidance of the use of toxic and hazardous constituents (cadmium, chromium, mercury, and/or lead); and (2) compliance with international directives such as the European Union's WEEE Directive on reduction of chlorinated plastics (PVC) and brominated flame retardants. Contractor must provide this information for specific products to Participating Entities upon request.

D. RESPONSE REQUIREMENTS: BUSINESS CAPABILITIES

1. **Third-Party Products.** Some products offered may be manufactured by a third party. Contractor, however, must provide or facilitate the warranty service and maintenance for all Third-Party Products on the Master Agreement either directly or pass-through from the manufacturer. Contractor may not offer products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment without approval from the Lead State. Warranty for third-party products must be provided by the Contractor. Warranty documents for products manufactured by a third party are preferred to be delivered to the Participating Entity with the products. Contractor can only offer Third-Party Products in a Band they have been awarded.

Third-Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of Contractor's total sales under this Master Agreement. The Lead State may limit the sale of Third-Party Products through the Master Agreement during the life of the Master Agreement should Third-Party Product sales be determined to consistently exceed one third of the total sales under this Master Agreement. Such limitation may take the form of any action the Lead State so chooses, up to and including non-renewal or cancellation of the Master Agreement.

Responder should describe, in no more than two pages per Band, the type of Third-Party Products they intend to offer as a part of this Master Agreement and the benefit they provide to Participating Entities. If Responder is not offering third-party products, Responder is encouraged to describe why they are not offering third-party products.

2. **Auditing.** Responder must describe the following in no more than two pages total:
 - How Responder regularly self audits the Master Agreement to ensure compliance per Section 2.B.26.
 - How a Purchasing Entity will be able to self-audit to ensure quotes provided are at the discount off list price.
 - How often the web pricing and invoicing is audited to ensure contractual compliance.
 - Reporting mechanisms available such as Invoice Reports which will assist in Participating Entity's or NASPO ValuePoint's ability to audit the Master Agreement through vendor supplied reporting tools.
 - How Responder ensures that Purchasing Entities with multiple Participating Addenda with Responder are monitored to ensure purchases are correctly booked with the correct Master Agreement.
3. **Economic Development Programs.** Describe how your company, if awarded a contract, will further the Lead State's goal of fostering economic development and reducing economic disparities through diversity and inclusion. Points may be awarded to companies articulating strong policies supporting small, diverse, and veteran-owned businesses in areas such as hiring practices, supply chain management, subcontracting, etc. Detail your company's demographic breakdown and any other information pertinent to efforts in this area.

Responses to this section should be no more than two pages.

4. **Partner Utilization.** If utilizing partners, the Contractor is responsible for the partners providing products and services, as well as warranty service and maintenance for equipment the partner provides. The Lead State must approve a Contractor's plan for partner utilization. Once a Contractor's plan is approved, Participating Entities must approve specific Partners as outlined within the relevant Participating Addendum.

If the Contractor has been approved to use partners, each Participating Entity represented by NASPO ValuePoint that chooses to participate in this Master Agreement independently has the option of utilizing partners. Only partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove partners in their Participating Addendum.

If partners are proposed, Responder must describe:

- The process to qualify partners and sales personnel to represent the product, including any certifications.
- The business relationship between partners and the manufacturer and services to be performed; for example, if partners will only be used for assistance in locating products/services, or if partners will be used to accept orders and payments (with the agreement of the Participating Entity).
- How partners are contractually bound to the Master Agreement terms and conditions.
- How partner sales will be accurately tracked and reported.

- The remedy plan if the partner or sales personnel are not in compliance.

5. 2019 National Defense Authorization Act, Section 889(f)(3). Under the 2019 National Defense Authorization Act, Section 889(f)(3), the US military is prohibited from purchasing video surveillance and telecommunications equipment from certain Chinese-owned technology firms. While US state are not subject to this act, there is increasing concern for the security of state data. To allow potential purchasers to evaluate the risk of entering into a Participating Addendum, please answer the following questions:

- Is the purchase of any product proposed under your response to this solicitation prohibited under law, regulation, or policy by the United State federal government, a US State or territory, or a local governmental entity? If so, you must identify the prohibition and provide an explanation.
- Is Responder owned in part or whole by a foreign government or foreign government entity? If so, please provide a narrative explaining Responder’s ownership.
- Is Responder subject to Chinese law, including the China Internet Security Law, effective June 2017 (or later), as passed by the Chinese Communist Party, through the Standing Committee of the National People’s Congress? If so, please provide a narrative explaining Responder’s obligations under Chinese law.

A responder is required to immediately report to the Lead State any changes in the responder's responses to the above questions during the solicitation process, and Contractors will be required to immediately report any such changes to the Lead State during the term of their Master Agreement. As a reminder, all responses to this solicitation are subject to Minnesota’s False Claims Act and may be subject to others upon execution of Participating Addenda.

E. RESPONSE REQUIREMENTS: CUSTOMER SUPPORT

- 1. Sales Support Training.** Detail how Responder will train sales staff to ensure they are well versed in the terms and conditions of the Master Agreement. Restrict your response to a half page.
- 2. Primary Account Representative.** Responder must provide a Primary Account Representative to work with the Master Agreement Administrator on all aspects of the Master Agreement. This account representative is responsible for the performance of the Master Agreement and must provide timely response to all requests from Master Agreement Administrator and Participating Entity.

Identify the proposed account representative and briefly describe the duties of the account representative and their role in the sales cycle. Restrict your response to a half page.

NAME:	
TELEPHONE #:	
EMAIL ADDRESS:	

- 3. Complaint Resolution.** Responder must describe their procedures for addressing and resolving customer problems and complaints regarding service, equipment, or billing. Include timelines and escalation process. Limit your response to one page.

SECTION 4: COST PROPOSAL

Responder's Cost Proposal must be submitted on a flash drive that is separate from its Narrative Response, and be clearly marked as the Cost Proposal.

By submitting a response to this RFP, Responder confirms it meets, understands, and will comply with the following mandatory requirements.

1. **Pricing.** The Master Agreement will be based on a minimum discount-off-list price structure (see Section 2.B.13). Orders, however, will be fixed-price or fixed-rate. Contractor or its authorized resellers may provide deeper or additional incremental discounts at their sole discretion. Pricing is based on a quantity of one. Contractor may offer additional bulk, quantity, or volume discounts, and Contractor may offer increased discounts upon achievement of contract volume milestones.

2. **Price Structure.**

- a. Baseline Price List. The Baseline Price List will be used by a Purchasing Entity to verify pricing and by the Lead State Administrator to verify pricing of any proposed Product additions.

Responder must designate a "Baseline Price List" (e.g. MSRP, List, or Education) on the applicable Price Workbook(s).

Responder must submit the Baseline Price List with the Cost Proposal response. The submitted Baseline Price List must be used to complete the Price Workbook. The Baseline Price List should be dated November 1, 2020. If Responder submits a Baseline Price List for an alternative date, the proposed pricing for the MNIT Minimum Acceptable Standards must be representative of an order placed on November 1, 2020.

- b. Minimum Discount by Band. Responder must provide a discount schedule off the Baseline Price List for each proposed Band for a quantity of one unit. Responder is to base its proposed discounts on the collective volume of potential purchases by the Participating Entities. The Minimum Discount will apply to all products within the Band, unless a product falls under a Category discount or Third-Party Product discount.
 - c. Minimum Discount by Category. Responder may define additional categories within a Band. The category discounts may be higher or lower than the minimum discount by Band. For example, if a responder proposes a minimum discount of 50% for Band 1, the responder may also create additional categories "Laptop Brand X" and "Laptop Brand Y," and offer a minimum discount of 45% and 60%, respectively for these additional categories
 - d. Third-Party Product Discounts. Responder may offer third-party products. If Responder offers third-party products, Responder should provide a discount schedule off the Baseline Price List for third-party products in the applicable Cost Workbook.
 - e. Volume-Based Pricing. Responder may provide additional volume-based pricing discounts for per transaction and cumulative volume purchases. Examples of bulk pricing models are included in Section 6.I. Responders may propose how they will provide deeper discounts including, but not limited to:
 1. **Per Transaction Multiple Unit Discount.** Responder may propose a contractual volume discount program or plan based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase. Include in the applicable Price Workbook a table indicating the additional discount percentage to be earned by volume purchased by transaction.
 2. **Cumulative.** Responder may propose a cumulative volume discount based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement. Include in the applicable Price Workbook a table indicating the additional discount percentage to be earned by cumulative volume purchased.
 3. **Other Discounts.** Describe in the applicable Price Workbook any additional discounts available to Participating Entities.
 - f. Services. Responder must describe all available options for pricing services in the Price Workbooks such as discount off list, hourly fees, per unit fees, etc.

g. Prompt Payment Discount (if applicable). Responder must describe any Prompt Payment discount (if available) to be offered in the applicable Price Workbook.

3. **Price Workbooks.** Price Workbooks will be used to evaluate responses to the RFP as described in Section 5. For each Band proposed, Responder must complete the corresponding Price Workbook, which includes five worksheets.

In the Price Workbook, Responder must use the proposed minimum percentage discount from the Baseline Price List for a “**quantity one**” purchase.

Price Workbooks have been included in Section 6.H. There are a total of three workbooks:

- Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets
- Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets
- Band 3: Servers and Storage

INSTRUCTIONS:

1. Each Price Workbook contains five worksheets. Responder is to fill in the blue shaded fields on each worksheet.
 2. The Price Workbooks are locked, however, there is not a password and Responder may revise a worksheet as needed to provide the information requested in the blue shaded fields.
4. **Minnesota IT Services (MNIT) Minimum Acceptable Standards.** Attached to the RFP as Attachments J and K in Section 6 are the MNIT Minimum Acceptable Standards for Bands 1, 2, and 3.

When brand name or manufacturer's name or numbers are stated in the MNIT Minimum Acceptable Standards, they are intended to establish a standard only and are not restrictive unless the Attachment states: “No Substitute.” Responses may be considered on other alternate makes, models, or brands having comparable quality, style, and performance characteristics. Any alternates included in a response are subject to Lead State approval.

If any proposed alternates are deemed unacceptable by the Lead State, the Lead State will contact the responder(s) that have deficient alternates, explaining the deficiency, and provide the responder(s) with one opportunity to propose a new, acceptable alternate within a set number of business days. All responders with deficient alternates will be given the same number of business days to attempt to provide an acceptable alternate. Responders unable to propose an acceptable alternate through this one-time process will be excluded from the Standard in which they are deficient.

5. **Products and Services Schedule (PSS).** Responder must submit with the Cost Proposal a proposed Product and Services Schedule including all the products and services offered within each proposed Band. The PSS should be submitted in Excel format. A sample PSS has been provided in Section 6.F. Submission of a product or service on the sample PSS does not guarantee that it will be approved to be included in a resulting Master Agreement. The products, services, and format for the final PSS will be finalized during negotiations.

SECTION 5: EVALUATION PROCESS

Except at the invitation of the Master Agreement Administrator, no activity or comments from responders regarding this RFP shall be discussed with any of the sourcing team during the RFP or evaluation of the responses. A responder who contacts a sourcing team member regarding this RFP may, as a result of that contact, have its response rejected or portions thereof.

Non-selection of any response means that either another response was determined to be more advantageous to the Lead State, or that the Lead State exercised its right to reject all responses. At its discretion, the Lead State may perform an appropriate cost and pricing analysis of a responder's response, including the reasonableness of any response. During the evaluation process, all information concerning the responses submitted will remain private and will not be disclosed to anyone whose official duties do not require such knowledge. At any time during the evaluation, the Lead State may request that a responder provide explicit written clarification to any part of its response.

Responses are private or nonpublic data as defined by Minn. Stat. § 13.591 until the completion of the evaluation process. The Lead State will provide notice of the evaluation results.

If only one response for a Band is submitted to the RFP, the Lead State reserves the right to review the response submitted for compliance and to award without assigning points, or to reject the offer and re-issue the RFP, whatever is in the Lead State's best interest.

Notwithstanding anything to the contrary, the Lead State reserves the right to:

- Accept all or part of an offer, to reject any and all offers, to cancel the RFP, or to re-issue the RFP,
- Waive or modify any informalities, irregularities, or inconsistencies in the responses received,
- Negotiate any aspect of the proposal with any responder and negotiate with more than one responder,
- Select for negotiations or a Master Agreement, a response other than that with the lowest cost,
- Request a Best and Final Offer,
- Interview a responder's key personnel,
- Suspend or terminate negotiations, or take such other action as the Lead State deems appropriate, if negotiations fail to result in a successful Master Agreement,
- Eliminate an item from consideration for all responses,
- For evaluating pricing on a given item where a responder did not submit a response for that item, use the highest price item of all responses received,
- Request additional pricing items for consideration,
- Clarify pricing with responder(s), and
- Include options, quantity discounts, and services for basis of calculating the cost utilized in evaluation.

Prompt pay discount will be applied when evaluating cost as detailed in the Terms and Conditions or as otherwise specified in the RFP.

PHASES.

Phase 1 – Responsiveness and Pass/Fail Requirements

The purpose of this phase is to determine if each response complies with mandatory requirements. The Lead State will first review each proposal for responsiveness to determine if the Responder satisfies all mandatory requirements. The Lead State will evaluate these requirements on a pass/fail basis.

Phase 2 – Evaluate Responses

Only those responses that are found to be responsive under Phases 1 will be considered in Phase 2. Responses will be evaluated and scored in a three-step process:

Step 1. Weighted scoring of Product Deployment and Ability to Perform proposal sections, as follows:

Product Deployment and Ability to Perform

Product Deployment	200 Points (Section 3.A)
Ability to Perform	<u>800 Points</u> (Section 3.B)
TOTAL	1000 Points

Step 2. The Lead State reserves the right to shortlist responders in each Band. The shortlist for each Band will be based on the scores awarded in Step 1 and the ability of the responders selected for the shortlist to meet the needs of the anticipated Participating Entities as outlined in the RFP.

Step 3. Weighted scoring of Accessibility, Environmental, Business Capabilities, Customer Support, and Cost proposal sections based on the remaining responses. Reference checks may be included in this Step at the discretion of the Lead State. The proposal sections of the remaining responders will be scored as follows:

References, Work Plan, and Cost Proposal

Accessibility	50 Points
Environmental	50 Points (Section 3.C)
Business Capabilities	300 Points (Section 3.D)
Customer Support	200 Points (Section 3.E)
Cost	<u>400 Points</u>
TOTAL	1000 Points

The Lead State will separate all responsive proposals in Step 3 into groups by Band. Responders with responsive proposals in multiple Bands will be given a Cost score for each Band.

Phase 3 - Select Finalists. Only those responses that are found to be responsive under Phases 1 and 2 will be considered in Phase 3.

The Lead State reserves the right to request oral presentations, references, Best and Final offers by from responders, and the opportunity to interview a responder's key personnel. The Lead State reserves the right to select the number of responders for the Best and Final offer, oral presentations, and to enter into negotiations. Consistent with Minnesota law, evaluation scores may be revised as a result of the responses to the oral presentations, Best and Final Offer, and/or negotiations.

An award from this RFP will be based upon the total accumulated points as established in the RFP, where at its sole discretion the Lead State believes it will receive the best value. The Lead State reserves the right to award this RFP to a single responder, or to multiple responders, whichever is in the best interest of the Lead State. The Lead State reserves the right to make awards by Band. Responders that include products in multiple Bands may not be awarded all Bands for which they have submitted a response.

The Sourcing Team will make recommendations on the award of this RFP. The Commissioner of Administration or their designee may accept or reject the recommendation of the Sourcing Team. The final award decision will be made by the Commissioner of Administration and provided to the NASPO ValuePoint Management Board for approval.

Phase 4. Sign Master Agreement with Awarded Vendor.

CHECKLIST

This list may not be comprehensive, read the RFP thoroughly for information required in this RFP. All required information must be completed and returned with the response or the response may be rejected.

- ☐ **Narrative Response.** Responses to the Requirements of Sections 3.A-E should be provided in the order presented in the RFP, clearly marked and tabbed. The response should describe how the responder will meet the requirement. For Sections without specific requirements or responses needed, a responder may add an acknowledgement that they read, understand, and comply with that Section.

Provide two digital copies of the Narrative Response. Each digital copy of the Narrative Response must be provided on its own flash drive, and each flash drive should be marked "Narrative Response." Each digital copy of the Narrative Response should include:

- An electronic searchable PDF, and
- One editable Word document.

- ☐ **Signed Addendums to the RFP (if applicable).** Include any required signed addenda as one PDF with the Narrative Response submission.

- ☐ **Solicitation Response Forms.**

Include the following completed forms with the Narrative Response submission. Forms that require a signature may be physically-signed and scanned into PDF format or signed electronically via a signing software that includes verification capabilities such as DocuSign.

- ☐ Responder Declarations
- ☐ State of Minnesota Workforce Certificate Information Form
- ☐ State of Minnesota Equal Pay Certificate Form
- ☐ Contact Information Form
- ☐ State of Minnesota Resident Vendor Form
- ☐ Solicitation Terms, Conditions, and Response Requirements Exception Form
- ☐ Voluntary Product Accessibility Template® (VPAT®).

Note regarding the VPAT: Responders should complete, in an accessible format, a VPAT for all websites proposed in response to the solicitation. Responders can use the 508 VPAT form from the ITIC VPAT site (<https://www.itic.org/policy/accessibility/vpat>). See Section 2.A.14 for additional information and instruction.

- ☐ Attachment J, MNIT Minimum Acceptable Standards for Bands 1 and 2 (if applicable)
- ☐ Attachment K, MNIT Minimum Acceptable Standards for Band and 3 (if applicable)

Do not include the Cost Proposal with the Narrative Response.

- ☐ **Cost Proposal.** Provide one complete digital copy of the Cost Proposal on a flash drive. The Cost Proposal must be submitted on a flash drive separate from the Narrative Response, and the drive should be marked "Cost Proposal." The digital copy of the Cost Proposal must include:

- Responses to Section 4,
- Baseline Price List,
- Proposed Product and Services Schedule, and
- Price Workbooks for all applicable Bands, including all tabs.

The Cost Proposal should be submitted in the following formats:

- Responses to Section 4 in either a searchable PDF or Word document, and
- The Baseline Price List, Proposed Product and Services Schedule, and Price Workbooks should be submitted as unlocked Excel documents.

SECTION 6: ATTACHMENTS

- A. Solicitation Question Form
- B. Solicitation Response Forms
- C. Sample NASPO ValuePoint Contract
- D. Participating States' Sample Terms & Conditions
- E. Action Request Form Sample
- F. Product and Service Schedule Sample
- G. Detail Sales Report Template
- H. Price Workbooks
- I. Bulk/Volume Pricing Examples
- J. MNIT Minimum Acceptable Standards for Bands 1 and 2
- K. MNIT Minimum Acceptable Standards for Band 3

A. SOLICITATION QUESTION FORM

NASPO ValuePoint COMPUTER EQUIPMENT

DUE: DECEMBER 14, 2020

RESPONDER NAME: _____

Use this form to submit questions to the Lead State during the Question and Answer period of the RFP.

Questions must be submitted in writing to Master Agreement Administrator at Andy.Doran@state.mn.us (see Sections 2.A.4 and 2.A.7). All questions received by the cutoff date and time will be responded to via an addendum to official solicitation holders. Be specific and cite the section, item and page number to which the question refers. Contact regarding this RFP with any state personnel other than the Master Agreement Administrator may result in rejection of the response. See Schedule of Events for when questions are due (see Section 2.A.4).

[illegible]

B. SOLICITATION RESPONSE FORMS

1. The following forms must be completed and returned with your response or the response may be rejected:
 - Responder Declarations;
 - State of Minnesota Workforce Certificate Information Form;
 - State of Minnesota Equal Pay Certificate Form;
 - Contact Information Form;
 - State of Minnesota Resident Vendor Form; and
 - Terms, Conditions, and Response Requirements Exception Form.
2. Voluntary Product Accessibility Template (VPAT). Responders should complete and submit a VPAT (see Sections 2.A.14 and 2.C.13) with their response.

RESPONDER DECLARATIONS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. **Acceptance of Terms and Conditions.** The Responder accepts terms and conditions of the Solicitation, including the Sample Master Agreement, except for any term or condition that the Responder takes a specific exception to through the Terms, Conditions, and Response Requirements Exception Form (see Section 6.B).
- B. **Response Contents.** The information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the Responder to suspension or debarment proceedings as well as other remedies available by law
- C. **Authorized Signature.** This Declaration is signed by the appropriate person(s), with the authority to contractually bind the Responder, as required by applicable articles, bylaws, resolutions, minutes, and ordinances.
- D. **Non-Collusion Certification.**
 - 1. The Proposal has been arrived at by the Responder independently and has been submitted without collusion and without any agreement, understanding or planned common course of action with any other vendor designed to limit fair or open competition; and
 - 2. The contents of the Response have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any other individual prior to the due date and time of this Solicitation. Any evidence of collusion among Responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.
- E. **Organizational Conflicts of Interest.** To the best of Responder's knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons,
 - 1. a vendor is unable or potentially unable to render impartial assistance or advice to the State;
 - 2. the vendor's objectivity in performing the contract work is or might be otherwise impaired; or
 - 3. the vendor has an unfair competitive advantage.

If after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Lead State's Chief Procurement Officer which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict, the Lead State may terminate the contract for default. Organizational conflicts of interest terms apply to any subcontractors for this work.
- F. **Copyrighted Material Waiver.** By signing its Response, the Responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response.

SIGNATURE PAGE TO FOLLOW

By signing this form, Responder acknowledges and certifies compliance with all applicable requirements indicated above.

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone Number: _____

Email Address: _____

STATE OF MINNESOTA – WORKFORCE CERTIFICATE INFORMATION

Required by state law for ALL bids or proposals that could exceed \$100,000

Complete this form and return it with your bid or proposal. The State of Minnesota is under no obligation to delay proceeding with a contract until a company becomes compliant with the Workforce Certification requirements in Minn. Stat. §363A.36.

BOX A – COMPANIES that have employed more than 40 full-time employees WITHIN MINNESOTA on any single working day during the previous 12 months, check one option below:

- ☐ Attached is our current Workforce Certificate issued by the Minnesota Department of Human Rights (MDHR).
- ☐ Attached is confirmation that MDHR received our application for a Minnesota Workforce Certificate on _____ (date).

BOX B – NON-MINNESOTA COMPANIES that have employed more than 40 full-time employees on a single working day during the previous 12 months in the state where it has its primary place of business, check one option below:

- ☐ Attached is our current Workforce Certificate issued by MDHR.
- ☐ We certify we are in compliance with federal affirmative action requirements.

BOX C – EXEMPT COMPANIES that have not employed more than 40 full-time employees on a single working day in any state during the previous 12 months, check option below if applicable:

- ☐ We attest we are exempt. If our company is awarded a contract, upon request, we will submit to MDHR within 5 business days after the contract is fully signed, the names of our employees during the previous 12 months, the date of separation, if applicable, and the state in which the persons were employed. Send to compliance.MDHR@state.mn.us.

By signing this statement, I certify that the information provided is accurate and that I am authorized to sign on behalf of the company.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services

Web: <http://mn.gov/mdhr/>

TC Metro: 651-539-1095

Toll Free: 800-657-3704

Email: compliance.mdhr@state.mn.us

TTY: 651-296-1283

STATE OF MINNESOTA – EQUAL PAY CERTIFICATE

If your response could be in excess of \$500,000, please complete and submit this form with your submission. **It is your sole responsibility to provide the information requested and when necessary to obtain an Equal Pay Certificate (Equal Pay Certificate) from the Minnesota Department of Human Rights (MDHR) prior to contract execution. You must supply this document with your submission.** Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or [email](mailto:compliance.MDHR@state.mn.us) at compliance.MDHR@state.mn.us.

Option A – If you have employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the applicable box below:

- ☐ Attached is our current MDHR Equal Pay Certificate.
- ☐ Attached is MDHR’s confirmation of our Equal Pay Certificate application.

Option B – If you have not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the box below.

- ☐ We are exempt. We agree that if we are selected we will submit to MDHR within five (5) business days of final contract execution, the names of our employees during the previous 12 months, date of separation if applicable, and the state in which the persons were employed. Documentation should be sent to compliance.MDHR@state.mn.us.

The State of Minnesota reserves the right to request additional information from you. **If you are unable to check any of the preceding boxes, please contact MDHR to avoid a determination that a contract with your organization cannot be executed.**

Your signature certifies that you are authorized to make the representations, the information provided is accurate, the State of Minnesota can rely upon the information provided, and the State of Minnesota may take action to suspend or revoke any agreement with you for any false information provided.

Authorized Signature:

Date:

Printed Name:

Title:

Organization:

MN/Fed Tax ID:

Issuing Entity:

Project # or Lease Address:

CONTACT INFORMATION FORM

PRIMARY CONTACT PERSON FOR MASTER AGREEMENT

NAME:		TITLE:	
TELEPHONE NUMBER:		FAX NUMBER:	
TOLL FREE NUMBER:		E-MAIL:	

CONTACT PERSON TO EXPEDITE ORDERS (if different from above):

NAME:		TITLE:	
TELEPHONE NUMBER:		FAX NUMBER:	
TOLL FREE NUMBER:		E-MAIL:	

ORDER ADDRESS

STREET/PO BOX:		
CITY/STATE:		ZIP CODE:
TELEPHONE NUMBER:		FAX NUMBER:
TOLL FREE NUMBER:		E-MAIL:

REMIT-TO ADDRESS

STREET/PO BOX:		
CITY/STATE:		ZIP CODE:
TELEPHONE NUMBER:		FAX NUMBER:
TOLL FREE NUMBER:		E-MAIL:

STATE OF MINNESOTA – RESIDENT VENDOR FORM

In accordance with Minn. Stat. § 16C.02, subd. 13, a “Resident Vendor” means a person, firm, or corporation that:

1. is authorized to conduct business in the state of Minnesota on the date a solicitation for a contract is first advertised or announced. It includes a foreign corporation duly authorized to engage in business in Minnesota;
2. has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought;
3. has a business address in the state; and
4. has affirmatively claimed that status in the bid or proposal submission.

