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NASPO ValuePoint Master Agreement Terms and Conditions

For Body Armor and Ballistic Resistant Products

A Contract for the NASPO ValuePoint Cooperative Purchasing Program
Acting by and through the **State of Colorado** (Lead State)

Department of Personnel & Administration
State Purchasing & Contracts Office
1525 Sherman Street, 5th Floor
Denver, CO 80203

And

Engense Inc., d.b.a. DFNDR Armor
2255 Pleasant Valley Road Suite G
Camarillo, CA 93012

Master Agreement Number:198465

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MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.

1.2 **Accessory** means a body armor component that is detachable or removable from the body armor and is intended to provide an extended area of coverage protection against threats that

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may include ballistic threats, stabbing, fragmentation, blunt impact, or a combination of threats. (ASTM Terminology E3005)

1.3 **ASTM Verification Mark** means a product that has received notice authorizing use of the ASTM verification mark. The name of the standard to which the product is verified shall be stated directly under the ASTM Mark.

1.4 **Authorized Distributor/Distributor** means the Contractor's authorized sakes representative that must be certified by the Contractor to provide fit services and sales to a Purchasing Entity. An entity that purchases products, takes title, stocks, maintains inventory, resells the product to end-users, and has the ability to do on-site measurements. Also referred to as a subcontractor for the purposes of this solicitation.

1.5 **Ballistic Panel** means a type of armor panel intended to provide the wearer ballistic resistance. (ASTM Terminology E3005)

1.6 **Ballistic-Resistant Accessories** Shoulder, neck, groin, or other ballistic resistant accessories placed on the price list that are not verified or certified at the time of Request for Proposal. Prior to listing on the ASTM Verified Products List, these products will be located on the Non-Market Basket List – Products that are not verified or certified. When ASTM standards are completed for these accessories, Contractor is expected to have products verified to these standards.

1.7 **Ballistic-Resistant Helmets** means helmets verified to ASTM E3368/E3368M. Helmets not yet on the ASTM Verified Products List will be allowed until 12/31/2026 on the Non-Market Basket List – Products that are not verified or certified.

1.8 **Ballistic-Resistant Shields** means shields verified to ASTM E3347/E3347M. Shields not yet on the ASTM Verified Products List will be allowed until 12/31/2026 on the Non-Market Basket List – Products that are not verified or certified.

1.9 **Body Armor** means an item of personal protective equipment intended to protect the wearer from threats that may include ballistic threats, stabbing, fragmentation, or blunt impact. (ASTM Terminology E3005)

1.10 **Carrier** means a garment whose primary purpose is to retain the armor panel(s) or plate(s) and provide a means of supporting and securing the armor panel(s) or plate(s) to the wearer. (ASTM Terminology E3005)

1.11 **Combination Armor** means a type of body armor intended to protect the wearer from both ballistic threats and stabbing. Combination armor is sometimes called dual-threat or multiple-threat armor. (ASTM Terminology E3005)

1.12 **Concealable Body Armor** means a vert designed to be worn under the shirt (uniform or undercover) or in a carrier that looks like a uniform shirt so that it is not easily seen. (ASTM Terminology E3005)

1.13 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.

1.14 **Embedded Software** means one or more software applications which permanently reside on a computing device.

1.15 **Hard Armor** means an item of personal protective equipment that is constructed of rigid materials and is intended to protect the wearer from threats that may include ballistic threats,

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stabbing, fragmentation, or blunt impact, or combinations thereof; synonymous with hard armor plate and plate. (ASTM Terminology E3005)

1.16 **In Conjunction With Armor** means soft or hard armor that is designed to provide a specific level of ballistic protection only when layered with a specific model(s) of body armor. (ASTM Terminology E3005)

1.17 **Insert** means a removable unit of protective material (soft armor or hard armor) intended to be placed into a special pocket on a carrier to enhance protection in a localized area. (ASTM Terminology E3005)

1.18 **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.

1.19 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.

1.20 **Manufacturer** means a company that, as its primary business function, designs, assembles, and has the NIJ CPL listing, or ASTM verification for the products being sold under negotiated Master Agreement.

1.21 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.

1.22 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. 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.

1.23 **NIJ** means the National Institute of Justice.

1.24 **NIJ Compliant Products List (NIJ CPL)** means the list of models certified by NIJ to be compliant with an applicable standard.

1.25 **NIJ CTP** means the NIJ program that certifies body armor models that meet the requirements of the most current version of the relevant NIJ standard.

1.26 **NIJ Mark** means the NIJ certification mark, registered with the U.S. Patent and Trademark Office, that is used to communicate a product's compliance with the NIJ CTP.

1.27 **Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

1.28 **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (*e.g.*, ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).

1.29 **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws

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of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

1.30 **Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.

1.31 **Product** or **Products and Services** 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 Product includes goods and services.

1.32 **Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

1.33 **Soft Armor** means an item of personal protective equipment constructed of pliable/flexible materials intended to protect the wearer from threats that may include ballistic threats, stabbing, fragmentation, or blunt impact. (ASTM Terminology E3005)

1.34 **Stab Panel** means a type of armor panel intended to provide stab resistance. (ASTM Terminology E3005)

1.35 **Tactical Body Armor** means a vest designed to be worn over the uniform shirt in a load bearing carrier that accepts various equipment. Equipment may include holsters, magazines, radios, or accessories. (ASTM Terminology E3005)

1.36 **Threat Level** means the rated level of protection, according to the relevant standard for the body armor or ballistic-resistant product.

1.37 **Trauma Pack** means a soft insert intended to reduce backface deformation due to a ballistic impact. (ASTM Terminology E3005)

1.38 **Trauma Plate** means a hard insert intended to reduce backface deformation due to a ballistic impact. (ASTM Terminology E3005)

1.39 **Vest** means a type of body armor intended to protect the wearer's torso. (ASTM Terminology E3005)

II. Parties and Term of Master Agreement

Parties. This Master Agreement is entered into by and between the State of Colorado, acting by and through the Department of Personnel & Administration, State Purchasing & Contracts Office (hereinafter called the "Lead State"), and Engense Inc., d.b.a. DFNDR Armor (hereinafter called "Contractor"), for the procurement of Body Armor and Ballistic Resistant Products as approved per this Master Agreement, for the benefit of Participating States, Entity's, and Purchasing Entities. The Contractor and the Lead State agree to the terms and conditions contained herein.

2.1 **Initial Term.** The initial term of this Master Agreement is for two (2) years, with a Contract Performance Beginning date of the later of May 1, 2025 or the Effective Date. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.

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2.2 **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

2.3 **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period 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 will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

3.1 **Order.** Any Order placed under this Master Agreement will consist of the following documents:

3.1.1 A Participating Entity's Participating Addendum ("PA");

3.1.2 NASPO ValuePoint Master Agreement, including all Exhibits;

3.1.3 A Purchase Order or Scope of Work (Exhibit A)/Specifications issued against the Master Agreement;

3.1.4 The Solicitation RFP-SPCO-AR-25-03, Body Armor and Ballistic Resistant Products;

3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will 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.

3.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. The term of a Participating Addendum will not exceed the term of this Master Agreement, except when a Participating Entity determines an extension of its Participating Addendum is necessary to avoid a lapse in contract coverage and is permitted by law.

IV. Participants and Scope

4.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.

4.2 **Applicability of Master Agreement.** 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, subject to Section III. For the purposes 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

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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.

4.3 **Obligated Entities.** 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. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

4.4 **Notice of Participating Addendum.** 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 databases.