To receive recognition as a Minnesota Resident Vendor (“Resident Vendor”), your company must meet each element of the statutory definition above by the solicitation opening date and time. If you wish to affirmatively claim Resident Vendor status, you should do so by submitting this form with your bid or proposal.

Resident Vendor status may be considered for purposes of resolving tied low bids or the application of a reciprocal preference.

I hereby certify that the company listed below:

1. Is authorized to conduct business in the State of Minnesota on the date a solicitation for a contract is first advertised or announced. (This includes a foreign corporation duly authorized to engage in business in Minnesota.)
Yes ☐ No ☐ (must check yes or no)
2. Has paid unemployment taxes or income taxes in the State of Minnesota during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought.
Yes ☐ No ☐ (must check yes or no)
3. Has a business address in the State of Minnesota.
Yes ☐ No ☐ (must check yes or no)
4. Agrees to submit documentation, if requested, as part of the bid or proposal process, to verify compliance with the above statutory requirements.
Yes ☐ No ☐ (must check yes or no)

By signing below, you are certifying your compliance with the requirements set forth herein and claiming Resident Vendor status in your bid or proposal submission.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone: _____

Printed Name: _____ Title: _____

If you are claiming Resident Vendor status, sign and return this form with your response.

TERMS, CONDITIONS, AND RESPONSE REQUIREMENTS EXCEPTION FORM

NASPO ValuePoint COMPUTER EQUIPMENT RFP

RESPONDER: _____

The Lead State presumes a responder agrees to the terms and conditions of this solicitation unless a responder takes specific exception to one or more of the conditions on this form. The Lead State reserves the right to reject, negotiate, or accept any exception listed. Responders are cautioned that by taking any exception they may be materially deviating from the RFP. If a responder materially deviates from the Solicitation Terms, Conditions, and Instructions, the NASPO ValuePoint Terms and Conditions, the Minnesota Terms and Conditions, the Response Requirements, or the Sample Contract, its response may be rejected (see Section 2.A.18).

INSTRUCTIONS: A responder must explicitly list all exceptions, if any. Reference the Section and clause number of the term and condition for each of a responder's exceptions, and include the original language, and the alternative language suggestions. If no exceptions exist, state "NONE" specifically on the form below. Whether or not exceptions are taken, the responder must sign and date this form and submit it as part of their response. *(Add additional lines if necessary.)*

Section Reference	Original Term	Alternate Language Suggestion

Prepared by: _____
Printed Name

Signed

Date: _____

C. SAMPLE NASPO ValuePoint MASTER AGREEMENT

The Sample NASPO ValuePoint Master Agreement is attached as a PDF to this RFP, and available at:

http://www.mmd.admin.state.mn.us/pdf/Section6AttachmentC_SampleMasterAgreement.pdf

D. PARTICIPATING STATES' SAMPLE TERMS & CONDITIONS

Terms and Conditions will be negotiated with individual states after award of the Master Agreement. All States reserve the right to add additional terms and conditions to participating addendums.

The following States have provided samples:

1. Alaska
2. California
3. Colorado
4. Connecticut
5. Hawaii
6. Maryland
7. Montana
8. New Jersey
9. New Mexico
10. Ohio
11. Utah
12. Vermont
13. Washington
14. Wisconsin

Sample terms and conditions are attached as a separate PDF to this RFP, and available at:
http://www.mmd.admin.state.mn.us/pdf/Section6AttachmentD_StatesTermsAndConditions.pdf

E. ACTION REQUEST FORM SAMPLE

DATE: _____

ATTN: Andy Doran
IT Acquisitions Supervisor
Master Agreement Administrator

RE: Master Agreement # MNNVP – with _____(Contractor)

Contractor requests the action noted below. If needed, a Product and Service Schedule has been submitted online or is attached for approval by the Lead State.

Contact person for questions on this request:

Name: _____
Email: _____
Phone: _____

SELECT ACTION BELOW AND PROVIDE REQUIRED INFORMATION:

☐ Quarterly Self-Audit. Check the box to verify the quarterly self-audit has been completed.

☐ Product & Service Schedule Change.

☐ Product Addition:

Band:
Proposed Discount (must meet or exceed):

☐ Third Party Product Addition. The Third-Party Product Log has been updated, if applicable.

Band:
Manufacturer:
Proposed Discount (must meet or exceed):

☐ Marketing Approval. Attach materials.

☐ Website Change Review. Describe and attach.

☐ Miscellaneous Inquiry. Provide detail:

Contractor affirms that the Products and Services provided meet the terms and conditions of the Master Agreement and understands NASPO ValuePoint may audit Contractor for compliance.

The Lead State may request additional information from Contractor upon submission. The Lead State also reserves the right to request Contractor to remove a product from the PSS, even if it was previously approved, throughout the life of the Master Agreement if in the best interest of the Lead State and at its sole discretion.

By: _____

Name: _____
Title: _____
Date: _____

ACTION REQUEST LOG

The Action Request Log must be submitted with each Action Request Form.
This Log must provide a history of previously submitted requests.

[illegible]

THIRD-PARTY PRODUCT LOG

The Third-Party Product Log must be submitted with each Action Request Form. This Log must provide a current list of all third-party manufacturers that Contractor offers on its PSS.

[illegible]

F. PRODUCT AND SERVICE SCHEDULE

See the attached Sample Product and Service Schedule in Excel format.

http://www.mmd.admin.state.mn.us/xls/Section.6.Attachment.F_Sample.PSS.xlsx

G. DETAILED REPORTING SAMPLE

See the attached Detail Sales Report Template in Excel format.

http://www.mmd.admin.state.mn.us/xls/Section.6.Attachment.G_Detail.Report.Template.xlsx

H. PRICE WORKBOOKS

Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets

http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band1PriceWorkbook.xlsx

Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets

http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band2PriceWorkbook.xlsx

Band 3: Servers and Storage

http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band3PriceWorkbook.xlsx

I. BULK/VOLUME PRICING EXAMPLES**Cumulative**

\$ Threshold	Frequency	Discount
\$1,000,000-\$2,000,000	Annually	additional 1%
\$2,000,000-\$3,000,000	Annually	additional 1.5%
\$3,000,000-\$4,000,000	Annually	additional 2%
+ \$5,000,000	Annually	additional 2.5%

Per Transaction Multi Unit

\$ Threshold	Discount
\$75,000-\$100,000	additional 1%
\$100,000-\$200,000	additional 1.5%
\$200,000-\$300,000	additional 2%
\$300,000-\$400,000	additional 2.5%
\$400,000-\$500,000	additional 3%
+ \$500,000	additional 3.5%

Additional .5% for online orders

Cumulative

\$ Threshold	Frequency	Discount
\$2,000,000,000 and up	Every \$2 Billion “gate”	additional .5% on all Bands

Per Transaction Multi Unit

\$ Threshold	Discount
\$50,000-\$99,999	additional 1%
\$100,000-\$199,999	additional 2%
\$200,000-\$499,999	additional 4%
\$500,000-\$999,999	additional 6%
+ \$1,000,000 (no maximum)	additional 8%

Cumulative

\$ Threshold	Frequency	Discount
\$5,000,001-\$10,000,000	Duration of Master Agreement	additional 1%
\$10,000,001-\$20,000,000	Duration of Master Agreement	additional 1%
\$3,000,000-\$4,000,000	Duration of Master Agreement	additional 1%
\$20,000,001-\$40,000,000	Duration of Master Agreement	additional 1%
\$40,000,001-\$80,000,000	Duration of Master Agreement	additional 1%
\$80,000,001-160,000,000	Duration of Master Agreement	additional 1.5%
106,000,001-220,000,000	Duration of Master Agreement	additional 2%
+ \$220,000,000	Duration of Master Agreement	additional 2.5%

NASPO ValuePoint Volume Pricing (per order) for Desktops and Notebooks

Number of Units	Minimum Discount
1-99 Units	XX%
100-500 Units	XX%
+ 500 Units	XX%

J. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BANDS 1 AND 2

http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentJ_MNITMinimumAcceptableStandardsBands1&2.xlsx

Instructions for completing Attachment J, MNIT Minimum Acceptable Standards for Bands 1 and 2:

A responder should review Attachment J and complete all shaded fields with the requested information.

Attachment J has three worksheets for a responder to review and complete. If responder is not offering a product that meets any standard the responder can either leave the standard blank or may indicate "N/A" in the shaded field requiring the responder to provide a SKU.

A responder should complete a separate copy of Attachment J for each Band proposed.

K. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BAND 3

http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentK_MNITMinimumAcceptableStandardsBand3.xlsx

Instructions for completing Attachment K, MNIT Minimum Acceptable Standards for Band 3:

A responder should review Attachment K and complete all shaded fields with the requested information.

Attachment K has two worksheets for a responder to review and complete. If responder is not offering a product that meets any standard the responder can either leave the standard blank or may indicate "N/A" in the shaded field requiring the responder to provide a SKU.

REFERENCE NUMBER: 29720

PURCHASING AGENCY: Admin/Office of State Procurement

TITLE: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

CONTRACT AVAILABLE TO: NASPO ValuePoint Participating States

RESPONSE TO THIS SOLICITATION IS DUE NO LATER THAN 1/11/2021 AT 3:00 PM Central Time

SOLICITATION MEETING DATE: 11/20/20 at 3:00 PM ,

MEETING DETAILS: A pre-proposal meeting will be held remotely via Microsoft Teams for all interested responders to review any concerns regarding this RFP. Attendance at this meeting is NOT MANDATORY, but is recommended. See the Schedule of Events for date and time (Section 2.A.4). Interested responders will register to attend the webinar by sending an email to the Master Agreement Administrator. The registration email should include the interested responder's name, and the name and email address of the person(s) attending the Pre-Proposal Webinar Meeting. The Master Agreement Administrator will send an invitation to the Pre-Proposal Webinar Meeting to all registered attendees by 10:00 AM CT on November 20, 2020.

SHIP TO ADDRESS:

See Solicitation Document

A PDF copy of this solicitation is available. Click the button(s) below.

Acrobat Reader is required.

Important! Addenda to this solicitation will appear below the button for retrieving the original solicitation. Be sure to check for addenda prior to submitting your response.

Solicitation 29720.pdf

NOTES: The State of Minnesota, Department of Administration, Office of State Procurement is requesting proposals on behalf of the State of Minnesota and NASPO ValuePoint. The purpose of this Request for Proposal ("RFP") is to establish Minnesota-led NASPO ValuePoint Master Agreement(s) with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, Storage and Ruggedized Devices including related Peripherals & Services).

This RFP and any resulting contract are for qualified manufacturers only – responders that cannot provide verification that they are a manufacturer will not be considered. Manufacturers that do not sell products directly may receive a Contract Award, but they must clearly specify their relationship with sales partners as directed in the RFP.

Sealed responses must be received in the office of the Director of the Office of State Procurement and time-stamped no later than the date and time specified, at which time the names of the contractors responding to this RFP will be read. Late responses cannot be considered. The laws of Minn. Stat. Ch. 16C apply to this RFP.

For the purpose of this RFP, there are three product Bands identified below which may be awarded. Responders must only respond to Bands in which they manufacture the defined product. "Re-branding" a product that is manufactured by another company does not meet this requirement. The State of Minnesota ("Lead State") intends to establish multiple awards per Band. The Lead State reserves the right to eliminate any Bands from the final award.

Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets

Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets

Band 3: Servers and Storage

Direct all correspondence and inquiries, legal questions, general issues, or technical issues regarding this RFP to: Andy Doran, IT Acquisitions Supervisor, andy.doran@state.mn.us

Date This Solicitation Was Posted: 11/4/2020 5:12:53 PM



Office of State Procurement
 112 Administration Building
 50 Sherburne Avenue
 St. Paul, MN 55155
 Voice: 651.296.2600
 Fax: 651.297.3996

SOLICITATION ADDENDUM

Addendum No.:	05	Date of Addendum:	March 5, 2021
Due Date, Time:	March 18, 2021, 3:00 PM, CT	Revised Date, Time:	
Master Agreement Administrator	Andy Doran	Agency:	Department of Administration Office of State Procurement
Web Registration No.:	29720		

Title: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

SCOPE OF ADDENDUM

The purpose of this Addendum 05 is to:

1. Revise Section 4, Paragraph 4 of the RFP as follows (deleted language is ~~struck~~, added language is underlined):

Minnesota IT Services (MNIT) Minimum Acceptable Standards. Attached to the RFP as Attachments J and K in Section 6 are the MNIT Minimum Acceptable Standards for Bands 1, 2, and 3.

When brand name or manufacturer's name or numbers are stated in the MNIT Minimum Acceptable Standards, they are intended to establish a standard only and are not restrictive unless the Attachment states: "No Substitute." Responses may be considered on other alternate makes, models, or brands having comparable quality, style, and performance characteristics. Any alternates included in a response are subject to Lead State approval.

If any proposed alternates are deemed unacceptable by the Lead State, the Lead State will contact the responder(s) that have deficient alternates, explaining the deficiency, and provide the responder(s) with one opportunity to propose a new, acceptable alternate within a set number of business days. All responders with deficient alternates will be given the same number of business days to attempt to provide an acceptable alternate. Responders unable to propose an acceptable alternate through this ~~one-time~~ process ~~will may~~ be excluded from the Standard in which they are deficient. The Lead State reserves the right to conduct this process additional times at its discretion.

The Lead State reserves the right to request product specification documentation to verify compliance.

2. Revise the instructions for completing Section 6, Attachments J and K as follows (added language is underlined):

J. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BANDS 1 AND 2

Instructions for completing Attachment J, MNIT Minimum Acceptable Standards for Bands 1 and 2:

A responder should review Attachment J and complete all shaded fields with the requested information. If a specification indicates that a responder may propose an alternative or comparable, a responder proposing an alternative or comparable should provide the specification details about the proposed alternative or comparable.

Attachment J has three worksheets for a responder to review and complete. If responder is not offering a product that meets any standard the responder can either leave the standard blank or may indicate “N/A” in the shaded field requiring the responder to provide a SKU.

A responder should complete a separate copy of Attachment J for each Band proposed.

K. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BAND 3

Instructions for completing Attachment K, MNIT Minimum Acceptable Standards for Band 3:

A responder should review Attachment K and complete all shaded fields with the requested information. If a specification indicates that a responder may propose an alternative or comparable, a responder proposing an alternative or comparable should provide the specification details about the proposed alternative or comparable.

Attachment K has two worksheets for a responder to review and complete. If responder is not offering a product that meets any standard the responder can either leave the standard blank or may indicate “N/A” in the shaded field requiring the responder to provide a SKU.

3. Revise the following documents attached to the RFP to add “Semi-Ruggedized Notebook” to the MNIT Standards Tab of Section 6, Attachment H for Bands 1 and 2:
 - a. Section 6, Attachment H for Band 1, and
 - b. Section 6, Attachment H for Band 2.

Attachments:

- Section 6, Attachment H for Band 1 – Addendum 05
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band1_Addendum5.xlsx
- Section 6, Attachment H for Band 2 – Addendum 05
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band2_Addendum5.xlsx

Except as modified, all the terms and conditions of the solicitation remain in full force and effect.

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____

SIGNATURE: _____

DATE: _____

PRINTED NAME: _____

TITLE: _____

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.



Office of State Procurement
 112 Administration Building
 50 Sherburne Avenue
 St. Paul, MN 55155
 Voice: 651.296.2600
 Fax: 651.297.3996

SOLICITATION ADDENDUM

Addendum No.:	<u>04</u>	Date of Addendum:	<u>February 19, 2021</u>
Due Date, Time:	<u>February 26, 2021, 3:00 PM, CT</u>	Revised Date, Time:	<u>March 18, 2021, 3:00 PM, CT</u>
Master Agreement Administrator	<u>Andy Doran</u>	Agency:	<u>Department of Administration Office of State Procurement</u>
Web Registration No.:	<u>29720</u>		

Title: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

SCOPE OF ADDENDUM

The purpose of this Addendum 04 is to:

1. Revise the Due Date and Time to be March 18, 2021, 3:00 PM CT.
2. Respond to the remainder of questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. The Lead State believes that it has answered all questions submitted to the date of this Addendum.
3. Revise the Solicitation document. Revisions to the document are as follows:

Section	Revision
	Update the due date
1.A	Replace "Reseller(s)" with "Contractor(s)"
1.D	Add Rhode Island to the list of State's that provided a Notice of Intent to Participate
2.B.1.e	Replace "Reseller's" with "Contractor's"
2.B.2.z	Update definition of Participating Entity
2.B.2.aa	Update definition of Participating State
2.B.10	Correct sentence to read (added language is in red): The term Partner will be utilized in naming the relationship a Contractor has with another company to market and sell under the contract
2.B.20	Replaced "Contract Vendor" with "Contractor"
2.B.20.d	Revision of paragraph to make a typographical correction to replace "Master agreement" with "Master Agreement," replace "Contract Vendor" with "Contractor," and update language.
3.B.7	Typographical correction to remove an extra period mark
3.D.4	Updated language to Partner Utilization requirements
3.D.5	New provision
Checklist	Remove reference to a Contract Savings Report
Checklist	Update instructions for completing a VPAT
6	Update list of attachments to correct internal references
~~6.B~~	~~Remove reference to a Contract Savings Report~~

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.

4. Revise the following documents attached to the solicitation:

- a. Section 6, Attachment H for Band 1, Band 2, and Band 3;
- b. Section 6, Attachment J for Bands 1 and 2; and
- c. Section 6, Attachment K for Band 3.

Attachments:

- Addendum 04 Questions and Answers
<http://www.mmd.admin.state.mn.us/xls/29720Addendum4.QandA.xlsx>
- 2020 NVP MN Computer Equipment RFP – Addendum 04
<http://www.mmd.admin.state.mn.us/pdf/29720.pdf>
- Section 6, Attachment H for Band 1 – Addendum 04
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band1PriceWorkbook.xlsx
- Section 6, Attachment H for Band 2 – Addendum 04
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band2PriceWorkbook.xlsx
- Section 6, Attachment H for Band 3 – Addendum 04
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band3PriceWorkbook.xlsx
- Section 6, Attachment J for Bands 1 and 2 – Addendum 04
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentJ_MNITMinimumAcceptableStandardsBands1&2.xlsx
- Section 6, Attachment K for Band 3 – Addendum 04
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentK_MNITMinimumAcceptableStandardsBand3.xlsx

Except as modified, all the terms and conditions of the solicitation remain in full force and effect.

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____

SIGNATURE: _____

DATE: _____

PRINTED NAME: _____

TITLE: _____

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.



Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Voice: 651.296.2600
Fax: 651.297.3996

SOLICITATION ADDENDUM

Addendum No.:	<u>03</u>	Date of Addendum:	<u>January 22, 2021</u>
Due Date, Time:	<u>January 31, 2021, 3:00 PM, CT</u>	Revised Date, Time:	<u>February 26, 2021, 3:00 PM, CT</u>
Master Agreement Administrator	<u>Andy Doran</u>	Agency:	<u>Department of Administration Office of State Procurement</u>
Web Registration No.:	<u>29720</u>		

Title: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

SCOPE OF ADDENDUM

The purpose of this Addendum 03 is to:

1. Revise the Due Date and Time to be February 26, 2021, 3:00 PM CT; and
2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachment: Addendum 03 Questions and Answers

<http://www.mmd.admin.state.mn.us/xls/29720Addendum3.QandA.xlsx>

Except as modified, all the terms and conditions of the solicitation remain in full force and effect.

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____

SIGNATURE: _____

DATE: _____

PRINTED NAME: _____

TITLE: _____

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.



Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Voice: 651.296.2600
Fax: 651.297.3996

SOLICITATION ADDENDUM

Addendum No.:	<u>02</u>	Date of Addendum:	<u>December 17, 2020</u>
Due Date, Time:	<u>January 11, 2021, 3:00 PM, CT</u>	Revised Date, Time:	<u>January 31, 2021, 3:00 PM, CT</u>
Master Agreement Administrator	<u>Andy Doran</u>	Agency:	<u>Department of Administration Office of State Procurement</u>
Web Registration No.:	<u>29720</u>		

Title: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

SCOPE OF ADDENDUM

The purpose of this Addendum 02 is to:

1. Revise the Due Date and Time to be January 31, 2021, 3:00 PM CT; and
2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachment: Addendum 02 Questions and Answers

<http://www.mmd.admin.state.mn.us/xls/29720Addendum2.QandA.xlsx>

Except as modified, all the terms and conditions of the solicitation remain in full force and effect.

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____

SIGNATURE: _____

DATE: _____

PRINTED NAME: _____

TITLE: _____

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.



Office of State Procurement
 112 Administration Building
 50 Sherburne Avenue
 St. Paul, MN 55155
 Voice: 651.296.2600
 Fax: 651.297.3996

SOLICITATION ADDENDUM

Addendum No.:	<u>1</u>	Date of Addendum:	<u>December 10, 2020</u>
Due Date, Time:	<u>January 11, 2021</u>	Revised Date, Time:	<u></u>
Master Agreement Administrator	<u>Andy Doran</u>	Agency:	<u>Department of Administration Office of State Procurement</u>
Web Registration No.:	<u>29720</u>		

Title: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)

SCOPE OF ADDENDUM

The purpose of this Addendum 1 is to:

1. Provide access to the optional Pre-Proposal Webinar held on November 20, 2020, and a list of the attendees at the webinar. The list of people who registered for the Webinar, the Microsoft Teams attendee list, and the recording of the Pre-Proposal Webinar are all attached to this Addendum; and
2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachments:

Pre-Proposal Webinar Registration List and Attendee List:

<http://www.mmd.admin.state.mn.us/pdf/29720Pre-ProposalMeetingRegistration&Attendance.pdf>

Pre-Proposal Recording:

<http://www.mmd.admin.state.mn.us/videos/PreProposalWebinarRecording.mp4>

For best results, use Internet Explorer or Firefox (may not launch in Edge or Chrome)

Questions and Answers:

<http://www.mmd.admin.state.mn.us/pdf/29720Addendum1.Q&A.pdf>

Except as modified, all the terms and conditions of the solicitation remain in full force and effect.

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____

SIGNATURE: _____

DATE: _____

PRINTED NAME: _____

TITLE: _____

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529.

EXHIBIT B

Original Government Contract



NASPO ValuePoint Master Agreement No.: 23004

This Contract is between the State of Minnesota, acting through its Commissioner of Administration (“Lead State”) and Dell Inc., whose designated business address is One Dell Way, Round Rock, TX 78682 (“Contractor”). State and Contractor may be referred to jointly as “Parties.”

Recitals

1. The State of Minnesota, Department of Administration, Office of State Procurement, on behalf of the State of Minnesota and NASPO ValuePoint Cooperative Procurement Program (“NASPO ValuePoint”) issued a solicitation to establish Minnesota NASPO ValuePoint Master Agreement(s) (“Contract”) with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services);
2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and
3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract; and
4. All authorized governmental entities in any state or participating US Territory are welcome to use the resulting Master Agreement through NASPO ValuePoint with the approval of the State Chief Procurement Official. Upon final award of the overarching Master Agreement, Contractors are able to sign Participating Addendums (PA) at the option of Participating States. Participating States reserve the right to add state specific terms and conditions and modify the scope of the contract in their Participating Addendum as allowed by the Master Agreement.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract

- a. Effective date. July 1, 2023, or the date the Lead State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.
- b. Expiration date. June 30, 2025. This Master Agreement may be extended for up to an additional 36 months, in increments as determined by the Lead State, through a duly executed amendment.
- c. If, in the judgment of the Lead State, a follow-on, competitive procurement will be unavoidably delayed beyond the planned date of execution of the follow-on master agreement, this Master Agreement may be extended for a reasonable period of time, not to exceed six months. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

2. **Representations and Warranties**

- a. Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law the Lead State is empowered to engage such assistance as deemed necessary.
- b. Contractor warrants that it is duly qualified and shall perform its obligations under this Master Agreement in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor’s industry, trade, or profession, and in accordance with the specifications set forth in this Master Agreement, to the satisfaction of the Lead State.
- c. Contractor warrants that it possesses the legal authority to enter into this Master Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Master Agreement, or any part thereof, and to bind Contractor to its terms.

3. **Awarded Band(s)**

The solicitation included three product Bands: Band 1, Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets; and Band 2, Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets; and Band 3, Servers and Storage. The Contractor is awarded the following Band(s):

- Band 1, Personal Computer Devices – Windows Operating Systems
- Band 2, Personal Computer Devices - Non-Windows Operating Systems
- Band 3, Servers and Storage

4. **Configuration Dollar Limits**

The following configuration limits apply to the Master Agreement. Participating Entities may define their configuration limits in their Participating Addendum. The Participating Entity’s Chief Procurement Official may increase or decrease the configuration limits, as defined in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Product and Service Schedule.

The dollar limits identified below are based on a SINGLE computer/system configuration. This is NOT a restriction on the purchase of multiple configurations (e.g., an entity could purchase 10 laptops at \$15,000 each, for a total purchase price of \$150,000).

<u>ITEM</u>	<u>CONFIGURATION</u>
Band One	\$15,000
Band Two	\$15,000
Band Three	\$1,000,000
Peripherals	\$10,000
Services	Addressed in the Participating Addendum

5. **Restrictions**

The following restrictions apply to the Master Agreement. A Participating Entity may set further restrictions of products in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Entity’s Product and Service Schedule.

- a. Software
 - 1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.

2. Any software purchased must be related to the procurement of equipment.
3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment, except for the exceptions allowed under Paragraph 5.a.4.
4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 3) purchased, is allowed and may be procured after the initial purchase of equipment.

b. General Services

1. Services must be related to the procurement of equipment.
2. Service limits will be addressed by each State.
3. Wireless phone and internet service is not allowed.
4. Managed Print Services are not allowed.

c. Cloud Services

1. Cloud Services are restricted to Services that function as operating systems and software needed to support or configure hardware purchased under the scope of the contract and is subject to equipment configuration limits.
2. Any Cloud Service purchased must be related to the procurement of equipment.

d. Third-Party Products

1. Third-Party Products can be offered only in the Bands they have been awarded. All third-party products must meet the definition(s) of the Band(s) in which they are being offered.
2. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.

e. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.
2. Lease/Rentals of equipment may be allowed and will be addressed by each State.
3. Cellular Phone Equipment is not allowed.
4. EPEAT Bronze requirement may be waived, on a State case-by-case basis, if approved by the State's Chief Procurement Officer. EPEAT Bronze requirement does not currently apply to storage.

6. Authorized Representative

- a. Master Agreement Administrator. The Master Agreement Administrator designated by NASPO ValuePoint and the State of Minnesota, Department of Administration is Elizabeth Randa, Acquisition Management Specialist.

Elizabeth Randa, Acquisition Management Specialist
Department of Administration
Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
E-mail: elizabeth.randa@state.mn.us
Phone: 651.201.3122

- b. Contractor's Authorized Representative. The Contractor's Authorized Representative is Ashley Salinas, SLED Contract Program Manager.

Ashley Salinas, SLED Contract Program Manager
Dell Inc.
One Dell Way
Round Rock, TX 78682
A.Salinas@dell.com
Phone: 512.542.1237

If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the Lead State.

7. Notices

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. An email shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed to the Master Agreement Administrator.

8. Exhibits

The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:

Exhibit A: NASPO ValuePoint Terms and Conditions
Exhibit B: Minnesota Terms and Conditions
Exhibit C: Requirement
Exhibit D: Price Schedule
Exhibit E: Contractor Terms and Conditions

9. Survival of Terms:

The following clauses survive the expiration or cancellation of this Master Agreement: Indemnification; State Audits; Government Data Practices and Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that states it shall survive, shall survive.

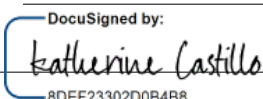
10. Entire Agreement

This Contract and any written addenda thereto constitute the entire agreement of the parties to the Master Agreement.

1. Contractor

The Contractor certifies that the appropriate person(s) have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print name: Katherine Castillo

Signature: 
8DEF23302D0B4B8...

Title: ParaLegal Advisor Date: 7/14/2023

2. State Agency

With delegated authority

Print name: Elizabeth M. Randa

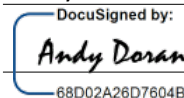
Signature: 
742DE739C8ED492...

Title: Acquisition Management Specialist Date: 7/14/2023

3. Commissioner of Administration

As delegated to The Office of State Procurement

Print name: Andy Doran

Signature: 
68D02A26D7604BA...

Title: IT Acquisitions Supervisor Date: 7/14/2023

Exhibit A: NASPO ValuePoint Master Agreement Terms and Conditions

1. Conflict of Terms/Order of Precedence.

- a. Any order placed under this Master Agreement shall consist of the following documents:
 1. A Participating Entity's Participating Addendum ("PA");
 2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;
 3. A Purchase Order issued against a PA (terms and conditions set forth in a Purchase Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).
- b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- c. Contractor terms and conditions may be incorporated if expressly accepted by the Lead State and attached to the Master Agreement as an Exhibit or Attachment, or by written reference (including reference to information contained in a URL or referenced policy). A written reference, including by URL or policy, is incorporated into the Master Agreement only if the Master Agreement expressly identifies that reference. URL's must be explicitly referenced to be incorporated into the Master Agreement. URL's contained within the URL's that are explicitly referenced are not incorporated into the Master Agreement. Any Contractor term or condition incorporated by URL or written reference applies to this Master Agreement only to the extent such term or condition is not prohibited by applicable law. Any change to information contained in a URL or referenced policy will not affect any financial obligation, place any additional material obligation on an ordering entity, or materially diminish an ordering entity's ability to use the product or service.
- d. A written Master Agreement (which may include the contents of the RFP and selected portions of Contractor's response incorporated therein by reference) will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement, in the Contractor quotation/sales order, or in similar documents subsequently provided by the Contractor.
- e. Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

2. Definitions.

- a. **Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.
- b. **Accessory** means a product that enhances the user experience but does not extend the functionality of the computer (e.g. mouse pad or monitor stand). For the purposes of this Contract, accessories are considered peripherals.

- c. **_____ as a Service (_aaS)** refers to any good provided in a subscription-based model that is defined in the industry as “_____ as a Service”. Examples are “Software as a Service”, “Infrastructure as a Service”, and “Storage as a Service”, and shall follow the NIST definitions of those services. _____ as a Service are permitted only when they meet the restrictions found in Paragraph 5.c, above.
- d. **Band** means a category of products. There are three product bands which may be awarded through this Contract. Each product band includes related peripherals and services.
- e. **Components** are the parts that make up a computer configuration.
- f. **Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.
- g. **Configuration** means the combination of hardware and software components that make up the total functioning system.
- h. **Customer** (see Purchasing Entity).
- i. **Desktop** means a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: (1) the processor, 2) display monitor, and 3) input devices usually a keyboard and a mouse. Desktops, including desktop virtualization endpoints such as zero and thin clients, are included in Bands 1 and 2 of this Contract.
- j. **Embedded Software** means one or more software applications which permanently reside on a computing device.
- k. **Energy Star®** is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes it easy to identify energy efficient computers by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at <http://www.energystar.gov>.
- l. **EPEAT** is a type-1 ecolabel for identifying and purchasing sustainable IT products. EPEAT-registered products must meet sustainability criteria detailed in voluntary consensus-based standards that are free and publicly available on the Green Electronics Council’s website at www.greenelectronicscouncil.org. Products are classified as Bronze, Silver, or Gold based on meeting criteria that address the life cycle of the products. Product life cycle includes material extraction, hazardous substance reduction, end-of-life management, packaging, and corporate sustainability. Only products listed as Active in the online EPEAT Registry are considered to meet the EPEAT criteria.
- m. **FOB Destination** means that shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.
- n. **FOB Inside Delivery** means that shipping charges are included in the price of the item, and that the shipped item becomes the legal property and responsibility of the receiver when it reaches the inside delivery point, which is beyond the front door or loading dock. FOB Inside Delivery is a special shipping arrangement that may include additional fees payable by the Purchasing Entity. FOB Inside Delivery must be annotated on the Purchasing Entity ordering document.

- o. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- p. **Laptop** means a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad, and speakers in a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptops include notebooks, ultrabooks, netbooks, Zero and thin client devices, and computers with mobile operating systems. Laptops are included in Bands 1 and 2 of this Contract.
- q. **Lead State** means the State centrally administering any resulting Master Agreement(s).
- r. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.
- s. **Manufacturer** means a company that, as one of its primary business functions, designs, assembles, owns the trademark/patent for, and markets branded computer equipment.
- t. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor.
- u. **Middleware** means the software "glue" that helps programs and databases (which may be on different computers) work together. The most basic function of middleware is to enable communication between different pieces of software.
- v. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.
- w. **Option** means an item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.
- x. **Order or Purchase Order** means any purchase order, sales order, contract or other method used by a Purchasing Entity to order the Products.
- y. **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.
- z. **Participating Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- aa. **Participating State** means a state that has executed a Participating Addendum.

bb. Partner means a company, authorized by the Contractor and approved by the Participating Entity, to provide marketing, support, or other authorized contract services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Agreement. A Partner may include, but is not limited to, an agent, subcontractor, fulfillment partner, channel partner, business partner, servicing subcontractor, etc.

cc. Peripherals means any hardware product that can be attached to, added within, or networked with personal computers, servers, or storage. Peripherals extend the functionality of a computer without modifying the core components of the system.

dd. Per Transaction Multiple Unit Discount means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase.

ee. Premium Savings Package(s) (PSP) are deeply discounted standard configurations available to Purchasing Entities using the Master Agreement. NASPO ValuePoint reserves the right to expand and modify the PSP throughout the life of the contract. For more information see: <https://www.naspovaluepoint.org/portfolio/57/>.

ff. Product means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

gg. Purchasing Entity means a state (including the District of Columbia and U.S. territories), city, county, district, other political subdivision of a state, other public entities domestic or foreign, and nonprofit organizations under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order under the terms of the Master Agreement, or any Participating Addendum thereto, and becomes financially committed to the purchase.

hh. Ruggedized means equipment specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures, and wet or dusty conditions. Ruggedized equipment may be proposed under the band that most closely fits the equipment being proposed.

ii. Server means computer hardware dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. Servers may be either physical or virtual. Servers, including server appliances, are included in Band 3 of this Contract. Server appliances have their hardware and software preconfigured by the manufacturer, and include embedded networking components such as those found in blade chassis systems.

jj. Services are broadly classified as installation or de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Agreement. These classifications of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or hardware components), asset management, recycling or disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk or helpdesk, imaging, and any other directly related technical support service required for the effective operation of a product offered or supplied. Contractors may offer limited professional services related ONLY to the equipment and configuration of the equipment purchased through the resulting contracts.

EACH PARTICIPATING ENTITY WILL DETERMINE RESTRICTIONS AND NEGOTIATE TERMS FOR SERVICES THROUGH THEIR PARTICIPATING ADDENDUM.

kk. Software means, for the purposes of this Contract, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified

in Paragraph 5.a. “Software” applies to all parts of software and documentation, including new releases, updates, and modifications of software.

ll. **Storage** means hardware or a virtual appliance with the ability to store large amounts of data. Storage, including SAN switching necessary for the proper functioning of storage equipment, is included in Band 3 of this Contract

mm. **Storage Area Network (SAN)** is a high-speed special-purpose network (or subnetwork) that interconnects different kinds of data storage devices with associated data servers on behalf of a larger network of users.

nn. **Tablet** means a mobile computer that provides a touchscreen that acts as the primary means of control. Tablets, including notebooks, ultrabooks, and netbooks with touchscreen capabilities, are included in Bands 1 and 2 of this Contract.

oo. **Takeback Program** means the Contractor’s process for accepting the return of equipment or other products at the end of the product’s life.

pp. **Thin Client** is a lightweight computer that has been optimized for establishing a remote connection with a server-based computing environment.

qq. **Third Party Product** is a good sold by the Contractor that is manufactured by another company. Third Party Products are intended to enhance or supplement a Contractor’s own product line, and are not intended to represent more than a third of any Contractor’s total sales under this Master Agreement.

rr. **Upgrade** means the replacement of existing software, hardware, or hardware component with a newer version.

ss. **Warranty** means the Manufacturer’s general warranty tied to the product at the time of purchase.

tt. **Wide Area Network (WAN)** is a data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers.

3. **Term of the Master Agreement.**

a. The initial term of this Master Agreement is for 2 years. This Master Agreement may be extended beyond the original contract period for 36 additional months at the Lead State’s discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. **Amendments.**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without a written amendment to the Master Agreement executed by the Contractor and Lead State as required by law. Master Agreement amendments will be negotiated by the Lead State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work.

5. **Participants and Scope.**

a. **Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador,

Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement. Canadian Participation. Subject to the approval of the Contractor, any Canadian provincial government or provincially funded entity in Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta, Northwest Territories, Nunavut, Yukon, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

b. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

c. Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

d. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

e. NASPO and NASPO ValuePoint are not parties to the Master Agreement.

f. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

g. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

h. Resale. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the Master Agreement, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Individual Customers.

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

7. Independent Contractor.

The Contractor is an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as an agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

8. Contracting Personnel.

Contractor must provide adequate contracting personnel to assist states with the completing and processing Participating Addenda. It is preferred that each Contractor be able to provide each Participating Entity with a primary contact person for that Participating Entity.

9. Changes in Contractor Representation.

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. Such approval shall not be unreasonably withheld. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

10. Contractor Verification.

The Contractor is responsible for delivering products or performing services under the terms and conditions set forth in the Master Agreement. The Contractor must ensure partners utilized in the performance of this contract adhere to all the terms and conditions. The term Partner will be utilized in naming the relationship a Contractor has with another company to market and sell under the contract. Participating Entities will have final determination/approval if a Partner may be approved for that state in the role identified by the Contractor.

11. Contractor Performance Meeting.

An annual performance meeting may be held each year with the NASPO ValuePoint Sourcing Team. Historically performance meetings have been held in Minnesota, but the Lead State may hold the meetings in person or virtually at the Lead State's discretion.

All contractors that are invited to participate must send their Primary Account Representative, unless an exception is granted in writing by the Lead State. It is possible that not all contractors will be invited to participate in a performance meeting.

12. Laws and Regulations.

Any and all Products offered and furnished shall comply fully with all applicable Federal, State, and local laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Office of the Minnesota Secretary of State. To the extent any purchase is subject to Federal Acquisition Regulations, as may be required by the terms of a federal grant, a Participating Entity and Contractor may include in their Participating Addendum terms that reflect such a requirement.

13. Price and Rate Guarantee Period.

All minimum discounts and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for minimum discount or rate adjustment must be for a guarantee period as offered by the Contractor, and must be made at least 30 days prior to the effective date. Requests for minimum discount or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to minimum discounts or rates will be allowed.

14. Premium Savings Package Program.

The Lead State reserves the right to create a Premium Savings Package Program (PSP) as outlined in the Definitions, Paragraph 2.ee of Exhibit A. Participation by Contractor is voluntary. The details and commitments of the PSP will be detailed as a part of any request for Contractor to participate.

15. Services.

Participating Entities must explicitly allow services in their Participating Addenda for the approved services to be allowed under that Participating Addendum. The Participating Addendum by each Participating Entity will address service agreement terms and related travel.

16. Ordering.

- a. Master Agreement and purchase order numbers shall be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies or services contemplated by this Master Agreement.
- d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.
- f. All Orders pursuant to this Master Agreement, at a minimum, shall include:
 1. The service description or supplies being delivered;

2. The place and requested time of delivery;
3. A billing address;
4. The name, phone number, and address of the Purchasing Entity representative;
5. The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
6. A ceiling amount of the order for services being ordered;
7. The Master Agreement identifier; and
8. Statement of Work, when applicable.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

17. Trade-In.

Any trade-in programs offered during the life of the Master Agreement must be approved by the Lead State. Participating Entities must explicitly allow trade-in programs in their Participating Addenda for the approved programs to be allowed under that Participating Addendum. Trade-in value shall not decrease the discounts offered through the Master Agreement.

18. Shipping and Delivery.

a. The prices are the delivered price to any Purchasing Entity for standard 3-5 day shipping. If an order is requested with expedited shipping, the Contractor must provide a firm "not to exceed" price for the expedited shipping on the quote. All deliveries shall be FOB Destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. Specific delivery instructions, including FOB Inside Delivery, will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to promptly notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipment shall be marked with the Purchasing Entity's Purchase Order number and other information sufficient for the Purchasing Entity to properly identify the shipment as outlined in the Participating Addendum of the Purchasing Entity.

19. Inspection and Acceptance.

a. Where the Master Agreement, a Participating Addendum, or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. Acceptance. Purchasing Entity shall determine whether all Products and Services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. Failure to reject upon receipt, however, does not relieve the Contractor of liability for latent or hidden material defects. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked. The warranty period shall begin upon Acceptance. If the parties agree to acceptance testing, the terms of subsection (c), below, apply.

c. Acceptance Testing. The Purchasing Entity and the Contractor shall determine if Acceptance Testing is applicable and required for the purchase. "Acceptance Testing" means the process for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity.

1. The Acceptance Testing period shall be thirty (30) calendar days starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.

2. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked. The warranty period shall begin upon Acceptance.

d. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

20. Title of Product.

a. Definitions. For purposes of this section, the following terms are defined as follows:

1. "Deliverables" means any reports, analyses, scripts, code, or other work results that Contractor delivers to Purchasing Entity within the framework of fulfilling Contractor's obligations to Purchasing Entity.
2. "Equipment" means Contractor-branded hardware products.
3. "Proprietary Rights" means all patents, copyrights, trademarks, trade secrets, and other intellectual property rights of a party.

b. Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Equipment free and clear of all liens, encumbrances, or other security interests. Purchasing Entity's rights to use the software delivered by Contractor are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula (the "EULA") shall apply. Contractor's EULA must be made available to Purchasing Entities for review prior to negotiating a Participating Addendum or the issuance of an Order and shall meet or exceed the terms set forth in this Master Agreement. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment.

c. Contractor grants Purchasing Entity a non-exclusive, non-transferable, irrevocable license to use (without the right to sublicense) the Deliverables provided by Contractor for Purchasing Entity's internal business and governmental purposes, only and solely in accordance with the applicable service specification and subject to this Master Agreement. The grant of this license is subject to Purchasing Entity's compliance with the terms of this Master Agreement and Purchasing Entity's payment of applicable amounts due. Such license shall be perpetual unless granted pursuant to the purchase of a subscription, in which case the license shall be for the term of the subscription. Purchasing Entity may authorize its service providers to use the Deliverables, but solely on Purchasing Entity's behalf, solely for Purchasing Entity's internal business or governmental purposes, and Purchasing Entity shall be responsible for service provider's compliance with these restrictions. This section shall not affect a Purchasing Entity's right to transfer ownership of a product, and transfer, if permitted by Contractor or its licensors, licenses associated with such product, to another individual or entity as part of the Purchasing Entity's surplus program or sale of used products to employees or former employees.

d. Contractor reserves for itself all Proprietary Rights that it has not expressly granted to Purchasing Entity herein. The license granted in this clause 20(c) does not apply to: (i) Equipment; (ii) Contractor-branded generally available software; or (iii) items licensed or otherwise provided under a separate agreement. Contractor is not limited in developing, using, or marketing services or products that are similar to the Deliverables or Professional Services provided hereunder, any service, specification, or, subject to Contractor's confidentiality obligations to Purchasing Entity, in using the Deliverables or performing similar Professional Services for any other projects. Notwithstanding the previous, Contractor's use of Deliverables created specifically for and paid for by a Purchasing Entity is subject to Purchasing Entity approval.

e. Any and all licensing, maintenance, cloud services, or order specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the terms of the Master Agreement as incorporated into the Participating Addendum, and to the extent the terms are not in conflict with the Participating Entity's applicable laws. In the event of a conflict in the terms and conditions, the conflict shall be resolved as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance, cloud services agreements, or order specific agreements may be further negotiated by the Contractor or, if applicable, the Licensor, and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

f. If (i) Contractor is or becomes aware of any infringement claim made against a third-party branded product offered by Contractor through this Master Agreement, (ii) the third-party branded product is determined to infringe upon the intellectual property rights of another third party, and (iii) such infringement is not remedied by the third party so that the product is no longer infringing, Contractor shall immediately cease offering the product under this Master Agreement and notify the Lead State, NASPO, Participating Entities, and purchasers of the product.

21. Warranty.

The Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

22. System Failure or Damage.

In the event of system failure or damage caused by the Contractor or its Product, the Contractor shall use reasonable efforts to restore or assist in restoring the system to operational capacity. The Contractor shall be responsible under this provision to the extent a 'system' is defined at the time of the Order; otherwise the rights of the Purchasing Entity shall be governed by the Warranty.

23. Payment.

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law.

Payments will be remitted by mail or electronically. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

Prices are exclusive of taxes, duties, and fees, unless otherwise quoted. If a withholding tax is required by law, the tax will be added and identified on the applicable invoice. All applicable taxes, duties, and fees must be identified on the quote.

24. Leasing or Alternative Financing Methods.

Lease purchase and term leases are allowable only for Purchasing Entities whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process and if the applicable PAs permit leasing. No lease agreements will be reviewed or evaluated as part of the RFP evaluation process.

25. Contract Provisions for Orders Utilizing Federal Funds.

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be

proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

26. Self Audit.

The Contractor must conduct at a minimum a quarterly self-audit, unless approved by the Lead State. The audit will sample a minimum of one tenth of one percent (.001) of orders with a maximum of 100 audits per quarter conducted. For example: Up to 1,000 sales = 1 audit; 10,000 sales = 10 audits; Up to 100,000 sales = 100 audits. This will be a random sample of orders and invoices and must include documentation of pricing. Summary findings must be reported to Lead State with actions to correct documented findings.

27. Assignment/Subcontracts.

- a. Contractor shall not assign, sell or otherwise transfer all or any part of this Master Agreement without prior written consent from the Lead State, such consent not to be unreasonably withheld.
- b. The Lead State, or Participating Entity, shall not assign, delegate or otherwise transfer all or any part of this Master Agreement without prior written consent from Contractor, except for assignment or delegation to a Participating Entity State agency or eligible Purchasing Entity. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO ValuePoint and other third parties.

28. Insurance.

- a. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers legally authorized to conduct business in the Lead State and in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:
 1. Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
 2. Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- c. Contractor shall pay premiums on all insurance policies. Contractor will use reasonable efforts to give thirty (30) days prior written notice to State prior to cancellation or non-renewal of any of the policies providing such coverage; provided, however that Contractor shall not be obligated to provide such notice if, concurrently with such cancellation or non-renewal, Contractor obtains coverage from different insurer(s) meeting the requirements described herein.
- d. Prior to commencement of performance, Contractor shall provide to the Participating Entity a certificate of insurance showing the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating Entity as an additional insured, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating Entity as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights

and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. During the term of this Master Agreement, Contractor shall upon request provide to the Lead State and Participating Entities evidence of coverage that meets the requirements of this Section and the applicable Participating Addendum. Failure to provide evidence of coverage, within thirty (30) calendar days of receipt of request may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. Administrative Fees.

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable.

b. The NASPO ValuePoint Administrative Fee in this section shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

c. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Purchasing Entity may allow the Contractor to adjust the Master Agreement pricing to account for these additional fees for purchases made by Purchasing Entities within the jurisdiction of the Participating Entity. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

30. NASPO ValuePoint Reports

a. Sales Data Reporting. In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

b. Summary Sales Data. "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.

c. Detailed Sales Data. "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details.

Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

d. Sales Data Crosswalks. Reserved.

e. Executive Summary. Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

31. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review.

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.

b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the Participating Entity.

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to Paragraph 42 of Exhibit A, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to Paragraph 42 of Exhibit A or to terminate for default pursuant to Paragraph 44 of Exhibit A.

g. Contractor agrees to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in any Cooperative Purchasing Agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions. For the purposes of this paragraph, Cooperative Purchasing Agreement shall mean a cooperative

purchasing program facilitating public procurement solicitations and agreements using a lead agency model. This does not include contracts with any federal agency or any federal contract.

32. Right to Publish.

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the public release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

33. Records Administration and Audit.

- a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.
- b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.
- c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

34. Indemnification

- a. General Indemnity. Contractor shall indemnify, defend (to the extent permitted by a state's Attorney General), and hold harmless an Indemnified Party from any claims or causes of action, including attorney's fees, to the extent arising from Contractor's intentional, willful, or negligent acts or omissions; actions that give rise to strict liability; and actions arising from breach of contract or warranty.

"Indemnified Party" means NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

- b. Intellectual Property Indemnification.

1. In the event of any such claim by any third party against the Indemnified Party that Products, Software, Services or Deliverables prepared, produced, or branded by Contractor and delivered pursuant to this Master Agreement infringe or misappropriate that third party's U.S. patent, copyright, trade secret, or other intellectual property rights ("Indemnified Claims"), the Indemnified Party shall promptly notify the Contractor. The Contractor, at its own expense, shall indemnify, defend to the extent permitted by the Indemnified Party's laws, and hold harmless the Indemnified Party against any loss, cost, expense, or liability (including legal fees) arising out of such a claim, whether or not such claim is successful against the Indemnified Party.

2. If Contractor receives prompt notice of such a claim that in the Contractor's opinion is likely to result in an adverse ruling, the Contractor shall at its option (1) obtain a right for the Indemnified Party to continue using such Products, Deliverables, or Software or allow Contractor to continue performing the Services; (2) modify such Products, Software, Services, or Deliverables to make them non-infringing without materially affecting their utility or functionality; (3) replace such Products, Software, Services, or Deliverables with a non-infringing equivalent; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product, Deliverables, or Software.

3. Notwithstanding the foregoing, Contractor shall have no obligation under this Section for any claim resulting or arising from (1) modifications of the Products, Software, Services, or Deliverables that were not performed by, on behalf of, or at the direction of Contractor; (2) the combination, operation, or use of the Products, Software, Services, or Deliverables in connection with a third-party product, software or service (the combination of which causes the claimed infringement); or (3) Contractor's compliance with Indemnified Party's written specifications or directions, including the incorporation of any software or other materials or processes provided by or requested by Indemnified Party. Contractor's duty to indemnify and defend under this Section is contingent upon: (a) Contractor receiving prompt written notice of the third-party claim or action for which Contractor must indemnify Indemnified Party, (b) Contractor having the right to solely control the defense and resolution of such claim or action, unless the Indemnified Party's law requires approval for a third party to defend the Indemnified Party and such approval is not received, and (c) Indemnified Party's cooperation with Contractor in defending and resolving such claim or action. This Section states Indemnified Party's exclusive remedies for any third-party intellectual property claim or action and nothing in this Master Agreement or elsewhere will obligate Contractor to provide any greater indemnity to Indemnified Party.

35. Limitations of Liability

a. The Parties agree that neither Contractor nor the indemnified party shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except any claim related to bodily injury or death; an unauthorized release or breach of not public data as set forth more fully in Minn. Ch. 13; or a claim or demand based on patent, copyright, or other intellectual property infringement.

b. Contractor's liability is limited to 2 times the amount paid by Purchasing Entity to Contractor during the 12 months preceding the date of the dispute concerning any products and services, or \$5,000,000, whichever is greater. This limit on liability does not apply to claims for bodily injury or death or for intellectual property infringement.

c. Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

1. provided by the Contractor or the Contractor's subsidiaries or affiliates;
2. specified by the Contractor to work with the Product; or

3. reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

4. It would be reasonably expected to use the Product in combination with such product, system or method.

36. License of Pre-Existing Intellectual Property.

Intentionally deleted.

37. Assignment of Antitrust Rights.

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

38. Debarment.

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

39. Governing Law and Venue.

- a. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.
- b. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.
- c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

40. Confidentiality, Non-Disclosure, and Injunctive Relief.

- a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

1. Any and all information of any form that is marked as confidential by one party (the "originating party") and is or would by its nature be deemed confidential obtained by the other party or its employees or agents (the "receiving party") in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of the originating party ("Confidential Information").

2. Any reports or other documents or items (including software) that result from the use of the Confidential Information by the receiving party shall be treated in the same manner as the Confidential Information.