4.5 Participating Entities.

4.5.1 If not proscribed by law or by the Chief Procurement Official of the state in which the entity is located, an entity may be eligible to execute a Participating Addendum directly with Contractor. Such entities may include:

4.5.1.1 Political subdivisions, public agencies, and service districts;

4.5.1.2 Public and private educational institutions, including K-12 public, charter, and private schools; institutions of higher education; and trade schools;

4.5.1.3 Federally recognized tribes;

4.5.1.4 Quasi-governmental entities; and

4.5.1.5 Eligible non-profit organizations.

4.5.2 Prior to execution of a Participating Addendum with an entity listed above, Contractor shall coordinate with NASPO to confirm the entity's eligibility to execute a Participating Addendum. A determination that an entity is eligible to execute a Participating Addendum is not a determination that procurement authority exists; each entity must ensure it has the requisite procurement authority to execute a Participating Addendum.

4.6 **Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. 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.

4.7 **Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, 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 and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and

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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.

4.8 **Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the 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.

4.9 **No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity'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.

V. NASPO ValuePoint Provisions

5.1 **Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 **Administrative Fees**

5.2.1 **NASPO ValuePoint Fee.** 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 must 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. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 **State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 **NASPO ValuePoint Summary and Detailed Usage Reports**

5.3.1 **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"). By placing an Order under this Master Agreement, a Purchasing Entity agrees to have their data (i) included in reports submitted by Contractor to NASPO ValuePoint and (ii) used by NASPO ValuePoint as set forth in this Master Agreement without limitation, unless otherwise requested in writing by the Purchasing Entity and agreed to in writing by

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NASPO. Timely and complete reporting of Sales Data by Contractor 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.

5.3.2 **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.

5.3.3 **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.

5.3.4 **Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.

5.3.5 **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.

5.3.6 **Obligation to Act in Good Faith.** The parties acknowledge that this Master Agreement and its terms and pricing have been negotiated for the benefit of the parties, NASPO ValuePoint, Participating Entities, and Purchasing Entities. Apart from a Participating Addendum or Order, Contractor shall not intentionally induce a potential Participating Entity or Purchasing Entity to enter into a separate agreement, the pricing and terms of

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which are derived from this Master Agreement, for the purpose of avoiding compliance with Contractor's obligations under Section V. Nothing in this Section 5.3.6 shall prohibit Contractor from contracting with an entity with substantially similar pricing and terms if such pricing and terms are independently negotiated with the entity or are consistent with pricing and terms ordinarily offered by Contractor to public sector customers.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall 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 eligible entities can participate in the Master Agreement.

5.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for 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 scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

5.4.5 Most Favored Customer. Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement 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.

5.5 NASPO ValuePoint eMarketPlace

5.5.1 The NASPO ValuePoint cooperative provides an eMarketPlace for public entities to access a central online platform to view and/or purchase the goods, services, and solutions available from NASPO ValuePoint's cooperative Master Agreements. This eMarketPlace is provided by NASPO at no additional cost to the Contractor or public entities. Its purpose is to facilitate the connection of public entities with Contractors who meet the requisite needs for a good, service, or solution by that entity through a NASPO ValuePoint Master Agreement.

5.5.2 Contractor shall cooperate in good faith with NASPO, and any third party acting as an agent on behalf of NASPO, to integrate Contractor's industry presence by either an electronic hosted catalog, punchout site, or providing eQuotes through the NASPO eMarketPlace, per the Implementation Timeline as further described below.

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5.5.3 Regardless of how Contractor's presence is reflected in the eMarketPlace (*i.e.*, hosted catalog, punchout site, or eQuote), Contractor's listed offerings must be strictly limited to Contractor's awarded contract offerings through the NASPO award. Products and/or services not authorized through the resulting NASPO cooperative contract should not be viewable by NASPO ValuePoint eMarketPlace users. Furthermore, products and/or services not authorized through a Participating Addendum should not be viewable by NASPO ValuePoint eMarketPlace users utilizing that Participating Addendum. The accuracy of Contractor's offerings through the eMarketPlace must be maintained by Contractor throughout the duration of the Master Agreement.