3. Confidential Information does not include information that (1) is or becomes (other than by disclosure by the receiving party) publicly known; (2) is furnished by the originating party to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than the originating party without the obligation of confidentiality, (5) is disclosed with the written consent of the originating party or; (6) is independently developed by employees, agents or subcontractors of the receiving party who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. The receiving party shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

1. Each party shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

2. Without limiting the generality of the foregoing, the receiving party shall advise the originating party, and the applicable Participating Entity, and the Lead State if the originating party is a Purchasing Entity, and the Lead State if the originating party is a Participating Entity, immediately if the receiving party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and the receiving party shall at its expense cooperate with advise the originating party in seeking injunctive or other equitable relief in the name of either party against any such person.

3. Except as directed by the originating party, the receiving party will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at the originating party's request, the receiving party shall turn over to the originating party all documents, papers, and other matter in the receiving party's possession that embody Confidential Information.

4. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement, and Purchasing Entity may retain Confidential Information to the extent and for the duration required by applicable law.

c. Injunctive Relief. Each party acknowledges that the other party's breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to originating party that is inadequately compensable in damages. Accordingly, the originating party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item

descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to Paragraph 33 of Exhibit A. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

41. Public Information.

This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

42. Cancellation.

Unless otherwise set forth in this Master Agreement, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate as set forth in Paragraph 44 of Exhibit A.

43. Force Majeure.

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

44. Defaults and Remedies.

- a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
 1. Nonperformance of contractual requirements; or
 2. A material breach of this Master Agreement; or
 3. Any certification, representation or warranty by Contractor in response to the RFP or in this Master Agreement that proves to be untrue or materially misleading; or
 4. Institution of proceedings under any bankruptcy, insolvency, court-ordered reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
 5. Any default specified in another section of this Master Agreement.
- b. Upon the occurrence of an event of default, except for material breach, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 30 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement. The Lead State may immediately terminate this Master Agreement upon material breach of the Master Agreement by Contractor.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

1. Exercise any remedy provided by law; and
2. Terminate this Master Agreement and any related contracts or portions thereof; and
3. Impose liquidated damages as provided in this Master Agreement; and
4. Suspend Contractor from being able to respond to future bid solicitations; and
5. Suspend Contractor's performance; and
6. Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

45. Waiver of Breach.

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

46. Notices.

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile or electronic transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed as follows:

Elizabeth Randa, Acquisition Management Specialist
112 Administration Bldg.
50 Sherburne Avenue
St. Paul, MN 55155
elizabeth.randa@state.mn.us

47. No Waiver of Sovereign Immunity.

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense

or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

Exhibit B: Minnesota Terms and Conditions

1. Change Requests.

The Lead State reserves the right to request, during the term of the Master Agreement, changes to the products offered within the Band(s). Products introduced during the term of the Master Agreement shall go through a formal review process. The process for updating the products offered within a Band is outlined in Paragraph 2 of Exhibit B. The Contractor shall evaluate and recommend products for which agencies have an expressed need. The Lead State shall require the Contractor to provide a summary of its research of those products being recommended for inclusion in the Master Agreement as well as defining how adding the product will enhance the Master Agreement. The Lead State may request that products, other than those recommended, are added to the Master Agreement.

In the event that the Lead State desires to add new products and services that are not included in the original Master Agreement, the Lead State requires that independent manufacturers and resellers cooperate with the already established Contractor in order to meet the Lead State's requirements. Evidence of the need to add products or services should be demonstrated to the Lead State. The Master Agreement shall be modified via supplement or amendment. The Lead State will negotiate the inclusion of the products and services with the Contractor. No products or services will be added to the Master Agreement without the Lead State's prior approval.

2. Product and Service Schedule (PSS).

- a. Creating the Product and Service Schedule (PSS). Contractor will use the attached sample PSS to create and maintain a complete listing of all products and services offered under the Master Agreement. The PSS must conform to the contracted minimum discounts. Contractor may create and maintain a separate PSS for a Participating Entity based on the requirements and restrictions of the Participating Entity.

Contractors are encouraged to provide remote learning bundles for K-12 Education. These bundles can be included in the response to the PSS.

- b. Maintaining the PSS.

1. In General. Throughout the term of the Master Agreement, on a quarterly basis, Contractor may update the PSS to make model changes, add new products or services, or remove obsolete or discontinued products or services. Any updates to the PSS must conform to the Master Agreement requirements, including the scope of the Master Agreement and contracted minimum discounts.

2. Process. Contractor must provide notification to the Lead State of any changes to their PSS using the attached Action Request Form (ARF).

- a) The Lead State does not need to approve Contractor's request to make model changes, add their own manufactured products, or remove discontinued or obsolete products or services, and Contractor does not need the Lead State's approval prior to posting an updated PSS.
- b) The Lead State must approve Contractor's request to add new third party manufacturers to Contractor's PSS. If the proposed third-party manufacturer holds a NASPO Master Agreement for Computer Equipment, Contractor must obtain written authorization from that manufacturer. Contractor must have the Lead State's approval prior to posting the updated PSS.
- c) Contractor must maintain a historic record of all past PSSs on their dedicated NASPO ValuePoint website.

d) Pursuant to the audit provisions of the Master Agreement, upon the request of NASPO ValuePoint, the Lead State, or a Participating Entity, Contractor must provide an historic version of any Baseline Price List.

3. Purchase Orders.

There will be no minimum order requirements or charges to process an individual purchase order. The Participating Addendum number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.). The Ordering Entity's purchase order constitutes a binding contract.

4. Risk of Loss or Damage.

The Purchasing Entity is relieved of all risks of loss or damage to the goods or equipment during periods of transportation, and installation by the Contractor and in the possession of the Contractor or their authorized agent.

5. Payment Card Industry Data Security Standard and Cardholder Information Security.

Contractor assures all of its Network Components, Applications, Servers, and Subcontractors (if any) comply with the Payment Card Industry Data Security Standard ("PCIDSS"). "Network Components" shall include, but are not limited to, Contractor's firewalls, switches, routers, wireless access points, network appliances, and other security appliances; "Applications" shall include, but are not limited to, all purchased and custom external (web) applications. "Servers" shall include, but are not limited to, all of Contractor's web, database, authentication, DNS, mail, proxy, and NTP servers. "Cardholder Data" shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder's account number, expiration date, name, address, social security number, or telephone number.

Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. Contractor must have a business continuity program which conforms to PCIDSS to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and ensure that a representative or agent of the payment card industry and a representative or agent of the Purchasing Entity shall be provided with full cooperation and access to conduct a thorough security review of Contractor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

6. Foreign Outsourcing of Work.

Upon request, the Contractor is required to provide information regarding the location of where services, data storage, and location of data processing under the Master Agreement will be performed.

7. State Audits (Minn. Stat. § 16C.05, subd. 5).

The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Lead State's Legislative Auditor or State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The Lead State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

8. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the contractor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

9. Human Rights/Affirmative Action.

The Lead State requires affirmative action compliance by its Contractors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

- a. Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.
- b. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400 5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552 5000.3559.
- c. Disabled Workers. Minn. R. 5000.3550 provides the Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- (a) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - (b) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - (c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - (d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
 - (e) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- d. Consequences. The consequences of a Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by

the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

e. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

10. Equal Pay Certification.

If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the Lead State may require Contractor to verify its exempt status.

11. Americans with Disabilities Act (ADA).

Products provided under the Master Agreement must comply with the requirements of the Americans with Disabilities Act (ADA). The Contractor's catalog and other marketing materials utilized to offer products under the Master Agreement must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contractor agrees that the customer can assume the product meets or exceeds the ADA requirements.

12. Nonvisual Access Standards.

Pursuant to Minn. Stat. § 16C.145, the Contractor shall comply with the following nonvisual technology access standards:

- a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

13. Accessibility Standards.

Contractor acknowledges and is fully aware that the Lead State (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at: <https://mn.gov/mnit/government/policies/accessibility/>.

The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to

develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.

When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the Lead State in advance of the change, occurring within an agreed upon timeframe sufficient for the state to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the Lead State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the Lead State to consider the Contractor in default.

14. Conflict Minerals.

Contractor agrees to provide information upon request regarding adherence to the Conflict Minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502).

See: <http://beta.congress.gov/111/bills/hr4173/111hr4173enr.pdf#page=838>
<http://www.sec.gov/news/press/2012/2012-163.htm>

15. Hazardous Substances.

To the extent that the goods to be supplied by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable state and federal laws and regulations, the Contractor must provide Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

16. Copyrighted Material Waiver.

The Lead State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the Lead State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response and agrees to indemnify, protect, save and hold the Lead State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the Lead State in the defense of any such action.

17. Publicity.

The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products or services that are the subject of the Master Agreement without the prior written consent of the State's Assistant Director or designee of Office of State Procurement. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

18. Performance While Dispute is Pending.

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Master Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under the Master Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

19. Organizational Conflicts of Interest.

An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a. the Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- b. the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- c. the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Lead State's Department of Administration's Office of State Procurement that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the Master Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Master Agreement and did not disclose the conflict to the Master Agreement Administrator, the Lead State may terminate the Master Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," "Master Agreement", "Master Agreement Administrator" and "Contract Administrator" modified appropriately to preserve the State's rights.

20. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

- a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions. Instructions for certification:

1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding \$25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from federal procurement and nonprocurement programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

21. Government Data Practices.

The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with the Master Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the Lead State. The Lead State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the Lead State.

The Contractor agrees to indemnify, save, and hold the Lead State, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota

Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Master Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Master Agreement, the Contractor shall retain responsibility under the terms of this article for such work.

22. Survivability.

Certain rights and duties of the Lead State and Contractor will survive the expiration or cancellation of the RFP and resulting Master Agreement. These rights and duties include but are not limited to paragraphs: Indemnification; Limitations of Liability; State Audits; Government Data Practices; Governing Law and Venue; Publicity; and Administrative Fees.

23. Severability.

If any provision of the Master Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the Lead State and the Contractor shall be relieved of all obligations arising under such provisions. If the remainder of the Master Agreement is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.

Exhibit C: Requirements

1. Contractor Verification.

Contractor must be a manufacturer of a Product in the Band(s) it is awarded a Master Agreement. "Re-branding" a product that is manufactured by another company does not meet this requirement. If the Contractor ceases production, sells or assigns their manufacturing to another vendor, or otherwise no longer manufactures a product during the life of the Master Agreement the Lead State reserves the right to terminate the Contractor's Master Agreement.

2. Warranty and Maintenance.

Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

3. Website.

Contractor must develop and maintain a URL to a web site specific to the awarded Master Agreement. Contractor's Master Agreement website must offer twenty-four (24) hours per day, seven (7) days per week availability, except for regularly scheduled maintenance times. The website must be separate from the Contractor's commercially available (i.e., public) on-line catalog and ordering systems. No other items or pricing may be shown on the website without written approval from the Lead State

a. Mandatory Specifications:

- Designated Baseline Price List(s) (e.g., MSRP, List, or Education)
- Product and Service Schedule (PSS)
- Product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote,
- Service options and service agreements available on the contract. Please refer to Paragraph 5.
- Contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns
- Sales representatives for participating entities
- Links to environmental certification, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.

b. Desirable Specifications:

- Purchase order tracking
- Information on accessibility and accessible products
- Signed Master Agreement
- Online ordering capability with the ability to remember multiple ship to locations (if applicable to product)
- List of approved partners, if applicable

Within 30 calendar days of the notice of intent to award a Master Agreement, Contractor must provide a sample URL of the Master Agreement webpage to the Lead State for review and approval. The Lead State will review and determine acceptability of the website format and data. If the information is determined to be unacceptable or incorrect, the Contractor will have 15 calendar days to provide revisions to the Lead State. After the Lead State approves the website, Contractor may not make material changes to the website without notifying the Lead State through the ARF process and receiving written approval of the changes.

4. Environmental Certifications.

Contractor must include environmental or supply chain responsibility certifications and registrations for products sold through this Contract on their website. Contractor must provide these certifications and registrations for specific products to Participating Entities upon request.

5. EPEAT Registration.

Contractor agrees that applicable products offered that have EPEAT Standards provided under the Master Agreement must have achieved a minimum EPEAT Bronze registration. This requirement does not apply to Band 3.

Contractor may propose the addition of a product that has not yet achieved a minimum EPEAT Bronze registration. The Lead State, in its sole discretion may require Contractor to provide the following documentation to support the addition of the proposed product:

- A letter from the Green Electronics Council (GEC) on GEC's letterhead confirming that the verification process is underway; or
- A copy of Contractor's GEC contract, Conformity Assurance Board (CAB) contract, and a letter from Contractor's CAB stating that the relevant product has been registered with the CAB and that verification is underway.

The Lead State reserves the right to reject the inclusion of such product, or if approved, require Contractor to remove the product at a later date if the product does not achieve a minimum EPEAT Bronze registration. The Contractor must remove any products that subsequently exit the verification process without achieving EPEAT Bronze or greater from the Master Agreement.

6. Third-Party Products.

Some products offered may be manufactured by a third party. Contractor, however, must provide or facilitate the warranty service and maintenance for all Third-Party Products on the Master Agreement either directly or pass-through from the manufacturer. Contractor may not offer products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment without approval from the Lead State. Warranty for third-party products must be provided by the Contractor. Warranty documents for products manufactured by a third party are preferred to be delivered to the Participating Entity with the products. Contractor can only offer Third-Party Products in a Band they have been awarded.

Third-Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of Contractor's total sales under this Master Agreement. The Lead State may limit the sale of Third-Party Products through the Master Agreement during the life of the Master Agreement should Third-Party Product sales be determined to consistently exceed one third of the total sales under this Master Agreement. Such limitation may take the form of any action the Lead State so chooses, up to and including non-renewal or cancellation of the Master Agreement.

7. Partner Utilization.

If utilizing partners, the Contractor is responsible for the partners providing products and services, as well as warranty service and maintenance for equipment the partner provides. Participating Entities have the option of utilizing partners. Contractor must provide a Participating Entity a copy of its plan for partner utilization upon request. Contractor must make available a list of approved partners for each Participating Entity. Participating Entities must approve specific Partners as outlined within the relevant Participating Addendum, and only partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove partners in their Participating Addendum.

8. 2019 National Defense Authorization Act, Section 889(f)(3).

Under the 2019 National Defense Authorization Act, Section 889(f)(3), the US military is prohibited from purchasing video surveillance and telecommunications equipment from certain Chinese-owned technology firms. While US state are

not subject to this act, there is increasing concern for the security of state data. Contractor certifies for the term of this Master Agreement that it is not subject to laws, rules, or policies potentially requiring disclosure of, or provision of access to, customer data to foreign governments or entities controlled by foreign governments, and that Contractor's Products do not contain, include, or utilize components or services supplied by any entity subject to the same. Contractor also certifies that its Products do not contain, include, or utilize any covered technology prohibited under Section 889 of the National Defense Authorization Act, as amended.

Exhibit D: Pricing Schedule

Attached and incorporated into this Master Agreement as Exhibit D is the Price Schedule.

Exhibit D: Price Schedule

NASPO ValuePoint Computer Equipment (2023-2028)

CONTROL SET

Master Agreement: 23004
Contractor Name: Dell Marketing, LP

Awarded Bands:

- ☒ Band 1: Personal Computing Devices (Windows)
- ☒ Band 2: Personal Computing Devices (Non-Windows)
- ☒ Band 3: Servers and Storage

Band	Category Code	Category Description	Discount off Baseline List
1	1B	Band 1 - Minimum Discount	18.0%
1	1T	Band 1 - Third Party Product Minimum Discount	5.5%
2	2B	Band 2 - Minimum Discount	18.0%
2	2T	Band 2 - Third Party Product Minimum Discount	5.5%
3	3B	Band 3 - Minimum Discount	18.0%
3	3T	Band 3 - Third Party Product Minimum Discount	5.5%
	S-1	Standalone Services	4.0%
	S-2	Warranty Services	4.0%
	S-3	Training and Other Professional Services	4.0%

Exhibit D: Price Schedule**Discount Structure**

Master Agreement: 23004
Contractor Name: Dell Marketing, LP
Baseline Price List: Posted on Contractor's dedicated NASPO ValuePoint website

Band 1: Personal Computer Equipment (Windows OS)

Band	Category Code	Category Description	Discount off Baseline List
1	1B	Band 1 - Minimum Discount	18.0%
1	1B-1	Desktops - Alienware, Inspiron, Vostro, XPS	0.5%
1	1B-2	Notebooks - Alienware, Inspiron, Vostro, XPS	2.5%
1	1B-3	Projectors/Monitors/Other Electronics	2.5%
1	1B-4	Displays	2.5%
1	1B-5	Imaging	2.5%
1	1B-6	Dell Branded - Printer accessories, parts, and toner	1.5%
1	1B-7	Spare Parts related to Band 1	0.5%
1	1B-8	Customer Kits	15.0%
1	1B-9	Ready to Ship configurations	4.0%
1	1T	Band 1 - Third Party Product Minimum Discount	5.5%
1	1T-1	Selected Third Party - Software and Peripherals	0.5%

Band 2: Personal Computer Equipment (Non-Windows OS)

Band	Category Code	Category Description	Discount off Baseline List
2	2B	Band 2 - Minimum Discount	18.0%
2	2B-1	Commercial Chromebooks	15.0%
2	2B-2	Consumer Chromebooks	15.0%
2	2B-3	Projectors/Monitors/Other Electronics	2.5%
2	2B-4	Displays	2.5%
2	2B-5	Imaging	2.5%
2	2B-6	Dell Branded - Printer accessories, parts, and toner	1.5%
2	2B-7	Spare Parts related to Band 2	0.5%
2	2B-8	Customer Kits	15.0%
2	2B-9	Ready to Ship configurations	4.0%
2	2T	Band 2 - Third Party Product Minimum Discount	5.5%
2	2T-1	Selected Third Party - Software and Peripherals (Non-discountable)	0.5%

Band 3: Servers and Storage

Band	Category Code	Category Description	Discount off Baseline List
3	3B	Band 3 - Minimum Discount	18.0%
3	3B-1	Spare Parts related to Band 3	0.5%
3	3B-2	Customer Kits	15.0%
3	3T	Band 3 - Third Party Product Minimum Discount	5.5%
3	3T-1	Selected Third Party - Software and Peripherals	0.5%

Exhibit D: Price Schedule

Volume-Based Discounts

Master Agreement: 23004
Contractor Name: Dell Marketing, LP

Bands 1 & 2

1. Per Transaction Multiple Unit Discount(s)

Contractor provides a contractual volume discount program as follows based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity, or multiple entities conducting a cooperative purchase.

Min \$ Single Transaction	Max \$ Single Transaction	Per Transaction Multiple Unit Discount
\$100,000.00	\$199,999.99	1.0%
\$200,000.00	\$399,999.99	2.0%
\$400,000.00	\$599,999.99	4.0%
\$600,000.00	\$999,999.99	6.0%
\$1,000,000.00	No Maximum	8.0%

Note: Per Transaction Multiple Unit Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers

2. Cumulative Discount(s)

Contractor provides a cumulative volume discount as follows based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement.

Threshold	Discount Level
Up to 2B	0.0%
\$2B to \$4B	1.0%
\$4B to \$6B	2.0%
\$6B to \$8B	3.0%
\$8B to \$10B	4.0%
Greater than \$10B	5.0%

Note: Cumulative Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers

3. Other Discount(s)

none

Band 3

1. Per Transaction Multiple Unit Discount(s)

Contractor provides a contractual volume discount program as follows based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity, or multiple entities conducting a cooperative purchase.

Min \$ Single Transaction	Max \$ Single Transaction	Per Transaction Multiple Unit Discount
\$250,000.00	\$499,999.99	1.0%
\$500,000.00	\$999,999.99	2.0%
\$1,000,000.00	\$1,499,999.99	4.0%
\$1,500,000.00	\$1,999,999.99	6.0%

Note: Per Transaction Multiple Unit Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers.

Exhibit D: Price Schedule

Volume-Based Discounts

2. Cumulative Discount(s)

Contractor provides a cumulative volume discount as follows based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement.

Column1	Discount Level
Up to 2B	0.0%
\$2B to \$4B	1.0%
\$4B to \$6B	2.0%
\$6B to \$8B	3.0%
\$8B to \$10B	4.0%

Greater than \$10B 5.0%

Note: Cumulative Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers.

3. Other Discount(s)

Additional discount(s) available.

none

Exhibit D: Price Schedule

Services

Master Agreement: 23004
Contractor Name: Dell Marketing, LP

Each Purchasing Entity will determine if and how services will be offered in the Participating

Travel for Services will be negotiated with each Participating Entity in the Participating Addendum.

All Awarded Bands		
Category Code	Description of Service	Percent Discount
S-1	Standalone Services	4.0%
S-2	Warranty Services	4.0%
S-3	Training and Other Professional Services	4.0%

Exhibit D: Price Schedule

Lease Rates

Master Agreement: 23004
Contractor Name: Dell Marketing, LP

All Awarded Bands

Optional: Lease Rates

Dell Financial Services (DFS') payment solutions offer flexible end-of term options designed to suit each entity's unique needs. Payment terms are generally from 24 through 60 months and are tailored to match the essential useful life of the equipment to the payment term. Payments can be billed monthly, quarterly, semi-annually or annually.

DFS payment solution rates are adjusted quarterly in accordance with a formula based on fluctuations in treasury notes. Our rates are a function of several factors including estimates of future residual values, prevailing interest rates, borrowing costs, general and administrative expenses, and solution structure. Once a payment schedule has commenced, the rate remains constant for the term of the schedule.

Exhibit D: Price Schedule

Prompt Payment Discount

Master Agreement: 23004
Contractor Name: Dell Marketing, LP

All Awarded Bands

		in 30
		in 15, Net 30
		in 10, Net 30
X		Net 30
	Other (specify):	

Exhibit E: Contractor Terms and Conditions

Attached by reference as Exhibit E are the following Contractor document(s):

- **Software Licenses.** Customer's rights to use the Software delivered by Supplier are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula (the "EULA") shall apply. Supplier will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment.
- **Dell Return Policy.** Customer may return Products to Supplier pursuant to the return policy at www.dell.com/returnspolicy.
- **Equipment Warranty.** Unless provided otherwise in a Schedule, additional terms governing the limited warranties for Equipment are found at <https://www.dell.com/learn/us/en/uscorp1/terms-of-sale-commercial-and-public-sector-warranties?c=us&l=en&s=corp> or in the applicable documentation or Product Notice for the specific Equipment.
- **Product- and Service-Specific Terms.** Scope and details of Services and Product-specific terms are specified in the applicable standard service description that is attached to or referred in a Schedule or Quote, or is made available through the then-current Supplier website for product- or service-specific terms, currently located at www.dell.com/offeringspecificterms. Such standard descriptions are from time to time referred to as "Service Description(s)", "Product Notices" or "Service Briefs." The version of the applicable document that is effective as of the date of the applicable Quote, shall be deemed incorporated into the Order. Scope and details of customized Professional Services not covered by such a standard description shall be documented in a mutually agreed Statement of Work ("SOW").

These Contractor terms and conditions are being provided for **informational purposes only**. They are intended to be negotiated by Contractor and a Participating Entity as part of a Participating Addendum, or by Contractor and a Purchasing Entity as part of an Order, and shall apply only as agreed to in writing by the parties. Unless such terms are expressly accepted in writing, terms in the following document(s) that derogate the application to a Purchasing Entity of a corresponding term in this Master Agreement or applicable Participating Addendum shall be deemed void.

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NUMBER 7-23-70-55-01
Computer Equipment, Peripherals & Related Services
Minnesota NASPO ValuePoint Master Agreement Number 23026
Dell Marketing L.P. (Contractor)

This Participating Addendum Number 7-23-70-55-01 is entered into between the State of California, Department of General Services (hereafter referred to as “State” or “DGS”) and Dell Marketing L.P. (hereafter referred to as “Contractor”) under the lead state of Minnesota NASPO ValuePoint Master Agreement Number 23026.

1. SCOPE

- A. This Participating Addendum covers the purchase of computer equipment (desktops, laptops, tablets, servers, and storage, including related peripherals & services) under the Minnesota NASPO ValuePoint Master Agreement. The Minnesota NASPO ValuePoint Master Agreement is hereby incorporated by reference. Product/service categories included under this Participating Addendum are identified in Section 5 (Available Products and Services).
- B. This Participating Addendum is available for use by California state agencies and local governments. A local government is defined as any city, county, city and county, district, or other local governmental body, school district or corporation empowered to expend public funds. The [State Agency Listing](https://www.ca.gov/agenciesall/) (<https://www.ca.gov/agenciesall/>) provides a comprehensive list of state agencies.
- C. Each local government is to make its own determination whether this Participating Addendum and the Minnesota NASPO ValuePoint Master Agreement are consistent with its procurement policies and regulations.

2. TERM

- A. The term of this Participating Addendum shall begin February 1, 2024, or upon signature approval by the State whichever occurs later, and will end June 30, 2025, or upon termination by the State, whichever occurs first.
- B. Lead state amendments to extend the NASPO ValuePoint Master Agreement term date are not automatically incorporated into this Participating Addendum. Extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.
- C. Order placement and execution shall be on or before the expiration of this Participating Addendum. However, delivery of products or completion of services may be up to 120 days after the Participating Addendum expiration date.

Participating Addendum 7-23-70-55-01

3. TERMS AND CONDITIONS/INCORPORATION OF DOCUMENTS

A. Terms and conditions listed below are hereby incorporated by reference and made a part of this Participating Addendum as if attached herein and shall apply to the purchase of goods or services made under this Participating Addendum.

1) General Provisions – Information Technology (GSPD-401IT) effective 6/21/2022

B. Terms can be viewed on the [DGS Procurement Division website](https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Required-Language-for-Solicitations-and-Contracts) (<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Required-Language-for-Solicitations-and-Contracts>).

4. ORDER OF PRECEDENCE

A. In the event of any inconsistency between the articles, attachments, or provisions which constitute this agreement, the following descending order of precedence shall apply:

- 1) California Participating Addendum Number 7-23-70-55-01
- 2) Minnesota NASPO ValuePoint Master Agreement Number 23026

5. AVAILABLE PRODUCTS AND SERVICES

A. The following product and service offerings from the Minnesota NASPO ValuePoint Master Agreement Number 23026 are allowed under this Participating Addendum:

- 1) Band 1, Personal Computing Devices – Windows Operating Systems:
Desktops, Laptops, Tablets
- 2) Band 2, Personal Computing Devices – Non-Windows Operating Systems:
Desktops, Laptops, Tablets
- 3) Band 3, Servers and Storage

6. RESTRICTIONS/DISALLOWED PRODUCTS AND SERVICES

A. Configuration limits: The dollar limits identified below are based on a SINGLE computer/system configuration. This is NOT a restriction on the purchase of multiple configurations (e.g., an entity could purchase 10 laptops at \$15,000 each, for a total purchase price of \$150,000).

ITEM	CONFIGURATION
Band 1	\$15,000
Band 2	\$15,000
Band 3	\$1,000,000
Peripherals	\$10,000
Services	Addressed in the customer specific Purchase Orders

Participating Addendum 7-23-70-55-01

B. Services must be related to the procurement of equipment.

C. The following restrictions apply to state agency purchases under this Participating Addendum:

- 1) Product and service categories that are available on mandatory California statewide contracts cannot be purchased from this Participating Addendum by state agencies without an exemption. State agencies are responsible for obtaining a mandatory statewide contract exemption from DGS prior to issuing a purchase order.
- 2) Service-only purchases are disallowed. (Exception: Equipment maintenance service purchases are allowed).
- 3) Services that fall within the definition of “public works” as defined in Public Contract Code section 1101 and Labor Code section 1720 are disallowed under this Participating Addendum and must be procured by alternate means. This restriction is not applicable to local governments.
- 4) Leasing/rental is not allowed.
- 5) Professional services are not allowed.
- 6) Cloud services are not allowed.

7. PRICING

- A. Contractor’s pricing is outlined in the Minnesota NASPO ValuePoint Master Agreement Number 23026.
- B. Contractor shall notify the State Contract Administrator of any amendments and pricing adjustments approved and executed by the state of Minnesota.

8. AUTHORIZED RESELLERS

- A. Contractor may use State-approved Authorized Resellers under this Participating Addendum for sales and service functions as defined herein.
 - 1) Authorized Resellers must accept purchase orders and accept payment from ordering agencies for products and services offered under this Participating Addendum.
 - 2) Authorized Resellers are responsible for sending a copy of all purchase orders and invoices to the Contractor for compliance with quarterly usage reporting and administrative fee requirements.
 - 3) All purchase documents to Authorized Resellers shall reference the Participating Addendum Number and Contractor Name.

Participating Addendum 7-23-70-55-01

- B. Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions under this Participating Addendum, even if work is performed by Authorized Resellers. All State policies, guidelines, and requirements shall apply to Authorized Resellers.
- C. Contractor will be the sole point of contact with regard to Participating Addendum contractual matters, reporting, and administrative fee requirements.
- D. Subject to the approval of the State, Authorized Resellers may be added on a quarterly basis during the term of the Participating Addendum. Contractors shall notify the State in writing of any deleted Authorized Resellers or changes to current Authorized Resellers' information at any time.
- E. Contractor will be required to submit Authorized Reseller requests, in a format specified by the State, to the State Contract Administrator for approval.
- F. State-approved Authorized Resellers will be posted on the State's Cal eProcure website.

9. SUBCONTRACTORS

- A. Nothing contained in this Participating Addendum or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor.
- B. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted except for subcontractors listed on the Bidder Declaration (GSPD-05-105) provided to ordering agencies at the time an order is quoted.
- C. As the prime Contractor, Contractor is responsible for reports and fees required by the terms and conditions of the NASPO ValuePoint Master Agreement and Participating Addendum.
- D. Any subcontract in excess of \$25,000, entered into as a result of this Participating Addendum, shall contain all the provisions stipulated in this Participating Addendum to be applicable to subcontractors.

10. ORDERING AGENCY RESPONSIBILITIES

- A. State agency and local government use of this Participating Addendum is optional.
- B. State agencies and local governments must follow the ordering procedures outlined within the User Instructions guide, administered by the State Contract Administrator, to execute orders against this Participating Addendum. User Instructions are posted on the State's Cal eProcure website.
- C. All purchase orders executed under this Participating Addendum shall include the Participating Addendum Number 7-23-70-55-01.

11. STATE AGENCY BUY RECYCLED CAMPAIGN (SABRC)

- A. State agencies are required to report purchases made within the eleven product categories in the California Department of Resources Recycling and Recovery's State Agency Buy Recycled Campaign (SABRC) per Public Contract Code sections 12200-12217.
- B. Contractor will be required to complete and return a [Postconsumer Recycled-Content Certification form](https://calrecycle.ca.gov/buyrecycled/stateagency/vendored/form74guide/) (https://calrecycle.ca.gov/buyrecycled/stateagency/vendored/form74guide/) upon request by the state agency.

12. DELIVERY

- A. Delivery shall occur within 30 days after receipt of order, or as negotiated between ordering agency and Contractor and included in the purchase order, or as otherwise stipulated in the NASPO ValuePoint Master Agreement.
- B. Free On Board (F.O.B.) Destination, freight prepaid by the Contractor, to the ordering agency's receiving point.

13. INVOICING AND PAYMENT

- A. Payment will be made in accordance with IT General Provisions Paragraph 30 (Required Payment Date).
- B. Invoices shall be sent to the address identified in the ordering agency's purchase order. The Participating Addendum Number and ordering agency purchase order number shall appear on each invoice for all purchases placed under this Participating Addendum.
- C. Contractor does not accept the State of California credit card (CAL-Card) for payment of invoices.

14.USAGE REPORTING

- A. Contractor shall submit usage reports on a quarterly basis to the State Contract Administrator for all California entity purchases using the report template attached hereto as Attachment A. The report is due even when there is no activity.
- B. The State Contract Administrator reserves the right to modify Attachment A and require Contractor to provide additional order information during the course of this Participating Addendum.
- C. The report shall be an Excel spreadsheet transmitted electronically to the [DGS Cooperatives mailbox](mailto:PDCooperatives@dgs.ca.gov) (PDCooperatives@dgs.ca.gov).
- D. Any report that does not follow the required format or that excludes information will be deemed incomplete. Contractor will be responsible for submitting corrected reports within five (5) business days of the date of written notification from the State.
- E. Tax must not be included in the report, even if it is on the purchase order.
- F. Reports are due for each quarter as follows:

Reporting Period	Due Date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

- G. Failure to meet reporting requirements and submit the reports on a timely basis shall constitute grounds for suspension of this Participating Addendum.
- H. Time extensions may be approved only if all due reports have been submitted to the State.

15.ADMINISTRATIVE FEE

- A. Contractor is required to remit to DGS an administrative fee amount equal to 1.25% of the sales for the quarterly reporting period less freight, taxes, returned products and credits. (For example, if the net sales for the reporting quarter totals \$100,000.00, the incentive fee due to DGS would be \$1,250.00.)
- B. The administrative fee shall not be included as an adjustment to Contractor's NASPO ValuePoint Master Agreement pricing.
- C. The administrative fee shall not be invoiced or charged to the ordering agency.

Participating Addendum 7-23-70-55-01

- D. Payment of the administrative fee is due irrespective of payment status from ordering agencies.
- E. Payment may be made in the form of an electronic payment using the [LPA Payment Portal website](https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Access-LPA-Payment-Portal) (https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Access-LPA-Payment-Portal) or by submitting a check payable to the State of California, Department of General Services.
- F. Administrative fee payments made by check must include the Participating Addendum Number on the check and be submitted to the following address:

Department of General Services
 Procurement Division
 Attn: MAPS Payment Processing
 707 Third Street, 2nd Floor
 West Sacramento, CA 95605

- G. Administrative fee payments are due for each quarter as follows:

Reporting Period	Due Date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

- H. Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of this Participating Addendum.

16. CONTRACT MANAGEMENT

- A. The primary Contractor Contract Manager for this Participating Addendum shall be as follows:

Contractor	Contract Manager
Name:	Ashley Salinas
Phone:	(512) 542-1237
Fax:	n/a
Email	A.Salinas@dell.com
Address:	Dell Marketing L.P. Attn: Ashley Salinas One Dell Way Round Rock, TX 78682

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B. The State Contract Administrator for this Participating Addendum shall be as follows:

State	Contract Administrator
Name:	Katelynne Leisenring
Phone:	(279) 946-8129
Email	katelynne.leisenring@dgs.ca.gov
Address:	State of California Department of General Services Procurement Division 707 Third Street, 2nd Floor, MS 2-202 West Sacramento, CA 95605

C. Should the contact information for either party change, the party will provide written notice with updated information no later than ten (10) business days after the change.

17. TERMINATION OF AGREEMENT

The State may terminate this Participating Addendum at any time upon 30 days prior written notice to the Contractor. Upon termination or other expiration of this Participating Addendum, each party will assist the other party in orderly termination of the Participating Addendum and the transfer of all assets, tangible, and intangible, as may facilitate the orderly, non-disrupted business continuation of each party. This provision shall not relieve the Contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

18. AMENDMENT

No amendment or variation of the terms of this Participating Addendum shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Participating Addendum is binding on any of the parties.

19. NEWS RELEASES

Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Participating Addendum shall not be made without prior written approval from the State.

20. EXECUTIVE ORDER N-6-22 – RUSSIA SANCTIONS

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Participating Addendum. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least thirty (30) calendar days to provide a written response. Termination shall be at the sole discretion of the State.

21. AGREEMENT

- A. This Participating Addendum and the Master Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations, or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the Master Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum or the Master Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Master Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.
- B. By signing this Participating Addendum, Contractor agrees to offer the same products/services available on the Minnesota NASPO ValuePoint Master Agreement Number 23026, at prices equal to or lower than the prices on that agreement.

Participating Addendum 7-23-70-55-01

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

CONTRACTOR

Department of General Services

Dell Marketing L.P.

Agency Name

Contractor Name

Julie Matthews Digitally signed by Julie Matthews
Date: 2024.01.23 13:54:09
+08'00'

1/23/2024

Katherine Castillo 01/22/2024

Authorized Signature

Authorized Signature

Date Signed

Authorized Signature

Date Signed

Julie Matthews, MAU2 Supervisor

Katherine Castillo- Paralegal Advisor

Printed Name/Title of Person Signing

Printed Name/Title of Person Signing

707 Third Street

One Dell Way

West Sacramento, CA 95605

Round Rock, TX 78682

Address

Address

EXHIBIT C

City's Insurance and Indemnity

Exhibit C

Insurance and Indemnity

INDEMNIFICATION

To the furthest extent allowed by law, VENDOR shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, VENDOR or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this agreement), arising or alleged to have arisen directly or indirectly out of performance of this Contract. VENDOR'S obligations under the preceding sentence shall apply regardless of whether CITY or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of CITY or any of its officers, officials, employees, agents or volunteers.

If VENDOR should subcontract all or any portion of the work to be performed under this Contract, VENDOR shall require each subcontractor to indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

INSURANCE REQUIREMENTS

(a) Throughout the life of this Agreement, VENDOR shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time and in his/her sole discretion. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, VENDOR or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to VENDOR shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this

Agreement. No action taken by CITY pursuant to this section shall in any way relieve VENDOR of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by VENDOR shall not be deemed to release or diminish the liability of VENDOR, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by VENDOR. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of VENDOR, vendors, suppliers, invitees, contractors, sub-contractors, subcontractors, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Technology Liability (Errors and Omissions) insurance appropriate to VENDOR'S profession. Coverage shall be sufficiently broad to respond to duties and obligations as is undertaken by VENDOR in this agreement and shall include but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private

information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

5. Cyber Liability (Privacy and Data breach) insurance appropriate to VENDOR'S profession.

MINIMUM LIMITS OF INSURANCE

VENDOR shall procure and maintain for the duration of the contract, and for 5 years thereafter, insurance with limits of liability not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. COMMERCIAL GENERAL LIABILITY

- (i) \$1,000,000 per occurrence for bodily injury and property damage;
- (ii) \$1,000,000 per occurrence for personal and advertising injury;
- (iii) \$2,000,000 aggregate for products and completed operations; and,
- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. COMMERCIAL AUTOMOBILE LIABILITY

\$1,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation Insurance as required by the State of California with statutory limits and EMPLOYER'S LIABILITY with limits of liability not less than:

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

4. TECHNOLOGY PROFESSIONAL LIABILITY :

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate.

5. CYBER LIABILITY insurance with limits of not less than:

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate

UMBRELLA OR EXCESS INSURANCE

In the event VENDOR purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

VENDOR shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and VENDOR shall also be responsible for payment of any self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

- (i) All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice has been given to CITY, except ten (10) days for nonpayment of premium. VENDOR is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, VENDOR shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, VENDOR shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

- (ii) The Commercial General and Automobile Liability insurance policies shall be written on an occurrence form.
- (iii) The Commercial General and Automobile Liability insurance policies shall be endorsed to name City, its officers, officials, agents, employees and volunteers as an additional insured all ongoing and completed operations. Additional Insured endorsements under the General Liability policy must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.
- (iv) The Commercial General and Automobile Liability insurance shall contain, or be endorsed to contain, that VENDOR'S insurance shall be primary to and require no contribution from the City. Primary and Non Contributory language under the General Liability policy must be as broad as that contained in ISO Form CG 20 01 04 13. These coverages shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents and volunteers.
- (v) Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.
- (vi) All insurance policies required herein shall contain, or be endorsed to contain, a waiver of subrogation as to CITY, its officers, officials, agents, employees and volunteers.

The Cyber and Technology Professional Liability insurance shall cover claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information (including credit monitoring costs), alteration of electronic information, extortion and network security. Such coverage is required for claims involving any professional services for which VENDOR is engaged with the City for such length of time as necessary to cover any and all claims

If the Technology Professional and Cyber Liability insurance policies) are written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by VENDOR.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or

the commencement of work by VENDOR, VENDOR must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to CITY for review.

5. These requirements shall survive expiration or termination of the Agreement.

Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

PROVIDING OF DOCUMENTS

VENDOR shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required herein. All certificates and applicable endorsements are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, VENDOR shall immediately furnish CITY with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement. All subcontractors working under the direction of VENDOR shall also be required to provide all documents noted herein.

SUBCONTRACTORS

If VENDOR subcontracts any or all of the services to be performed under this Agreement, VENDOR shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, VENDOR will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

EXHIBIT D

VENDOR QUOTE

WMD + RASWAS Storage Refresh

City of Fresno

by

Sarah Reynolds
Senior Account Manager and Team Lead
The [RE]DESIGN Group
sreynolds@redesign-group.com

for

Luke Draper
City of Fresno
luke.draper@fresno.gov

NASPO Contract Code

Description	Qty
Master Contract Code: California NASPO Participating Addendum No. 7-23-70-55-01 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program	
Contract Number: No. 23026 NASPO ValuePoint Cooperative Purchasing Program	
Contractor Name: Dell Marketing L.P.	
[re]DESIGN Unique Contract Number: C000001148050	
Contact Website: https://www.naspovaluepoint.org/portfolio/computer-equipment-peripherals-related-services-2023-2028/dell-marketing-lp/	

(1) Dell UnityXT 380H Storage Array [WMD]

Description		Price	Qty	Ext. Price
BUILD	(1) Dell UnityXT 380H Storage Array [WMD] with 60 Months ProSupport 4 Hour	\$116,421.00	1	\$116,421.00
~~210-ASKK~~	~~Unity XT 380 DPE 25 x 2.5 Dell FLD RCK~~		1	
~~400-BGCO~~	~~Unity SYSPACK 4X600GB 10K SAS 25X2.5~~		1	
~~528-CNRZ~~	~~File Level Retention=IC~~		1	
~~528-CNSB~~	~~Unity ISCSI=IC~~		1	
~~528-CNSC~~	~~Unity NFS=IC~~		1	
~~528-CNSD~~	~~File System Events Publishing=IC~~		1	
~~528-CNSF~~	~~Unity VASA/vVols=IC~~		1	
~~528-CNSG~~	~~Unity FAST Cache=IC~~		1	
~~528-CNSH~~	~~Unity Replication=IC~~		1	
~~528-CNSI~~	~~Unity Quality of service=IC~~		1	
~~528-CNSJ~~	~~Unity ESA Adapter=IC~~		1	
~~528-CNSK~~	~~Inline Compression=IC~~		1	
~~528-CNSL~~	~~Unity EMC Proactive Assist=IC~~		1	
~~528-CNSM~~	~~Cloud Tiering~~		1	
~~528-CNSN~~	~~Unity Local Copies~~		1	
~~528-CNSO~~	~~Unity Fibre Channel=IC~~		1	
~~528-CNSP~~	~~Unity FAST VP=IC~~		1	
~~528-CNSQ~~	~~Unity Antivirus=IC~~		1	
~~528-CNSS~~	~~Operating System V4.0=IC~~		1	

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(1) Dell UnityXT 380H Storage Array [WMD]

Description		Price	Qty	Ext. Price
528-CNST	Unity CIFS=IC		1	
~~528-CNSU~~	~~Unity Thin provisioning=IC~~		1	
~~528-CNSV~~	~~Unity Unisphere=IC~~		1	
~~528-CNSW~~	~~IP Multi-Tenancy=IC~~		1	
~~406-BBNC~~	~~Unity CNA 4x10GbE OPT SFPs~~		1	
~~343-BBMP~~	~~Unity 380 DPE Install Kit~~		1	
379-BDOI	Pair of C13/C14 cables (Highline Power) or C19/C20 cables (480/680 Lowline Power) included with DPE		1	
~~379-BDPD~~	~~ISG Product (info)~~		1	
~~876-5068~~	~~Dell Hardware Limited Warranty~~		1	
~~890-5196~~	~~ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended~~		1	
~~890-5197~~	~~ProSupport 4-Hour 7x24 Onsite Service 3 Years~~		1	
~~890-5272~~	~~ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years~~		1	
~~955-9041~~	~~Dell Hardware Limited Warranty Plus On Site Service Extended Year~~		1	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		1	
~~825-8624~~	~~Certified Deployment Partner T2~~		1	
~~826-9748~~	~~ProSupport, Software Support Maintenance 5 Years~~		1	
~~400-BEXP~~	~~Unity 400GB FAST CACHE 25X2.5 SSD~~		3	
~~400-BFXS~~	~~Unity 600GB 10K SAS 25X2.5 DRIVE~~		10	
~~400-BFXU~~	~~D4 800GB SAS FLASH 25X2.5 SSD~~		6	
~~565-BBIE~~	~~UNITY 2X4 PORT IO 25GBE OPT~~		1	
~~470-ADQW~~	~~Unity 2x3M OM4 Fiber CBL~~		4	
~~891-3380~~	~~ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years~~		14	
~~891-3388~~	~~ProSupport 4-Hour 7x24 Onsite Low Capacity SSD Add On 5 Years~~		9	
~~210-ASLH~~	~~Unity XT 3U 15x3.5 DAE FLD RCK~~		2	
~~800-BBQV~~	~~Informational Purposes Only~~		2	
~~379-BDPD~~	~~ISG Product (info)~~		2	

[re]

(1) Dell UnityXT 380H Storage Array [WMD]

Description		Price	Qty	Ext. Price
876-4863	Dell Hardware Limited Warranty		2	
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended		2	
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years		2	
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		2	
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended Year		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
825-8623	Certified Deployment Partner T1 or Distributors		2	
400-BFVT	D4 12TB NLSAS 15X3.5 DRIVE		22	
470-AEBH	Unity 2x2M DAE SAS CBL		2	
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years		22	
			Subtotal:	\$116,421.00

(2) Dell PowerEdge R660xs Servers [RAS/WAS]

Description		Price	Qty	Ext. Price
BUILD	(2) Dell PowerEdge R660xs Servers [RAS/WAS] with 60 Months ProSupport 4 Hour	\$45,276.00	1	\$45,276.00
210-BFUZ	PowerEdge R660xs		2	
461-AAIG	Trusted Platform Module 2.0 V5		2	
470-AFQI	2.5" Chassis with up to 8 Hard Drives (SAS/SATA), 2 CPU		2	
338-CPBV	Intel Xeon Gold 6526Y 2.8G, 16C/32T, 20GT/s, 37.5M Cache, Turbo, HT (195W) DDR5-5200		2	
338-CPBV	Intel Xeon Gold 6526Y 2.8G, 16C/32T, 20GT/s, 37.5M Cache, Turbo, HT (195W) DDR5-5200		2	
379-BDCO	Additional Processor Selected		2	
412-ABEQ	Heatsink for 2 CPU configuration (CPU more than 150W)		2	
370-AAIP	Performance Optimized		2	
370-BBRX	5600MT/s RDIMMs		2	
780-BCDN	RAID 1		2	
405-AAZB	PERC H755 SAS Front		2	

[re]

(2) Dell PowerEdge R660xs Servers [RAS/WAS]

Description		Price	Qty	Ext. Price
750-ACFR	Front PERC Mechanical Parts, front load		2	
384-BBBL	Performance BIOS Settings		2	
800-BBDM	UEFI BIOS Boot Mode with GPT Partition		2	
387-BBEY	No Energy Star		2	
384-BDJC	Standard Fan X7		2	
450-AKLF	Dual, Redundant(1+1), Hot-Plug Power Supply,1100W MM(100-240Vac) Titanium		2	
330-BCBZ	Riser Config 2, Low Profile, 1x16 LP Slots (Gen4) + 1x16 LP Slot (Gen5), 2CPU		2	
338-CNWJ	PowerEdge R660xs Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM, MX, MLK		2	
379-BFXT	Dell Connectivity Client - Disabled		2	
634-CYDF	Dell Connectivity Module		2	
528-COYT	Secured Component Verification		2	
528-CTID	iDRAC9, Datacenter 16G		2	
528-CTZH	OpenManage Enterprise Advanced Plus		2	
540-BCRX	Broadcom 57504 Quad Port 10/25GbE, SFP28, OCP 3.0 NIC		2	
325-BEUF	Dell Luggage Tag, 0/6/8/10		2	
325-BEUG	PowerEdge 1U LCD Bezel		2	
350-BCEM	No Quick Sync		2	
379-BCSF	iDRAC,Factory Generated Password		2	
379-BCQX	iDRAC Service Module (ISM), NOT Installed		2	
379-BCQY	iDRAC Group Manager, Disabled		2	
634-BJCK	VMware ESXi NFI (License Not Included)		2	
605-BBFN	No Media Required		2	
770-BBHJ	No Rack Rails or Cable Management Arm		2	
340-DCZI	PowerEdge R660xs Shipping		2	
340-DEKP	PowerEdge R660xs, 8x2.5, Short Drive Shipping Material		2	

[re]

(2) Dell PowerEdge R660xs Servers [RAS/WAS]

Description		Price	Qty	Ext. Price
389-FBMC	PowerEdge R660xs HS5610 Label, CCC Marking, No CE Marking, for below 1300W PSU		2	
~~892-9164~~	~~Dell Hardware Limited Warranty Plus On-Site Service~~		2	
~~898-5129~~	~~ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended~~		2	
~~898-5184~~	~~ProSupport 4-Hour 7x24 Onsite Service 3 Years~~		2	
~~898-5374~~	~~ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years~~		2	
~~975-3462~~	~~Dell Limited Hardware Warranty Plus Service, Extended Year(s)~~		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
~~825-8624~~	~~Certified Deployment Partner T2~~		2	
~~370-BBRY~~	~~32GB RDIMM, 5600MT/s, Dual Rank~~		32	
400-AZUT	480GB SSD SATA Mixed Use 6Gbps 512e 2.5in Hot-plug AG Drive, 3 DWPD		4	
492-BBDI	C13 to C14, PDU Style, 12 AMP, 6.5 Feet (2m) Power Cord, North America		4	
540-BDGV	Broadcom 57414 Dual Port 10/25GbE SFP28 Adapter, PCIe Low Profile, V2		2	
~~407-BCGJ~~	~~SFP28 SR Optic, 25GbE, 85C~~		8	
~~770-BCKW~~	~~ReadyRails Sliding Rails Without Cable Management Arm, CK~~		2	
~~770-BBIE~~	~~1U Cable Management Arm, Customer Kit~~		2	
~~210-ASKK~~	~~Unity XT 380 DPE 25 x 2.5 Dell FLD RCK~~		1	
~~400-BGCO~~	~~Unity SYSPACK 4X600GB 10K SAS 25X2.5~~		1	
~~528-CNRZ~~	~~File Level Retention=IC~~		1	
~~528-CNSB~~	~~Unity ISCSI=IC~~		1	
~~528-CNSC~~	~~Unity NFS=IC~~		1	
~~528-CNSD~~	~~File System Events Publishing=IC~~		1	
~~528-CNSF~~	~~Unity VASA/vVols=IC~~		1	
~~528-CNSG~~	~~Unity FAST Cache=IC~~		1	
~~528-CNSH~~	~~Unity Replication=IC~~		1	
~~528-CNSI~~	~~Unity Quality of service=IC~~		1	

[re]

(2) Dell PowerEdge R660xs Servers [RAS/WAS]

Description		Price	Qty	Ext. Price
528-CNSJ	Unity ESA Adapter=IC		1	
528-CNSK	Inline Compression=IC		1	
528-CNSL	Unity EMC Proactive Assist=IC		1	
528-CNSM	Cloud Tiering		1	
528-CNSN	Unity Local Copies		1	
528-CNSO	Unity Fibre Channel=IC		1	
528-CNSP	Unity FAST VP=IC		1	
528-CNSQ	Unity Antivirus=IC		1	
528-CNSS	Operating System V4.0=IC		1	
528-CNST	Unity CIFS=IC		1	
528-CNSU	Unity Thin provisioning=IC		1	
528-CNSV	Unity Unisphere=IC		1	
528-CNSW	IP Multi-Tenancy=IC		1	
406-BBNC	Unity CNA 4x10GbE OPT SFPs		1	
343-BBMP	Unity 380 DPE Install Kit		1	
379-BDOI	Pair of C13/C14 cables (Highline Power) or C19/C20 cables (480/680 Lowline Power) included with DPE		1	
379-BDPD	ISG Product (info)		1	
876-5068	Dell Hardware Limited Warranty		1	
890-5196	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended		1	
890-5197	ProSupport 4-Hour 7x24 Onsite Service 3 Years		1	
890-5272	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		1	
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended Year		1	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		1	
825-8624	Certified Deployment Partner T2		1	
826-9748	ProSupport, Software Support Maintenance 5 Years		1	
400-BEXP	Unity 400GB FAST CACHE 25X2.5 SSD		3	

[re]

(2) Dell PowerEdge R660xs Servers [RAS/WAS]

Description		Price	Qty	Ext. Price
400-BFXS	Unity 600GB 10K SAS 25X2.5 DRIVE		10	
400-BFXU	D4 800GB SAS FLASH 25X2.5 SSD		6	
565-BBIE	UNITY 2X4 PORT IO 25GBE OPT		1	
470-ADQW	Unity 2x3M OM4 Fiber CBL		4	
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years		14	
891-3388	ProSupport 4-Hour 7x24 Onsite Low Capacity SSD Add On 5 Years		9	
210-ASLH	Unity XT 3U 15x3.5 DAE FLD RCK		2	
800-BBQV	Informational Purposes Only		2	
379-BDPD	ISG Product (info)		2	
876-4863	Dell Hardware Limited Warranty		2	
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended		2	
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years		2	
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		2	
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended Year		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
825-8623	Certified Deployment Partner T1 or Distributors		2	
400-BEVT	D4 12TB NLSAS 15X3.5 DRIVE		22	
470-AEBH	Unity 2x2M DAE SAS CBL		2	
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years		22	
			Subtotal:	\$45,276.00

(1) Dell UnityXT 380H Storage Array [RAS/WAS]

Description		Price	Qty	Ext. Price
BUILD	(1) Dell UnityXT 380H Storage Array [RAS/WAS] with 60 Months ProSupport 4 Hour	\$116,421.00	1	\$116,421.00
210-ASKK	Unity XT 380 DPE 25 x 2.5 Dell FLD RCK		1	
400-BGCO	Unity SYSPACK 4X600GB 10K SAS 25X2.5		1	
528-CNRZ	File Level Retention=IC		1	

[re]

(1) Dell UnityXT 380H Storage Array [RAS/WAS]

Description		Price	Qty	Ext. Price
528-CNSB	Unity ISCSI=IC		1	
528-CNSC	Unity NFS=IC		1	
528-CNSD	File System Events Publishing=IC		1	
528-CNSF	Unity VASA/vVols=IC		1	
528-CNSG	Unity FAST Cache=IC		1	
528-CNSH	Unity Replication=IC		1	
528-CNSI	Unity Quality of service=IC		1	
528-CNSJ	Unity ESA Adapter=IC		1	
528-CNSK	Inline Compression=IC		1	
528-CNSL	Unity EMC Proactive Assist=IC		1	
528-CNSM	Cloud Tiering		1	
528-CNSN	Unity Local Copies		1	
528-CNSO	Unity Fibre Channel=IC		1	
528-CNSP	Unity FAST VP=IC		1	
528-CNSQ	Unity Antivirus=IC		1	
528-CNSS	Operating System V4.0=IC		1	
528-CNST	Unity CIFS=IC		1	
528-CNSU	Unity Thin provisioning=IC		1	
528-CNSV	Unity Unisphere=IC		1	
528-CNSW	IP Multi-Tenancy=IC		1	
406-BBNC	Unity CNA 4x10GbE OPT SFPs		1	
343-BBMP	Unity 380 DPE Install Kit		1	
379-BDOI	Pair of C13/C14 cables (Highline Power) or C19/C20 cables (480/680 Lowline Power) included with DPE		1	
379-BDPD	ISG Product (info)		1	
876-5068	Dell Hardware Limited Warranty		1	
890-5196	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended		1	
890-5197	ProSupport 4-Hour 7x24 Onsite Service 3 Years		1	

[re]

(1) Dell UnityXT 380H Storage Array [RAS/WAS]

Description		Price	Qty	Ext. Price
890-5272	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		1	
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended Year		1	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		1	
825-8624	Certified Deployment Partner T2		1	
826-9748	ProSupport, Software Support Maintenance 5 Years		1	
400-BFXP	Unity 400GB FAST CACHE 25X2.5 SSD		3	
400-BFXS	Unity 600GB 10K SAS 25X2.5 DRIVE		10	
400-BFXU	D4 800GB SAS FLASH 25X2.5 SSD		6	
565-BBIE	UNITY 2X4 PORT IO 25GBE OPT		1	
470-ADQW	Unity 2x3M OM4 Fiber CBL		4	
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years		14	
891-3388	ProSupport 4-Hour 7x24 Onsite Low Capacity SSD Add On 5 Years		9	
210-ASLH	Unity XT 3U 15x3.5 DAE FLD RCK		2	
800-BBQV	Informational Purposes Only		2	
379-BDPD	ISG Product (info)		2	
876-4863	Dell Hardware Limited Warranty		2	
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended		2	
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years		2	
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		2	
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended Year		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
825-8623	Certified Deployment Partner T1 or Distributors		2	
400-BEVT	D4 12TB NLSAS 15X3.5 DRIVE		22	
470-AEBH	Unity 2x2M DAE SAS CBL		2	
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years		22	

Subtotal: \$116,421.00

[re]

Implementation

Description		Price	Qty	Ext. Price
IMPLEM	Implementation Services Included	\$0.00	1	\$0.00
			Subtotal:	\$0.00

Incentives

Description		Price	Qty	Ext. Price
~~TBINC2025~~	~~Time-Bound Incentive: Signed Quote by Oct 24th, 2025~~	~~(\$25,000.00)~~	~~1~~	~~(\$25,000.00)~~
			Subtotal:	(\$25,000.00)

Cost Breakdown

Description			Qty
HW \$182,705.82			
SW \$653.66			
SUP \$74,758.52			

[re]

WMD + RASWAS Storage Refresh



Prepared by:
The [RE]DESIGN Group
Sarah Reynolds
405.831.8395
sreynolds@redesign-group.com

Prepared for:
City of Fresno
5607 W. Jensen Ave Fresno,
CA 93706
Luke Draper
luke.draper@fresno.gov

Quote Information:
Quote #: 005781
Version: 1
Delivery Date: 09/02/2025
Expiration Date: 12/10/2025

Quote Summary

Description	Amount
(1) Dell UnityXT 380H Storage Array [WMD]	\$116,421.00
(2) Dell PowerEdge R660xs Servers [RAS/WAS]	\$45,276.00
(1) Dell UnityXT 380H Storage Array [RAS/WAS]	\$116,421.00
Implementation	\$0.00
Incentives	(\$25,000.00)
Subtotal:	\$258,118.00
Estimated Tax:	\$21,498.27
Total:	\$279,616.27

Acceptance and Incorporation by Reference

Acceptance of this Order Form is binding and the above item(s) will be purchased in reliance thereon. All sales are final. After orders are placed, a final invoice will be provided that shall include all applicable taxes and shipping charges not included herein.

The hardware purchases under this Order Form shall be governed by the (State) NASPO Participating Addendum under the Master Agreement No. (Contract # C000001148050) ValuePoint Cooperative Purchasing Program (the "Agreement"). The implementation services shall be governed by the Cooperative Purchasing Agreement attached to this document as Exhibit A.

This Order Form is effective as of the date both parties have signed below (the "Effective Date"). Both Provider and Client are sometimes referred to individually as a "Party", or together as the "Parties". Any capitalized terms in this Order Form not directly defined are referred to in the Agreement. There will be no Deliverables in this Order Form as defined in the Agreement. If there is a conflict between this Order Form and the Agreement, the Agreement will control.

The parties hereby agree that electronic signatures to this Order Form shall be relied upon and will bind them to the obligations stated herein. Each party hereby warrants and represents that it has the express authority to execute this Agreement(s).

The parties, acting through their authorized officers, hereby execute this Agreement.

[re]

The [RE]DESIGN Group

City of Fresno

Signature: _____

Name: _____

Title: _____

Date: _____

Signature: _____

Name: _____

Title: _____

Date: _____



[re]DESIGN

The [RE]DESIGN Group
2629 Manhattan Ave, Suite 307
Hermosa Beach, CA 90254

The Future Belongs to the Curious

redesign-group.com

Switch Refresh

Fresno, City of (CA)

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stephanie.ciehoski@fresno.gov

Contract Code

Description	Qty
Master Contract Code: California NASPO Participating Addendum No. 7-23-70-55-01 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program	
Contract Number: No. 23026 NASPO ValuePoint Cooperative Purchasing Program	
Contractor Name: Dell Marketing L.P.	
Contact Website: https://www.naspovaluepoint.org/portfolio/computer-equipment-peripherals-related-services-2023-2028/dell-marketing-lp/	

(4) Dell PowerSwitch S5224 Switches

Description		Price	Qty	Ext. Price
BUILD	(4) Dell Powerswitch S5224 switches with with 60 months ProSupport 4 hour	\$48,154.00	1	\$48,154.00
210-APHT	Dell EMC S5224F-ON Switch 24x 25GbE SFP28 4x 100GbE QSFP28 ports PSU to IO air 2x PSU		2	
343-BBLP	Dell EMC S52XX-ON Series User Guide		2	
634-BRWJ	OS10 Enterprise S5224F-ON		2	
818-4983	Dell Hardware Limited Warranty 1 Year		2	
892-0646	ProSupport 4-Hour 7x24 Onsite Service 1 Year		2	
892-0650	ProSupport 4-Hour 7x24 Onsite Service 4 Years Extended		2	
892-0863	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years		2	
975-3461	Dell Limited Hardware Warranty Extended Year(s)		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
997-6306	Info 3rd Party Software Warranty provided by Vendor		2	
825-8624	Certified Deployment Partner T2		2	
848-8539	5 Years ProSupport OS10 Enterprise Software Support-Maintenance		2	
407-BDDG	Dell Networking Transceiver SFP+ 1/10GBASE-T 30m rate-adaptive		4	
470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper Direct Attach Cable 0.5 Meter		2	
470-BBCX	Dell Networking Cable SFP28 to SFP28 25GbE Passive Copper Twinax Direct Attach Cable 3 Meter		16	
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US QTY 2		2	
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US QTY 2		2	

[re]

(4) Dell PowerSwitch S5224 Switches

Description		Price	Qty	Ext. Price
210-APHT	Dell EMC S5224F-ON Switch 24x 25GbE SFP28 4x 100GbE QSFP28 ports PSU to IO air 2x PSU		2	
~~343-BBLP~~	~~Dell EMC S52XX-ON Series User Guide~~		2	
~~634-BRWJ~~	~~OS10 Enterprise S5224F-ON~~		2	
~~818-4983~~	~~Dell Hardware Limited Warranty 1 Year~~		2	
~~892-0646~~	~~ProSupport 4-Hour 7x24 Onsite Service 1 Year~~		2	
~~892-0650~~	~~ProSupport 4-Hour 7x24 Onsite Service 4 Years Extended~~		2	
~~892-0863~~	~~ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Years~~		2	
~~975-3461~~	~~Dell Limited Hardware Warranty Extended Year(s)~~		2	
989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		2	
~~997-6306~~	~~Info 3rd Party Software Warranty provided by Vendor~~		2	
~~825-8624~~	~~Certified Deployment Partner T2~~		2	
~~848-8539~~	~~5 Years ProSupport OS10 Enterprise Software Support-Maintenance~~		2	
~~407-BDDG~~	~~Dell Networking Transceiver SFP+ 1/10GBASE-T 30m rate-adaptive~~		4	
470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper Direct Attach Cable 0.5 Meter		2	
470-BBCX	Dell Networking Cable SFP28 to SFP28 25GbE Passive Copper Twinax Direct Attach Cable 3 Meter		16	
~~450-AASX~~	~~Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US QTY 2~~		2	
~~450-AASX~~	~~Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US QTY 2~~		2	
			Subtotal:	\$48,154.00

Cost Breakdown

Description		Qty
HW	\$ 27,203.24	
SW	\$ 3,880.23	
SUP	\$ 17,070.52	

[re]

Switch Refresh



Prepared by:
The [RE]DESIGN Group
Sarah Reynolds
405.831.8395
sreynolds@redesign-group.com

Prepared for:
Fresno, City of (CA)
5607 W. Jensen Ave Fresno,
CA 93706
Stephanie Ciehoski
stephanie.ciehoski@fresno.gov

Quote Information:
Quote #: 011427
Version: 1
Delivery Date: 09/02/2025
Expiration Date: 12/25/2025

Quote Summary

Description	Amount
(4) Dell PowerSwitch S5224 Switches	\$48,154.00
Subtotal:	\$48,154.00
Estimated Tax:	\$3,696.86
Total:	\$51,850.86

Acceptance and Incorporation by Reference

Acceptance of this Order Form is binding and the above item(s) will be purchased in reliance thereon. All sales are final. After orders are placed, a final invoice will be provided that shall include all applicable taxes and shipping charges not included herein.

The hardware purchases under this Order Form shall be governed by the (State) NASPO Participating Addendum under the Master Agreement No. (Contract #C000001148050) ValuePoint Cooperative Purchasing Program (the "Agreement"). The implementation services shall be governed by the Cooperative Purchasing Agreement attached to this document as Exhibit A.

This Order Form is effective as of the date both parties have signed below (the "Effective Date"). Both Provider and Client are sometimes referred to individually as a "Party", or together as the "Parties". Any capitalized terms in this Order Form not directly defined are referred to in the Agreement. There will be no Deliverables in this Order Form as defined in the Agreement. If there is a conflict between this Order Form and the Agreement, the Agreement will control.

The parties hereby agree that electronic signatures to this Order Form shall be relied upon and will bind them to the obligations stated herein. Each party hereby warrants and represents that it has the express authority to execute this Agreement(s).

The parties, acting through their authorized officers, hereby execute this Agreement.

Is a PO Required?

☐ Yes - PO# _____ ☐ No

[re]

The [RE]DESIGN Group

Fresno, City of (CA)

Signature: _____

Name: _____

Title: _____

Date: _____

Signature: _____

Name: _____

Title: _____

Date: _____



[re]DESIGN

Agreement no. 1

City of Fresno DPU - Migration Services

Project Proposal

[re]

The [RE]DESIGN Group
2629 Manhattan Ave, Suite 307
Hermosa Beach, CA 90254
www.redesign-group.com

EXHIBIT Q-32299

A. Description of Services

The Drala Project, Inc. doing business as The [RE]DESIGN Group (“[RE]DESIGN”) shall provide **Fresno, City of (CA)** with the following services:

Product Name	Product Description	QTY
[RE]DESIGN_IT Professional Services	Project Overview: This project involves the migration of 87 virtual machines totaling approximately 16.5 TBs of data to new storage infrastructure. The scope includes the conversion and migration of 4 VMs currently utilizing Raw Device Mappings (RDMs). VMware Converter will be used to convert the RDMs to VMDK format, followed by Storage vMotion to move the resulting virtual disks to the new Dell Unity storage array. This approach avoids the complexities and risks of converting to SMB/NAS-based storage.	
	Scope of Work:	
	Standard VM Migration:	
	• Migrate 83 VMs (non-RDM) from legacy datastore to Unity storage • Use Storage vMotion to ensure zero-downtime migration for supported VMs • Validate OS and application functionality post-migration	1.00
	RDM VM Migration:	
	• Identify and prepare 4 VMs using RDMs for conversion • Use VMware Converter to convert RDMs to VMDK format • Validate VM integrity and functionality after conversion • Perform Storage vMotion of VMDK-based VMs to Unity storage	
	Post-Migration Validation:	
	• Confirm network connectivity and storage performance • Validate backup jobs or replication (if applicable)	

- Verify licensing, agents, and monitoring are functioning
- Deliver post-migration report and summary

Assumptions and Dependencies:

- Client will provide all required access, credentials, and documentation
- VMware vSphere environment supports Storage vMotion
- All destination Unity storage is pre-configured and reachable
- No guest OS or application-level changes are required
- Maintenance window will be scheduled with the client for conversion and cutover

Exclusions:

- Guest OS, database, or application tuning
- Reconfiguration of networking beyond storage access
- Ongoing management of VMs or storage infrastructure post-migration
- Backup software reconfiguration or post-migration policy changes

Roles and Responsibilities:

Redesign:

- Execute migration and conversion steps as defined
- Provide real-time status updates and schedule coordination
- Deliver validation report and support client during post-migration testing

Client:

- Provide access and availability for validation and sign-off
- Schedule downtime (if required) for RDM conversion
- Validate application and data integrity post-migration

Change Management:

All changes to this scope must be requested and approved in writing by both Redesign and the Client. Requests must include a detailed description of the change, its impact on scope and schedule, and the requestor's contact information.

B. Payment Terms

Client shall pay a one-time fee of **USD 12,500.00** for the services detailed above

Payment shall be made to [RE]DESIGN and is due on net 30 terms upon signing this agreement.

[re]

C. SOW Term

Client will have the following allotment of time to schedule and complete the services:

- START DATE : **07-28-2025**
- END DATE : **07-28-2026**

D. Acceptance and Incorporation by Reference

Acceptance and Incorporation by Reference

Acceptance of this Order Form is binding and the above item(s) will be purchased in reliance thereon. All sales are final. After orders are placed, a final invoice will be provided that shall include all applicable taxes and shipping charges not included herein.

The professional services shall be governed by the Cooperative Purchasing Agreement attached to this document as Exhibit A.

This Order Form is effective as of the date both parties have signed below (the “Effective Date”). Both Provider and Client are sometimes referred to individually as a “Party”, or together as the “Parties”. Any capitalized terms in this Order Form not directly defined are referred to in the Agreement. There will be no Deliverables in this Order Form as defined in the Agreement. If there is a conflict between this Order Form and the Agreement, the Agreement will control.

The parties hereby agree that electronic signatures to this Order Form shall be relied upon and will bind them to the obligations stated herein. Each party hereby warrants and represents that it has the express authority to execute this Agreement(s).

The parties, acting through their authorized officers, hereby execute this Agreement.

The [RE]DESIGN Group

Signature

Name

Date

Fresno, City of (CA)

Signature

Name

Date

[re]DESIGN

The [RE]DESIGN Group
2629 Manhattan Ave, Suite 307
Hermosa Beach, CA 90254

The Future Belongs to the Curious

redesign-group.com



Exhibit A: Master Services Agreement

This Master Services Agreement (the "MSA") is between Provider and the Client found on the applicable quotation, statement of work, proposal or order, (the "Order") and, together with the Order, the terms and conditions, and relevant Service Attachments forms the Agreement between the parties (the "Terms"). Client accepts these Terms by signing an Order, using the services, or continuing to use the services after being notified of a change to these Terms.

The parties agree as follows:

STATEMENT OF SERVICES

Service Attachments

The services to be delivered by Provider (the "Services") and the fees for those Services, and the specific terms applicable to those Services are described in the Order or in one or more Service Attachments referencing this Agreement.

Except for Supplemental Services or Project Services (described below), and unless otherwise agreed in writing, the services Provider will deliver to Client are limited to those Services specifically identified in the Order and described in the Service Attachments or Schedule of Services. Provider may decline to perform any services requested by Client that are in violation of any applicable law or that are not typically associated with the Services provided by Provider.

Supplemental Services

"Supplemental Services" include additional services and equipment Client may need on a "one-off" or emergency basis that are not included within the scope of the Services described in an Order or the applicable Service Attachments. You will incur additional Service Fees for Supplemental Services. We will notify Client of any such additional Service Fees and will obtain Client's approval prior to providing them. However, Provider has no obligation to determine the need for or to provide any Supplemental Services. All Supplemental Services are provided on an "as-is" basis and include no warranties of any kind, whether express or implied. In addition, if Provider determines that any additional services Client requests would be inappropriate for treatment as Supplemental Services under this paragraph, Provider may deliver to Client a proposed Service Attachment for Project Services or a Proposal prior to providing Supplemental Services.

Project Services

In some cases, Client may ask Provider to deliver services outside the scope of any Order or

Service Attachment and inappropriate for treatment as Supplemental Services. Examples of such services include major system upgrades, new computer, machine or device setup, network changes, datacenter moves or setups, cybersecurity remediations, incident response or installations. In those cases, Provider will prepare a separate Service Attachment for Project Services describing the proposed scope of those services and Provider's fee to deliver them. Installation dates are estimates only. Client shall be responsible for preparation and maintenance of the site for such Project Services or installations, including, but not limited to, providing necessary electrical power and communication lines and proper air conditioning and humidity control.

FEES FOR SERVICES | PAYMENT TERMS

Service Fees

Fees for Services are set forth in Order or Statement of Work. Unless otherwise indicated in writing, all Services will be performed on a time-and-materials basis at Provider's then-current rates.

Adjustments to Service Fees

Except as may be specified in an Order, Provider may adjust the Service Fees charged under this Agreement as follows:

- End-User, devices or Network Growth. During the term of an Order, if the number of users or devices in Client's environment or the Service or Equipment types or quantities to be covered within the scope of the Order exceeds the numbers, types or quantities previously ordered, Provider may apply a pro rata adjustment to the total Service Fees. You shall pay all Service Fees owed as they become due following any such adjustment.

Similarly, during the term of an Order, if the number of users or devices in Client's environment or the Service or Equipment types or quantities to be covered within the scope of the Order is less than the numbers, types or quantities previously ordered, upon request, Provider will apply a pro rata adjustment to the total Service Fees. You shall pay all Service Fees owed as they become due following any such adjustment. However, under no circumstances may any such adjustments result in a number of users or devices in Client's environment or in any Service or Equipment types or quantities to be covered within the scope of the Order that is less than the numbers, types or quantities ordered at the time Client signed that Order.

"User" means Client's employees, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by Client (or by Provider upon Client's request). Users do not include any clients of Client or other third parties otherwise not noted here.

"Device" means any equipment included in the Services, whether owned by Client or provided by Provider for Client's use, including, but not limited to computers, printers, servers, routers, and mobile or handheld microcomputers as well as the software necessary to operate such equipment.

- Surcharges. At any time after the parties sign an Order, Provider may adjust its rates and charges or impose additional rates and charges to recover amounts required or permitted by governmental or quasi-governmental authorities to collect from others or pay to others in support of statutory or regulatory funds or programs. You shall pay all Service Fees owed as

they become due following any such adjustment.

- **Service Fee Rate Increases.** At any time after the parties sign an Order, Provider may elect to raise the fees that it charges under that Order. If the increase is greater than 10% annually, Provider shall give Client no less than thirty (30) days' notice of any such increase in fees to be charged. Following Client's receipt of such notice, Client may terminate the Order without incurring any additional charges or penalties, if any, that Client ordinarily would incur for such termination.
- **Third-Party Services.** Client understands and agrees that Provider uses third-party solutions and service providers to perform some or all of the managed services and/or professional services offered to Client ("Third-Party Service Providers"). Provider's current Third-Party Service providers and the governing terms and conditions related to those services are listed on the Schedule of Third-Party Services which may be updated by Provider without further notice to Client and is incorporated by reference as if fully set forth in this Agreement.
- **Off-Boarding.** Client's cancellation, termination, or transition of the Services to Client's control or to another service provider ("Off-Boarding") may trigger a billable project. Any Off-Boarding projects will be subject to a separate Order or Project Service Attachment or Statement of Work, which will be billed at Provider's then-prevailing rates.
- **Client Delay.** If Provider is unable to commence delivery of the Services on the service start date because of any failure on Client's part including but not limited to the failure to provide access to Client's resources in a timely manner, Client nonetheless will begin to incur Service Fees, which Client shall pay in accordance with the Order, the Service Attachment and the Master Services Agreement.

Pass-Through Expenses

Client shall pay Provider's reasonable out-of-pocket expenses, including incremental third-party service fees, travel expenses, lodging, meals, or other similar expenses, which may be incurred by Provider in performing Services. Any such "Pass-Through Expenses" will be billed at cost and invoiced monthly.

Payment Terms

Client shall pay the full amount reflected on any invoice as owed to Provider on the first (1st) day of each month. Without waiving any of its other remedies, Provider reserves the right to suspend services if payment is not received within thirty (30) days following Client's receipt of that invoice. Client shall pay a late charge of one- and one-half percent (1.5%) per month or the maximum lawful rate, whichever is less, for all invoiced amounts not paid within thirty (30) days following Client's receipt of that invoice (the "Payment Deadline").

If Client disputes in good faith all or any portion of the amount owed to us, or if Client otherwise requests any adjustment to an invoiced amount, Client must notify Provider in writing, prior to the Payment Deadline, of the nature and basis of the dispute and/or adjustment. If Provider is unable to resolve the dispute prior to the Payment Deadline, Client nevertheless shall pay the entire invoiced amount by the Payment Deadline. If Provider ultimately determines that such

amount should not have been paid, Provider shall apply a credit equal to such amount against any Service Fees owed for the following month.

Special rates may apply for services requested outside of normal business hours or on holidays. Special rates are one-and-one-half (1.5) times normal hourly rates, with a one-hour minimum. Holiday hour rates are two (2) times normal hourly rates, with a one-hour minimum.

Client shall pay Provider's invoices in full and in the same currency as Provider's invoice within the time noted on Provider's invoice. Standard terms are Net30. Any invoice amounts not timely paid will be subject to a daily interest charge, at the prorated amount of 1.5% per month, or at the highest interest rate allowable under applicable law.

If Client advises Provider of a material error, (a) any amounts corrected by Provider shall be paid by Client within 14 days of correction, and (b) all other amounts shall be paid by Client by the due date. If Client withholds payment because Client believes an invoiced amount is incorrect, and Provider concludes the amount is accurate, Client must pay interest of 1.5% on the unpaid disputed amount from the due date until Provider's receipt of payment. Client may offset, defer or deduct any invoiced amounts that Provider determines are incorrect following the notification of the process stated above.

Invoicing

Provider shall invoice Client in the currency agreed in the Order. If Client is tax exempt, client must provide tax exemption letter to Provider. Otherwise, Provider is obligated by applicable law to collect and remit any taxes or fees from Client on final invoice for Order. It will be added as a separate line item in accordance with statutory requirements. Provider will invoice Client on Net30 terms from date of shipment of Order. All invoice terms will be deemed accurate unless Client advises Provider within 10 days following receipt.

Taxes

Client is responsible for all governmental taxes, levies, fees, value added tax (VAT), or similar taxes or fees resulting from Client's purchase. If Client qualifies for tax exemption, Client must provide Provider with a valid certificate of exemption or other appropriate proof of exemption. If Client is required to withhold taxes, then Client will within 60 days of remittance to the applicable tax authority provide Provider with satisfactory evidence (e.g., official withholding tax receipts) that Client has accounted to the relevant authority for the sum withheld or deducted. Otherwise, Provider will charge client for the amount that Client has deducted for the transaction.

Suspension of Service

If Client fails to pay all amounts owed under this Agreement when due, then upon at least ten (10) business days' prior written notice, and in addition to any other remedies available to Provider, Provider may suspend Services and withhold Confidential Information (defined below) under this Agreement until full payment is made. Following any suspension of service under this provision, and after Client makes full payment to Provider, Provider may restore the Services after validating that all components to be monitored and/or managed under any applicable Order or Service Attachment comply with Provider's level of security, updates, and best practices. Client shall pay a "Reactivation Fee" for such restoration equal to one month of the Service Fees. Provider's right to suspend Services under this section is in addition to Provider's right to terminate this Agreement.

Taxes

Unless otherwise indicated on an invoice, all charges and fees owed under this Agreement are exclusive of any applicable sales, use, excise, or services taxes that may be assessed on the provision of the Services. In the event that any taxes are assessed on the provision of any of the Services, Client shall pay the taxes directly to the taxing authority or shall reimburse Provider for their payment.

TERM AND TERMINATION

Term

This Agreement commences on the Order Effective Date, and it will remain in effect until either party terminates it as permitted below.

Month-to-Month Services

If the Order specifies no Initial Term with respect to any or all Services, then Provider will deliver those Services on a month-to-month basis until one party provides written notice to the other party of its intent to terminate those Services, in which case Provider will cease delivering those Services at the end of the next calendar month following receipt of such written notice by the other party.

Termination

Either party may terminate this MSA for any reason or no reason upon at least thirty (30) days advance, written notice given to the other party. However, termination of this MSA will not, by itself, result in the termination of any Order or Service Attachments, and this MSA will remain in effect notwithstanding any notice of termination unless and until all Orders and/or Service Attachments are terminated or expire according to their terms.

INDEPENDENT CONTRACTOR

Unless otherwise agreed, Provider will perform all Services solely as an independent contractor and not as an employee, agent, or representative of Client.

INTELLECTUAL PROPERTY RIGHTS

Provider Works

Unless specifically identified in a separate Statement of Work, any writing or work of authorship, regardless of medium, created or developed by Provider or Client in the course of performance under this Agreement and related to existing works owned by Provider is a "Provider Work," is not to be deemed a "work made for hire," and is and will remain the sole, exclusive property of Provider. To the extent any Provider Work for any reason is determined not to be owned by Provider, Client hereby irrevocably assigns and conveys to Provider all of its copyright in such Provider Work. Client further hereby irrevocably assigns to Provider all of its patent, copyright, trade secret, know-how, and other proprietary and associated rights in any Provider Work.

License to Provider Works

If any Provider Work is located on hardware or equipment owned by Client, Provider hereby grants Client a perpetual, non-exclusive, revocable, royalty-free license to use any Provider Work during the term of this Agreement ("Limited License"). The Limited License will be immediately and automatically revoked without the need for notice in the event that either party terminates the Services or this Agreement.

License Restrictions

You shall not:

- Modify, copy, or create derivative works based on the Services or on the Provider Technology;
- Build a product or service using similar ideas, features, functions, or graphics of the Service, or
- Copy any ideas, features, functions, or graphics of the Service.

Additional license restrictions may be set forth in the Service Attachments.

Improvements to Services

Client hereby assigns to Provider any and all suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Client or Client's users relating to any proposed improvements of or modifications to the Services.

NON-DISCLOSURE AND CONFIDENTIALITY

Confidential Information

During the course of performance under this Agreement, either party may be exposed to or may acquire the other's proprietary or confidential information. Each party shall hold all such "Confidential Information" in strict confidence and shall not disclose any such information to any third party.

Confidential Information includes but is not limited to: (a) with respect to Provider, Provider's unpublished prices for Services, audit and security reports, server/network configuration designs, firewall and other hardware configurations, passwords, all business plans, technical information or data, product ideas, methodologies, calculation algorithms and analytical routines, and other proprietary technology, (b) with respect to Client, content transmitted to or from, or stored by Client on, Provider's servers, and (c) with respect to both parties, other information that is conspicuously marked as "confidential" or if disclosed in non-tangible form, is verbally designated as "confidential" at the time of disclosure.

Non-Confidential Information

Notwithstanding the preceding provision, Confidential Information does not include:

- Information that at the time of disclosure is, without fault of the recipient, available to the public by publication or otherwise;
- Information that either party can show was in its possession at the time of disclosure and was not acquired, directly or indirectly, from the other;
- Information received from a third party with the right to transmit same without violation of any secrecy agreement with the other party; and
- Information that must be disclosed pursuant to court order or permitted by law.

Agreement Confidentiality

To the extent allowable, no copy of the Order, this MSA, any Service Attachment or Schedule of Services, discussions, negotiations, terms or conditions relating to the Order, the MSA, Service Attachment, or any other information relating to the Order, this MSA, or any Service Attachment may be disclosed to any third party, except by reason of legal, accounting or regulatory requirements, without the prior written consent of the parties hereto.

PROVIDER-SUPPLIED EQUIPMENT

"Equipment" may include, but is not limited to, any computer, networking or telephony equipment, racking, or associated hardware, or other equipment (if any) that Provider installs on Client's premises or that Provider ships to Client's location to facilitate the delivery of Services. Equipment does not include any hardware or devices that Provider may sell to Client or that Provider procures on Client's behalf.

Provider is and will remain the sole owner of any Equipment, which is provided on a rental or temporary basis only. This agreement transfers to Client no Equipment ownership rights of any kind.

Provider retains sole discretion to determine the appropriate Equipment and associated software and/or technology, if any, to be used at Client's location, provided that Provider's determination does not materially impair the availability or delivery of services under this Agreement. Provider also retains sole discretion to determine the necessity of maintenance, repairs, and/or improvement of the Equipment.

Except as otherwise may be specified in an applicable Service Attachment, Provider makes no independent representations or warranties with respect to the Equipment. Any third-party warranties are Client's exclusive remedies with respect to such Equipment. In the event of an Equipment malfunction, Provider will take commercially reasonable steps to ensure that Client receives the benefit of any manufacturer warranties applicable to the Equipment in use at Client's location.

Client shall take reasonable care of the Equipment and shall not damage it, tamper with it, move or remove it, attempt to repair it, or attempt to install any software on it. Client is financially responsible, up to the full replacement value of all Equipment, for all damage to or loss of the Equipment used at Client's location, other than loss or damage caused by Provider. In addition, Client shall obtain and maintain insurance with a reputable insurer for the full replacement value of the Equipment. Such policy or policies of insurance must cover the Equipment against loss or damage (including, without limitation, accidental loss or damage) and must name Provider as an insured beneficiary with respect to the Equipment. Upon demand, Client must produce evidence that such insurance is being maintained and is valid.

Client is responsible for providing the necessary power, space, cooling, physical security, network connection, and any other appropriate environment to support the Equipment.

Client shall not remove any sign, label, or other marking on the Equipment identifying Provider as the owner of the Equipment. Client does not acquire and will not acquire any rights of ownership in the Equipment by virtue of this Agreement, and Client does not have and will not have, by operation of law or otherwise, any lien or other similar right over or in relation to the Equipment.

On termination of any Agreement pursuant to which Client obtained any Provider-owned Equipment, Client shall allow Provider and its employees and contractors reasonable access to

its premises to remove the Equipment. Alternatively, upon Provider's request, Client shall return the Equipment to Provider via the carrier of Provider's choice, for which Provider will pay all applicable shipping charges. Upon termination, Client is responsible for removing all Client Data from the equipment. Upon pickup or return of equipment to Provider, Provider will not be responsible for lost Client Data.

PROVIDER-SUPPLIED SOFTWARE

"Software" means all and any software installed on the Equipment or provided by Provider for installation on Client's computer equipment to facilitate the delivery of the Services.

This Agreement does not transfer any right, title, or interest in the Software to Client. Client's use of the Software is subject to all applicable terms of any end-user license agreement pertaining to the Software, a copy of which will be made available to Client, upon request.

You shall not, and shall not permit any third party, to:

- distribute or allow others to distribute copies of the Software or any part thereof to any third party,
- tamper with, remove, reproduce, modify, or copy the Software or any part thereof,
- provide, rent, sell, lease, or otherwise transfer the Software or any copy or part thereof or use it for the benefit of a third party, or
- reverse assemble, reverse compile or reverse engineer the Software or any part thereof, or otherwise attempt to discover any Software source code or underlying proprietary information except as may be permitted by law.

CLIENT COVENANTS AND OBLIGATIONS

Assistance

Client shall provide in a timely and professional manner, and at no cost to Provider, assistance, cooperation, complete and accurate information and data, equipment, access to applicable computer and telecommunications facilities, networks, firewalls, servers, programs, files, documentation, passwords, a suitable work environment, and other resources requested by Provider to enable it to perform the Services (collectively, "Assistance"). Provider shall not be liable for any deficiency in performing the Services if such deficiency results from Client's failure to provide full Assistance as required hereunder. Assistance includes, but is not limited to, designating a project manager or contact person to interface with Provider during the course of Services.

Software Licensing

Unless specifically otherwise agreed to in an applicable Order, Client represents and warrants that Client has title to or has a license or the right to use or modify the Software and has a license or right to permit Provider to use, access, or modify any software that Client has requested Provider to use, access, or modify as part of the Services.

It is the Client's responsibility to independently ensure that **ALL** software in use by Client is properly licensed, and Client agrees to maintain records of applicable licenses. Provider will not promote the use of, or knowingly support software which is not properly licensed by Client. Assistance with software audits or licensing compliance matters are billable at Provider's then-prevailing hourly rates.

Unsupported Software

Provider shall not be responsible or liable to Client for any consequences from the use of software no longer under manufacturer product support or no longer supported by the software publisher ("Unsupported Software").

Provider Access

Client shall supply Provider necessary access to its personnel, appropriate documentation and records, and facilities in order for Provider to timely perform the Services.

Broadband Internet access must be provided. Provider must be provided with remote access (via VPN or other secure reasonable remote access) to covered equipment. Appropriate cabling to all covered computers and devices must be provided. Appropriate air conditioning and ventilation for all covered computers and devices must be provided, in order to maintain temperature and air quality as specified by the applicable hardware manufacturers. Power surge protection must be provided for all covered computers and devices. Provider must be allowed convenient and timely access to the Equipment covered under this Agreement, adequate working space and facilities within a reasonable distance of the equipment, and access to and use of all information, internal resources, and facilities determined necessary to service the equipment. Client may be required to conduct preliminary diagnostic steps or provide additional information related to a support request, prior to a technician being dispatched to Client's facility. Client must agree to assign one employee to be liaison or contact person to Provider in order to make communications between both parties effective.

Remote Access

Client grants to Provider the explicit right to remotely access Client's network systems without the need to obtain expressed permission or consent each time remote access is established.

Third-Party Service Provider Fees

Unless expressly undertaken by Provider in writing, Client is responsible for any Third-Party Service Provider service fees, charges and to arrange for disconnection or termination and payment of charges related to the disconnection or termination of any related services with Client's current carrier(s) or service provider(s).

Client's Responsibilities for Cybersecurity and Data Protection

Unless specifically otherwise agreed to in an applicable Order, it is Client's sole responsibility to determine whatever actions deemed necessary to make Client's data and voice networks and circuits secure from unauthorized access. The Client shall cooperate fully with the Provider in all matters. Hardware firewall must be in place. Wireless data traffic in the environment must be securely encrypted. Provider is not responsible for the security of Client's network and circuits from third parties, or for any damages that may result from any unauthorized access to Client's network unless unauthorized access is the result of actions or inactions on the part of the provider that have resulted in credentials not being secured from unauthorized parties.

An anti-malware solution must be in place, and updated with valid update subscription. Provider is not responsible for any harm that may be caused by Client's access to third-party application programming interfaces or the execution or transmission of malicious code or similar occurrences, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, Trojan horses, worms, viruses, and similar mechanisms. Any costs or fees to rebuild or

service machines are provided and sold separately by Provider.

Although it is under no obligation to do so, from time to time, Provider may make recommendations regarding regulatory compliance, safety, and security related to Client's network and practices (e.g., multi-factored authentication). If Client fails to adopt or implement the recommended protocols, Client is responsible for any and all damages related to regulatory, security, privacy, or data protection, including but not limited to fines, data breach notification, malware or ransomware costs, restoration, forensic investigation, restoring backups, or any other costs or damages related to Client's refusal to implement the recommended protocols.

If Provider provides password management services to Client, Client shall be responsible and liable for any unauthorized use of passwords. **THEREFORE, CLIENT AGREES TO HOLD PROVIDER HARMLESS FROM ANY LOSS, INJURY, OR DAMAGE TO CLIENT OR ANY THEFT OF PASSWORDS CAUSED BY SUCH USE OF THE PASSWORD SERVICES BY CLIENT.**

Malicious Events and Third-Party Criminal Activity

Client has an affirmative obligation to protect Client's network environment, and to train its employees for spam, malware, phishing, virus protection, and prevention from criminal acts of third parties.

If a security system for Client's network is included within the Services to be provided by Provider, Provider agrees to use commercially reasonable efforts to protect Client's network from malicious attacks by computer viruses, computer worms, and/or computer hackers (collectively, "malicious activities"). However, Client understands that no security system can guarantee complete protection against malicious activities as such attacks often involve the intentional action by third parties to invade and injure computer systems unless it can be reasonably proven that any negative impacts on the client were the result of negligence on the part of the provider.

Theft of Service

Client shall notify Provider immediately, in writing, by electronic mail or by calling the Provider client support line, if Client becomes aware at any time that the Services are being stolen or used fraudulently. Failure to do so in a timely manner may result in the immediate termination of the Services and additional charges billed to Client. Client will be liable for all use of the Service using Equipment stolen from Client and any and all stolen Service or fraudulent use of the Services. Credits will not be issued for charges resulting from fraud that arises out of third parties hacking into any Equipment. This includes, but is not limited to, modem hijacking, wireless hijacking, or other fraud arising out of a failure of Client's internal/corporate procedures. Provider will not issue credit for invoiced charges for fraudulent use resulting from Client's

negligent or willful acts or those of an authorized user of Client's service.

Hardware Equipment

Client Equipment must be in working order and maintained under a manufacturer's warranty or maintenance contract. Provider is not responsible for client equipment that is not maintained under manufacturer's warranty or maintenance contract or that is otherwise out of order. All fees, warranties, and liabilities against Provider assumes equipment is under manufacturer's warranty or maintenance contract or is in working order.

Provider in its reasonable opinion and supported by manufacturer information, may designate certain equipment as obsolete or defective, and therefore exclude it from coverage under this Agreement.

Cloud and Hosted Infrastructure

Software and publicly-hosted infrastructure or cloud-hosted infrastructure must be in working order and maintained under a manufacturer's warranty or maintenance contract. Provider is not responsible for client or third-party infrastructure that is not maintained under manufacturer's warranty, properly licensed, or under a maintenance contract or that is otherwise out of order. All fees, warranties, and liabilities against Provider assumes equipment is under manufacturer's warranty or maintenance contract or is in working order.

Provider in its reasonable opinion and supported by manufacturer information, may designate certain infrastructure as obsolete or defective, and therefore exclude it from coverage under this Agreement.

Quoting and Ordering

Client may request a quote through Provider for any products from associated vendors. Quoted prices are effective until the expiration date of the Quote. Client may place an Order for the offerings quoted by (i) issuing a Client Purchase Order that references such Quote and, if applicable, contract code or (ii) executing Provider Quote in the form of signature and date. Orders may be returned if product arrives damaged, missing items, or is incorrect based on agreed upon Quote.

Product Delivery, Shipment, Transfer of Risk & Title & Acceptance

Unless otherwise agreed, Provider will arrange for shipment of the ordered products to the ship-to address indicated by Client. Delivery dates are indicative and will be provided as soon as available, updates provided to Client directly by Provider. Software may be provided by delivery of physical media or through electronic means to the email address provided by Client. Client shall notify Provider within 21 days of invoice date if Client believes any product included in the order is missing, wrong, or damaged and shall ensure that the intended installation site meets the specifications as per the product documentation.

Transfer of Risk and Title

Costs Risk of loss for equipment and physical media transfers to Client upon delivery. Title to sold Equipment passes to Client upon delivery. "Delivery" for equipment occurs when carrier

completes delivery at Clients designated point of shipment. "Delivery" of software occurs either when Client is notified by Provider that software is available for download, or when carrier completes delivery at Clients designated point of shipment. Unless otherwise agreed, cost of transit insurance on behalf of Client shall be included in the total price on the stated Quote.

Acceptance

All products will be deemed to be accepted upon Delivery. Client may return products if damaged, missing items, incorrect per Quote agreed upon.

Physical Security

Client is responsible for the physical security of its on-premises hardware and software systems.

Independent Backup

Unless specifically otherwise agreed to in an applicable Order or Service Attachment, Client must maintain an independent backup of all files that are sent to either the cloud or a data backup service. A backup solution must be in place, with backup copies stored off-site. It is the Client's responsibility to verify that backups are made regularly, as well as the integrity of the backups. Provider shall not be held liable in the event of data loss, backup software failure, backup selection, backup hardware failure, backup media failure, or backup system failure even in the event that Provider was tasked to perform the backups. Client will be solely responsible for all lost data.

Hardware and Software Configurations

All Hardware and Software Configurations implemented by Provider shall belong to Provider, and shall constitute Provider's Confidential Information.

Provider's Responsibilities for Protecting Client Data

Confidentiality and Non-Disclosure: The Provider shall treat all client data received or accessed during the course of providing services as confidential and shall not disclose, sell, or transfer any such data to any unauthorized third party.

Data Security Measures: The Provider shall implement and maintain appropriate technical, physical, and organizational measures to ensure the security and integrity of client data. These measures shall be designed to protect against unauthorized access, accidental or unlawful destruction, loss, alteration, or disclosure of client data.

Access Controls: The Provider shall enforce strict access controls to limit access to client data only to authorized personnel who require access for the purpose of providing the services. Access privileges shall be reviewed regularly and promptly revoked for personnel who no longer need such access.

Encryption: The Provider shall, where applicable and appropriate, use encryption techniques to protect client data both during transmission and storage.

Security Incident Response: In the event of a data breach or security incident involving client data, the Provider shall promptly notify the Client and take immediate action to mitigate the breach, investigate its root cause, and implement measures to prevent similar incidents in the future.

Data Retention and Deletion: The Provider shall retain client data only for the duration necessary to provide the services unless otherwise required by law or agreed upon with the Client. Upon termination or completion of the services, the Provider shall, at the Client's request, securely delete or return all client data in its possession.

Personnel Training: The Provider shall ensure that its personnel involved in handling client data are appropriately trained on data protection best practices and their responsibilities for maintaining data confidentiality and security.

Third-Party Data Processors: If the Provider engages any third-party data processors to assist in providing the services, the Provider shall conduct due diligence to ensure that these processors adhere to data protection requirements and implement adequate security measures.

Data Breach Notification: In the event of a data breach involving client data, the Provider shall promptly notify the Client and provide all necessary information and cooperation to support the Client in meeting its legal and regulatory obligations regarding data breach notification.

Compliance with Laws and Regulations: The Provider shall comply with all applicable data protection laws, regulations, and industry standards concerning the processing and protection of client data.

PROVIDER REPRESENTATIONS AND WARRANTY

Internal Network Security Compromise Policy

Provider monitors the availability and performance of its internal firewall and network security. This process involves monitoring for intrusion attempts and potential security breaches. In order to minimize a possible compromise of security, all services and applications exposed to the Internet on Provider's servers are updated with all commonly available security hotfixes and best practices. As appropriate

, Provider proactively evaluates, investigates, and reports security-related incidents to the appropriate authorities. Provider also monitors and proactively manages the anti-virus protection of its servers and applications using industry-recognized anti-virus software systems.

Service Warranty

We warrant that the Services will be performed in a professional and workmanlike manner and as described in an applicable Service Attachment or Schedule of Services. All Services will be deemed to be accepted unless Client notifies Provider in writing within ten (10) working days after performance that the Services did not conform to this warranty. Provider promptly will correct any non-conformities and will notify Client in writing that the non-conformities have been corrected.

DISCLAIMER OF WARRANTY

PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, THAT PROVIDER WILL CORRECT ALL SERVICES ERRORS, OR THAT THE SERVICES WILL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS, OR THAT THE SERVICE WILL BE COMPLETELY SECURE. THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE TEMPORARY LOSS OF SERVICE AVAILABILITY. PROVIDER IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION, OR SECURITY OF THE SERVICES THAT ARISE FROM CLIENT'S CONTENT. PROVIDER SHALL HAVE NO OBLIGATION WITH RESPECT TO A

WARRANTY CLAIM IF NOTIFIED OF SUCH A CLAIM AFTER THE WARRANTY PERIOD.

FOR ANY BREACH OF THE SERVICES WARRANTY, CLIENT'S EXCLUSIVE REMEDY AND PROVIDER'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF PROVIDER CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, CLIENT MAY END THE DEFICIENT SERVICES AND PROVIDER WILL REFUND TO CLIENT THE FEES FOR THE TERMINATED SERVICES THAT CLIENT PRE-PAID TO PROVIDER FOR THE PERIOD FOLLOWING THE EFFECTIVE DATE OF TERMINATION.

TO THE EXTENT NOT PROHIBITED BY LAW, CLIENT ACKNOWLEDGES THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS BY THE PROVIDER OR ANY THIRD-PARTY VENDORS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS, OR FOR MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE.

PROVIDER MAY LINK TO OR OFFER THIRD-PARTY SERVICES FOR RESALE. ANY PURCHASE, ENABLING, OR ENGAGEMENT OF THIRD-PARTY SERVICES, INCLUDING BUT NOT LIMITED TO IMPLEMENTATION, CUSTOMIZATION, CONSULTING SERVICES, E-MAIL, WEB HOSTING, SERVER HOSTING, PHONE SERVICE, AND ANY EXCHANGE OF DATA BETWEEN CLIENT AND ANY THIRD-PARTY SERVICE, IS SOLELY BETWEEN CLIENT AND THE APPLICABLE THIRD-PARTY SERVICE PROVIDER AND IS SUBJECT TO THE TERMS AND CONDITIONS OF SUCH THIRD-PARTY PROVIDER. PROVIDER DOES NOT WARRANT THIRD-PARTY SERVICES AND IS NOT RESPONSIBLE OR LIABLE FOR SUCH SERVICES OR ANY LOSSES OR ISSUES THAT RESULT FROM CLIENT'S USE OF SUCH SERVICES. IF CLIENT PURCHASES, ENABLES, OR ENGAGES ANY THIRD-PARTY SERVICE FOR USE IN CONNECTION WITH THE SERVICES, CLIENT ACKNOWLEDGES THAT PROVIDER MAY ALLOW THIRD-PARTY SERVICES PROVIDERS TO ACCESS CLIENT DATA USED IN CONNECTION WITH THE SERVICES AS REQUIRED FOR THE INTEROPERATION OF SUCH THIRD-PARTY SERVICES WITH THE SERVICES. CLIENT REPRESENTS AND WARRANTS THAT CLIENT'S USE OF ANY THIRD-PARTY SERVICE SIGNIFIES CLIENT'S INDEPENDENT CONSENT TO THE ACCESS AND USE OF CLIENT'S DATA BY THE THIRD-PARTY SERVICE PROVIDER, AND THAT SUCH CONSENT, USE, AND ACCESS IS OUTSIDE OF PROVIDER'S CONTROL. PROVIDER WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY DISCLOSURE, MODIFICATION, OR DELETION OF DATA RESULTING FROM ANY SUCH ACCESS BY THIRD-PARTY SERVICE PROVIDERS.

COMPLIANCE WITH LAWS

Provider shall comply with all laws applicable to Provider in its role as a Managed IT Provider. For the avoidance of doubt, unless otherwise provided in a separate Data Processing Agreement ("DPA"), Provider is not responsible for complying with the laws applicable to Client or Client's industry. Client shall comply with all laws applicable to Client or in Client's industry. Although it is under no obligation to do so, from time to time, Provider may make recommendations regarding legal requirements and regulatory compliance protocols related to Client's network and practices. If Client fails to adopt or implement the recommended legal requirements or regulatory compliance protocols, Client is responsible for any and all damages

related to legal and regulatory compliance.

NO HIRING

Client shall not solicit for employment with Client any Provider employee with whom Client has had direct contact in connection with the Services during the Term of this Agreement and for twelve (12) months following termination of this Agreement.

Client acknowledges that injury resulting from any breach of this provision would be significant and irreparable and that it would be extremely difficult to ascertain the actual amount of damages resulting from such breach. Therefore, in the event of a violation of this provision, in addition to any other right Provider may have at law or in equity, Client shall make a one-time payment to Provider in the amount of one hundred percent (100%) of the affected employee's base salary for one year, which accurately reflects the reasonable value of the employee's time and costs. We agree that such amount is not intended as a penalty and is reasonably calculated based upon the projected costs the injured party would incur to identify, recruit, hire, and train suitable replacements for such personnel.

DISPUTE RESOLUTION

Procedures

Each party shall attempt to settle amicably by mutual discussions any disputes, differences, or claims related to this Agreement within sixty (60) days of the date any such dispute arises.

Continued Service

Unless Provider is bringing an action for Client's failure to make payments for Services not otherwise in dispute, Provider will continue to provide Services under this Agreement, and Client shall continue to make payments to us, in accordance with this Agreement, during the period in which the parties seek resolution of the dispute.

Attorneys' Fees

In the event that there is any dispute, difference, or claim related to this Agreement that is resolved either through litigation, the prevailing party will be entitled to an award of reasonable attorneys' fees incurred while defending or prosecuting such dispute, difference, or claim.

DATA PRIVACY & PROTECTION

Client Data

Provider agrees that any electronic data or personal information submitted by Client to Provider as a part of the Service ("Client Data") remains the property of Client and/or its end-user or other third party. Provider agrees that it will comply with all applicable United States data privacy

and data security laws that the Services are subject to and as stated herein.

California Consumer Privacy Act (“CCPA”)

Client agrees not to provide any data to Provider subject to the California Consumer Privacy Act (“CCPA”) without first entering into an appropriate Data Processing Agreement with Provider that specifically references CCPA.

Gramm-Leach-Bliley Act (“GLBA”) & Health Insurance Portability and Accountability Act (“HIPAA”) Data Processing

Client agrees not to provide any data to Provider subject to the Gramm-Leach-Bliley Act (“GLBA”) or Health Insurance Portability and Accountability Act (“HIPAA”) without first entering into an appropriate Data Processing Agreement with Provider that specifically references GLBA and/or HIPAA.

General Data Protection Regulation (“GDPR”) & United Kingdom Data Processing Client agrees not to provide any data to Provider from any data subject of the European Union or the United Kingdom that is regulated under the General Data Protection Regulation (“GDPR”) or similar data protection regulation without first entering into an appropriate Data Processing Agreement with Provider that specifically references GDPR.

New York SHIELD ACT (“SHIELD”)

Client agrees not to provide any data to Provider subject to the New York SHIELD Act (“SHIELD”) without first entering into an appropriate Data Processing Agreement with Provider that specifically references SHIELD.

Data Processing Agreement

For Clients who require the processing of CCPA, GLBA, HIPAA, GDPR, or United Kingdom data processing or similar data privacy and/or data protection regulation, Client must enter into an applicable agreement with Provider in the form of a data processing agreement (the “Data Processing Addendum”). Each data privacy or data protection regulation may contain its own separate addendum (or combined addendum) depending on Provider or Client’s regulated activities.

GENERAL

Observed Holidays

Provider reserves the right to identify observed holidays and adjust its holiday schedules from time to time. When a holiday falls on a weekend, Provider may close on the closest business day in observance of that holiday. After-hours emergency support is still available during these times, and Client will be charged for Services at Provider’s then-prevailing Holiday support rates.

Notices

Except as otherwise provided under this Agreement, all notices, demands or requests to be given by any party to the other party shall be in writing and shall be deemed to have been duly given on the date delivered in person, or sent via fax, courier service, electronic mail, or on the date of the third business day after deposit, postage prepaid, in the United States Mail via Certified Mail, return receipt requested, and addressed as set forth on the applicable Order.

The address to which such notices, demands, requests, elections or other communications are to be given by either party may be changed by written notice given by such party to the other

party pursuant to this Section.

Force Majeure

Provider will not be liable for any failure of performance of the Services due to causes beyond its reasonable control, including, but not limited to, fire, flood, electric power interruptions, national or regional emergencies, epidemics, pandemics, public health emergencies, stay-at-home orders, furloughs, quarantines, or other restriction or prohibition, civil disorder, acts of terrorism, riots, strikes, Acts of God, or any law, regulation, directive, or order of the United States government, or any other governmental agency, including state and local governments having jurisdiction over Provider or the Services provided hereunder (the "Affected Performance").

Any party whose performance is so affected shall give written notice to the other party describing the Affected Performance. The parties promptly shall confer, in good faith, to agree upon equitable, reasonable action to minimize the impact on both parties of such condition. If the delay caused by the force majeure event lasts for a period of more than thirty (30) days, the parties shall attempt to negotiate an equitable modification to the Agreement pertaining to the Affected Performance. If the parties are unable to agree upon an equitable modification, then either party may serve thirty (30) days' written notice of termination on the other party with respect only to the portion of the Agreement relating to the Affected Performance. Client shall pay Provider for that portion of the Affected Performance that was completed or that was in the process of being completed through the effective termination date of the Affected Performance.

Waiver

No delay in exercising, no course of dealing with respect to, and no partial exercise of, any right or remedy hereunder will constitute a waiver of any right or remedy, or future exercise thereof.

Assignment

Neither party may assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of the other party. However, Provider may assign or otherwise transfer its rights, interests, and obligations under this Agreement without Client's consent in the event of a change in control of 50% or more of the equity of Provider, the sale of substantially all the assets of Provider, or the restructuring or reorganization of Provider or its affiliate entities. If Client transfers its rights, interests, and obligations under this Agreement without Provider consent, then such assignment will not be valid, and Client shall remain responsible for all Fees under this Agreement and any Attachment regardless of whether Client continues to derive any benefit from the Services. In addition, unless otherwise agreed, Provider may contract with third parties to deliver some or all of the Services, and no such third-party contract is to be interpreted as an assignment of this Agreement. However, Provider will use commercially reasonable efforts to ensure that any and all such third parties abide by all of the terms of this Agreement, and, except as otherwise agreed, Provider will remain solely responsible for the fulfillment of all of Provider's obligations under this Agreement. This Agreement is binding upon the parties, their successors, and permitted assigns.

Marketing

Client hereby grants Provider the right to reference Client's name, industry, logo, and URLs in its marketing literature, website, and/or correspondence to potential new clients, so as to identify Client as a client of Provider for marketing purposes and for Provider's benefit. Such information is not considered Confidential Information subject to non-disclosure.

Notifications and Alerts

Client hereby grants Provider the right to utilize Client information to send alerts, notifications, news, and general correspondence to Client to provide the Services.

Survival

The parties' respective duties and obligations with respect to proprietary rights, intellectual property rights, and non-disclosure and confidentiality will survive and remain in effect, notwithstanding the termination or expiration of this Agreement.

Governing Law

This MSA is to be governed by and construed in accordance with the laws of California.

Severability

If any term or provision of this agreement is declared invalid by a court of competent jurisdiction, the remaining terms and provisions will remain unimpaired, and the invalid terms or provisions are to be replaced by such valid terms and provisions that most nearly fulfill the parties' intention underlying the invalid term or provision.

Third-Party Beneficiaries

This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein is to be construed to give any person or entity, other than the parties hereto and their respective successors and permitted assigns, any legal or equitable rights hereunder.

No Disparagement

Neither Party, nor any of its respective partners, principals, shareholders, members, officers, directors, employees, affiliates, subsidiaries, agents, or representatives, shall initiate or participate in any action or conduct tending to injure, bring into disrepute, ridicule, damage, or destroy the goodwill of Provider or Client, or the others' affiliates. The foregoing shall not be construed to prevent or prohibit a Provider or Client, or any of its respective partners, principals, shareholders, members, officers, directors, employees, affiliates, subsidiaries, agents, or representatives, from: (i) exercising its rights under this Agreement; (ii) complying with a legal obligation or a professional responsibility; or, (iii) reporting, providing, or disclosing information to federal, state, municipal, or local government agencies, authorities, or officials in the ordinary course of business or as required by law. Further, in the event Provider or Client or any of its respective partners, principals, shareholders, members, officers, directors, employees, affiliates, subsidiaries, agents, or representatives breach this Section, the non-breaching party and its respective partners, principals, shareholders, members, officers, directors, employees, affiliates, subsidiaries, agents, and representatives shall no longer be bound by the obligations set forth under this Section.

■ FRESNO, CITY OF (CA)

WMD + RAS/WAS Refresh

BY:

Bobby Mock

[re]DESIGN

bmock@redesign-group.com

FOR:

Fresno, City of (CA)

redesign

City of Fresno - WMD + RAS/WAS Refresh



PREPARED BY:

[re]DESIGN
Bobby Mock
bmock@redesign-group.com

PREPARED FOR:

Fresno, City of (CA)
1910 East University Avenue
Fresno, CA 93703

QUOTE INFORMATION:

Quote #: Q-36110
Version: 1
Expiration Date: 04/16/2026

Quote Lines

(1) Dell UnityXT 380H with 60 Months ProSupport 4 Hour - [WMD]

SKU	Description	Qty
528-CNSS	Operating System V4.0=IC	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1
876-4863	Dell Hardware Limited Warranty	1
379-BDPD	ISG Product (info)	1
800-BBQV	Informational Purposes Only	1
210-ASLH	Unity 3U 15x3.5 DAE FLD RCK	1
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	15
470-AEBH	Unity 2x2M DAE SAS CBL	1
400-BFVT	D4 12TB NLSAS 15X3.5 DRIVE	15
825-8623	Certified Deployment Partner T1 or Distributors	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1

890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1
876-4863	Dell Hardware Limited Warranty	1
379-BDPD	ISG Product (info)	1
800-BBQV	Informational Purposes Only	1
210-ASLH	Unity 3U 15x3.5 DAE FLD RCK	1
891-3388	ProSupport 4-Hour 7x24 Onsite Low Capacity SSD Add On 5 Year	9
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	14
470-ADQW	Unity 2x3M OM4 Fiber CBL	4
470-ADQT	UNITY 2X3M ACTIVE TWINAX CBL 10G	4
470-AEFV	2M SFP+ to SFP+ 25G Passive Twinax Cable	4
565-BBIG	UNITY 2X4 PORT IO 25GBE TWINAX	1
400-BFXU	D4 800GB SAS FLASH 25X2.5 SSD	6
400-BFXS	Unity 600GB 10K SAS 25X2.5 DRIVE	10
400-BFXP	Unity 400GB FAST CACHE 25X2.5 SSD	3
826-9748	ProSupport Mission Critical, Software Support Maintenance 5	1
825-8624	Certified Deployment Partner T2	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
890-5272	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
890-5197	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1
890-5196	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1
876-5068	Dell Hardware Limited Warranty	1
379-BDPD	ISG Product (info)	1
379-BDOI	Pair of C13/C14 cables (Highline Power) or C19/C20 cables (4	1
343-BBMP	Unity 380 DPE Install Kit	1
406-BBNC	Unity CNA 4x10GbE OPT SFPs	1

528-CNSW	IP Multi-Tenancy=IC	1
528-CNSV	Unity Unisphere=IC	1
528-CNSU	Unity Thin provisioning=IC	1
210-ASKK	Unity 380 DPE 25 x 2.5 Dell FLD RCK	1
389-FNYG	Unity XT 380 PSNT	1
400-BGCO	Unity SYSPACK 4X600GB 10K SAS 25X2.5	1
528-CNRZ	File Level Retention=IC	1
528-CNSB	Unity ISCSI=IC	1
528-CNSC	Unity NFS=IC	1
528-CNSD	File System Events Publishing=IC	1
528-CNSF	Unity VASA/vVols=IC	1
528-CNSG	Unity FAST Cache=IC	1
528-CNSH	Unity Replication=IC	1
528-CNSI	Unity Quality of service=IC	1
528-CNSJ	Unity ESA Adapter=IC	1
528-CNSK	Inline Compression=IC	1
528-CNSL	Unity EMC Proactive Assist=IC	1
528-CNSM	Cloud Tiering	1
528-CNSN	Unity Local Copies	1
528-CNSO	Unity Fibre Channel=IC	1
528-CNSP	Unity FAST VP=IC	1
528-CNSQ	Unity Antivirus=IC	1
825-8623	Certified Deployment Partner T1 or Distributors	1
528-CNST	Unity CIFS=IC	1
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	7
400-BFVT	D4 12TB NLSAS 15X3.5 DRIVE	7

Subtotal \$132,502.93

(2) Dell PowerSwitch S5224F Switches with 60 Months ProSupport 4 Hour - [WMD]

SKU	Description	Qty
470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper	2
407-BDDG	Dell Networking Transceiver SFP+ 1/10GBASE-T 30m, rate-adapt	4
407-BBXX	Dell Networking, Transceiver, 25GbE SFP28 SR, No FEC, MMF, D	8
848-8539	5 Years ProSupport OS10 Enterprise Software Support-Maintena	2
825-8624	Certified Deployment Partner T2	2
997-6306	Info 3rd Party Software Warranty provided by Vendor	2
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	2
975-3461	Dell Limited Hardware Warranty Extended Year(s)	2
892-0863	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	2
892-0650	ProSupport 4-Hour 7x24 Onsite Service 4 Years Extended	2
892-0646	ProSupport 4-Hour 7x24 Onsite Service 1 Year	2
818-4983	Dell Hardware Limited Warranty 1 Year	2
634-BRWJ	OS10 Enterprise S5224F-ON	2
343-BBLP	Dell EMC S52XX-ON Series User Guide	2
210-APHT	Dell EMC S5224F-ON Switch 24x 25GbE SFP28 4x 100GbE QSFP28 p	2
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US	2
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US	2
Subtotal		\$25,281.02

(1) Dell UnityXT 380H with 60 Months ProSupport 4 Hour - [RAS/WAS]

SKU	Description	Qty
470-AEBH	Unity 2x2M DAE SAS CBL	1
389-FNYG	Unity XT 380 PSNT	1
400-BGCO	Unity SYSPACK 4X600GB 10K SAS 25X2.5	1
528-CNRZ	File Level Retention=IC	1

528-CNSB	Unity ISCSI=IC	1
528-CNSC	Unity NFS=IC	1
528-CNSD	File System Events Publishing=IC	1
528-CNSF	Unity VASA/vVols=IC	1
528-CNSG	Unity FAST Cache=IC	1
528-CNSH	Unity Replication=IC	1
528-CNSI	Unity Quality of service=IC	1
528-CNSJ	Unity ESA Adapter=IC	1
528-CNSK	Inline Compression=IC	1
528-CNSL	Unity EMC Proactive Assist=IC	1
528-CNSM	Cloud Tiering	1
528-CNSN	Unity Local Copies	1
528-CNSO	Unity Fibre Channel=IC	1
528-CNSP	Unity FAST VP=IC	1
528-CNSQ	Unity Antivirus=IC	1
528-CNSS	Operating System V4.0=IC	1
528-CNST	Unity CIFS=IC	1
528-CNSU	Unity Thin provisioning=IC	1
528-CNSV	Unity Unisphere=IC	1
528-CNSW	IP Multi-Tenancy=IC	1
406-BBNC	Unity CNA 4x10GbE OPT SFPs	1
343-BBMP	Unity 380 DPE Install Kit	1
379-BDOI	Pair of C13/C14 cables (Highline Power) or C19/C20 cables (4	1
379-BDPD	ISG Product (info)	1
876-5068	Dell Hardware Limited Warranty	1
890-5196	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1

890-5197	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1
890-5272	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
825-8624	Certified Deployment Partner T2	1
826-9748	ProSupport Mission Critical, Software Support Maintenance 5	1
400-BFXP	Unity 400GB FAST CACHE 25X2.5 SSD	3
400-BFXS	Unity 600GB 10K SAS 25X2.5 DRIVE	10
400-BFXU	D4 800GB SAS FLASH 25X2.5 SSD	6
565-BBIE	UNITY 2X4 PORT IO 25GBE OPT	1
470-ADQW	Unity 2x3M OM4 Fiber CBL	4
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	14
891-3388	ProSupport 4-Hour 7x24 Onsite Low Capacity SSD Add On 5 Year	9
210-ASLH	Unity 3U 15x3.5 DAE FLD RCK	1
800-BBQV	Informational Purposes Only	1
379-BDPD	ISG Product (info)	1
876-4863	Dell Hardware Limited Warranty	1
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
825-8623	Certified Deployment Partner T1 or Distributors	1
400-BFVT	D4 12TB NLSAS 15X3.5 DRIVE	15
210-ASKK	Unity 380 DPE 25 x 2.5 Dell FLD RCK	1
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	15

210-ASLH	Unity 3U 15x3.5 DAE FLD RCK	1
800-BBQV	Informational Purposes Only	1
379-BDPD	ISG Product (info)	1
876-4863	Dell Hardware Limited Warranty	1
890-5186	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	1
890-5187	ProSupport 4-Hour 7x24 Onsite Service 3 Years	1
890-5262	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	1
955-9041	Dell Hardware Limited Warranty Plus On Site Service Extended	1
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	1
825-8623	Certified Deployment Partner T1 or Distributors	1
400-BFVT	D4 12TB NLSAS 15X3.5 DRIVE	7
891-3380	ProSupport 4-Hour 7x24 Onsite Hard Disk Drive Add On 5 Years	7

Subtotal \$132,502.91

(2) Dell PowerEdge R470 Servers with 60 Months ProSupport 4 Hour - [RAS/WAS]

SKU	Description	Qty
210-BNMR	PowerEdge R470 Server, Enterprise	2
350-BDDK	Dell Luggage Tag for x8 and x10 Chassis	2
325-BFXF	PowerEdge 1U Standard Bezel	2
470-AEYU	No Cables Required	2
470-BCHM	Rear Filler Blank for BOSS/OCP	2
330-BCYD	PowerEdge R470 Motherboard fo RTS 1.1, DAO	2
330-BCXZ	Riser Config 8, 2x16 LP Slots (Gen 5), 1x16 FLOP OCP, 1x16 O	2
450-BCWZ	Dual,Redundant(1+1),Hot-PlugMHSPowerSupply,1100WMM(100-240Va	2
384-BDQL	PowerEdge 1U High Performance Silver Fan	2
800-BBDM	UEFI BIOS Boot Mode with GPT Partition	2
384-BBBL	Performance BIOS Settings	2

403-BDMY	PERC H965i Controller, Front, DCMHS	2
780-BCDN	RAID 1	2
370-BCCX	6400MT/s RDIMMs	2
370-AAIP	Performance Optimized	2
412-BBLP	Extended heatsink with DIMM blanks	2
338-CTBC	Intel Xeon 6 Performance 6731P 2.5G, 32C/64T, 144M Cache, Tu	2
321-BLDY	2.5" Chassis with up to 8 Hard Drives (SAS/SATA), Smart Flow	2
470-ACEV	Dell Networking Cable SFP28 to SFP28 25GbE Passive Copper Tw	8
540-BFXN	Broadcom 57414 25GbE SFP28 Dual Port Adapter, PCIe Low Profi	2
540-BFPV	Broadcom 57414 Dual Port 25GbE SFP28 Adapter, OCP 3.0 NIC +S	2
492-BBDI	C13 to C14 PDU Style 12 AMP 6.5 Feet (2m) Power Cord North A	4
400-AZUT	480GB SSD SATA Mix Use 6Gbps 512 2.5in Hot-plug AG Drive 3 D	4
370-BCCY	32GB RDIMM, 6400MT/s, Dual Rank	32
900-9997	On-Site Installation Declined	2
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	2
975-3462	Dell Limited Hardware Warranty Plus Service, Extended Year(s)	2
713-8441	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	2
713-8432	ProSupport 4-Hour 7x24 Onsite Service 3 Years	2
713-8430	ProSupport 4-Hour 7x24 Onsite Service 2 Years Extended	2
713-8356	Dell Hardware Limited Warranty Plus Onsite Service	2
389-FHHX	PowerEdge CCC, No CE Label Marking	2
340-DNSY	PowerEdge 1U Shipping Material	2
340-DSBN	PowerEdge R470 Shipping	2
340-DNSW	PowerEdge Shipping	2
770-BECD	ReadyRails Sliding Rails Without Cable Management Arm or Str	2
770-BDMT	Cable Management Arm	2

379-BETE	iDRAC9 Force Change Password for OCP cards	2
350-BCYJ	Blank Left Ear Module	2
634-CZWJ	Dell Secure Onboarding Client 17G - Disabled	2
634-CZRP	Dell Connectivity Module 17G	2
379-BFXT	Dell Connectivity Client - Disabled	2
634-CSHV	iDRAC10, Datacenter 17G	2
634-CSHT	Secured Component Verification	2
634-CSHS	Secure Enterprise Key Manager License 3.0	2
634-CSGX	OpenManage Enterprise Advanced Plus	2
605-BBFN	No Media Required	2
611-BBBF	No Operating System	2
470-BCHM	Rear Filler Blank for BOSS/OCP	2
Subtotal		\$60,733.00

(2) Dell PowerSwitch S5224F Switches with 60 Months ProSupport 4 Hour - [RAS/WAS

SKU	Description	Qty
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US	2
470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper	2
407-BDDG	Dell Networking Transceiver SFP+ 1/10GBASE-T 30m, rate-adapt	4
407-BBXX	Dell Networking, Transceiver, 25GbE SFP28 SR, No FEC, MMF, D	8
848-8539	5 Years ProSupport OS10 Enterprise Software Support-Maintena	2
825-8624	Certified Deployment Partner T2	2
997-6306	Info 3rd Party Software Warranty provided by Vendor	2
989-3439	Thank you choosing Dell ProSupport. For tech support visit /	2
975-3461	Dell Limited Hardware Warranty Extended Year(s)	2
892-0863	ProSupport 4-Hour 7x24 Technical Support and Assistance 5 Ye	2
892-0650	ProSupport 4-Hour 7x24 Onsite Service 4 Years Extended	2

892-0646	ProSupport 4-Hour 7x24 Onsite Service 1 Year	2
818-4983	Dell Hardware Limited Warranty 1 Year	2
634-BRWJ	OS10 Enterprise S5224F-ON	2
343-BBLP	Dell EMC S52XX-ON Series User Guide	2
210-APHT	Dell EMC S5224F-ON Switch 24x 25GbE SFP28 4x 100GbE QSFP28 p	2
450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US	2

Subtotal	\$25,280.94
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Total:	\$376,300.80
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redesign

City of Fresno - WMD + RAS/WAS Refresh



PREPARED BY:

[re]DESIGN
Bobby Mock
bmock@redesign-group.com

PREPARED FOR:

Fresno, City of (CA)
1910 East University Avenue
Fresno, CA 93703

QUOTE INFORMATION:

Quote #: Q-36110
Version: 1
Expiration Date: 04/16/2026

DESCRIPTION

Master Contract Code: California NASPO Participating Addendum No. 7-23-70-55-01 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program

Contract Number: No. 23026 NASPO ValuePoint Cooperative Purchasing Program

Contractor Name: Dell Marketing L.P.

Contact Website: <https://www.naspovaluepoint.org/portfolio/computer-equipment-peripherals-related-services-2023-2028/dell-marketing-lp/>

Quote Summary

Quote valid until: April 16, 2026

Description	Amount
(1) Dell UnityXT 380H with 60 Months ProSupport 4 Hour - [WMD]	\$132,502.93
(2) Dell PowerSwitch S5224F Switches with 60 Months ProSupport 4 Hour - [WMD]	\$25,281.02
(1) Dell UnityXT 380H with 60 Months ProSupport 4 Hour - [RAS/WAS]	\$132,502.91
(2) Dell PowerEdge R470 Servers with 60 Months ProSupport 4 Hour - [RAS/WAS]	\$60,733.00
(2) Dell PowerSwitch S5224F Switches with 60 Months ProSupport 4 Hour - [RAS/WAS]	\$25,280.94
Total:	\$376,300.80

Acceptance and Incorporation by Reference

This Order Form is issued in connection with the cooperative purchasing agreement referenced herein (the "Agreement") and any applicable participating addendum or similar instrument. This Order Form supplements the Agreement by identifying the specific products, pricing, and other order details applicable to the proposed transaction.

The technology industry is currently experiencing elevated demand, supply constraints, and significant cost increases affecting memory (DRAM), storage (NAND), and related components. These market conditions have resulted in shortened quote validity periods, changing OEM pricing, constrained configurations, and shifting delivery timelines across the industry. The provisions of this Order Form are intended to address those conditions in a manner consistent with the Agreement and applicable procurement requirements.

Any capitalized terms used in this Order Form and not otherwise defined herein have the meanings given to them in the Agreement. If there is a conflict between this Order Form and the Agreement, the Agreement shall control. If there is a conflict between this Order Form and Customer's purchase order, the Agreement and this Order Form shall control, and any inconsistent terms in Customer's purchase order, including any pre-printed terms and conditions, shall be ineffective and void except to the extent required by applicable law.

This Order Form supersedes all prior proposals, quotations, and communications between the parties with respect to the specific products, pricing, and timing described herein, but only to the extent consistent with the Agreement.

Pre-Acceptance

To place an order under the Agreement, Customer must attach this Order Form to its purchase order and return the combined document to Redesign. Customer's submission of a purchase order with this Order Form attached shall constitute Customer's offer to purchase the products identified herein under the Agreement. Redesign's written acknowledgment of such purchase order, or commencement of fulfillment, shall constitute Redesign's acceptance, and the resulting order shall be effective as of the earlier of such events.

Customer acknowledges and agrees that pricing, configurations, and estimated lead times reflected in this Order Form are based on current market conditions and current OEM pricing available on the date of issuance. If Customer submits a purchase order after the stated quote validity period, or requests changes to configuration, quantities, or delivery timing before Redesign's acceptance, Redesign may issue a refreshed quotation reflecting then-current pricing, lead times, and configuration availability under the Agreement.

Customer further acknowledges that, in the event of supply constraints affecting the quoted products before Redesign's acceptance, Redesign and the applicable manufacturer may propose functionally equivalent alternative configurations, revised delivery dates, phased fulfillment, or revised scope for Customer's review and consideration in accordance with the Agreement and applicable procurement requirements.

Post-Acceptance

Once Redesign has accepted Customer's purchase order or commenced fulfillment, all further changes to pricing, configuration, scope, quantities, delivery timing, or related commercial terms shall be handled solely through the mechanisms permitted by the Agreement and applicable procurement requirements, including, as applicable, amendment, change order, catalog refresh, or other formally documented modification process.

Nothing in this Order Form or in any customer-facing market conditions notice shall be construed to create a unilateral right for Redesign to reprice an accepted order, substitute products without Customer's approval, or otherwise alter the terms of an accepted order except as expressly permitted by the Agreement or by a mutually agreed written modification.

If supply constraints, OEM discontinuance, allocation limits, or documented market changes materially affect Redesign's ability to fulfill the accepted order as originally quoted, Redesign will notify Customer promptly and work in good faith to identify alternatives that align with Customer's technical requirements, budget parameters, and procurement obligations. Such alternatives may include revised delivery dates, functionally equivalent substitute configurations, phased delivery, partial cancellation of affected line items, or revised pricing where contractually permitted.

Any post-acceptance modification to an accepted order must be documented in writing and approved in accordance with the Agreement and Customer's applicable procurement rules.

This Order Form does not modify, supersede, or amend the Agreement. All pricing, availability, fulfillment, and post-acceptance changes remain subject to the terms of the Agreement, including the applicable not-to-exceed pricing structure, discount framework, and procurement requirements established thereunder.

THE REDESIGN GROUP

FRESNO, CITY OF (CA)

Authorized Signature Date

Authorized Signature Date

Set a new *standard*.