5.5.4 Contractor agrees that NASPO controls which Master Agreements appear in the eMarketPlace and that NASPO may elect at any time to remove any of Contractor's offerings from the eMarketPlace.

5.5.5 Contractor is solely responsible for the accuracy, quality, and legality of Contractor's Content on the eMarketPlace. "Content" means all information that is generated, submitted, or maintained by Contractor or otherwise made available by Contractor on the eMarketPlace, including Contractor catalogs. Contractor's Content shall comply with and accurately reflect the terms, products, services, and pricing of this Master Agreement.

5.5.6 Contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.

5.5.7 Contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace, including the assessment, collection, and remittance of any sales tax.

5.5.8 Lead State reserves the right to approve all pricing, catalogs, and information on the eMarketPlace. All product lists provided on the eMarketplace must be approved by the Lead State. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices required by the Master Agreement.

5.5.9 NASPO Participating Entities may have their own procurement system, separate from the NASPO eMarketPlace, that enables the use of certain NASPO Master Agreements. In the event one of these entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarketPlace) but publish to their own eMarketPlace, Contractor agrees to work in good faith with the entity and NASPO to implement the catalog.

5.5.10 In the event a Participating Entity has entity-specific catalog requirements set forth in its Participating Addendum (*e.g.*, restrictions in the scope of offerings, etc.), Contractor shall ensure its eMarketPlace Content for that Participating Entity accurately reflects and is compliant with these requirements.

5.5.11 Implementation Timeline: Following the execution of Contractor's Master Agreement, NASPO will provide a written request to Contractor to begin the onboarding process into the eMarketPlace. Contractor shall have fifteen (15) days from receipt of written request to work with NASPO to set up an enablement schedule, at which time the technical documentation for onboarding shall be provided to Contractor. The schedule will include future calls and milestone dates related to test and go live dates.

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5.5.11.1 Contractor's NASPO eMarketPlace account with eQuoting functionality shall minimally be established within thirty (30) days following the written request.

5.5.11.2 Contractor shall deliver either a (1) hosted catalog or (2) punchout site, pursuant to the mutually agreed upon enablement schedule.

5.5.11.3 NASPO will work with Contractor to decide which structures between hosted catalog, punchout site, and/or eQuoting as further described below will be provided by Contractor.

5.5.11.3.1 Hosted Catalog. By providing a hosted catalog, Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to NASPO, such as a tab delimited text file. Contractor is solely responsible for ensuring the most up-to-date versions of its product/service offerings approved by the Lead State under this Master Agreement are reflected in the eMarketPlace.

5.5.11.3.2 Punchout Site. By providing a punchout site, Contractor is providing its own online catalog, which must be capable of being integrated with the eMarketPlace as a Standard punchout via Commerce eXtensible Markup Language (cXML). Contractor shall validate that its online catalog is up-to-date. The site must also return detailed UNSPSC codes for each line item.

5.5.11.3.3 eQuoting. NASPO will work with Contractor to set up participation and use to provide eQuotes through the NASPO eMarketPlace. This requirement would be in addition to any requirement to provide a hosted catalog or punchout site.

5.5.12 Hosted catalogs and punchout sites will provide all of the eMarketPlace standard data elements/information including, but not limited to, the following:

5.5.12.1 The most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with this Master Agreement;

5.5.12.2 A Lead State contract identification number for this Master Agreement;

5.5.12.3 Detailed product line item descriptions;

5.5.12.4 Pictures illustrating products, services, or solutions where practicable; and

5.5.12.5 Any additional NASPO, Lead State, or Participating Addendum requirements.

5.6 Cancellation. In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor.

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Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

5.7 **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.

5.8 **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.

VI. Pricing, Payment & Leasing

6.1 **Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.

6.1.1 All prices and minimum rates must be guaranteed for the initial term of the Master Agreement.

6.1.2 Following the first twelve (12) months of the Master Agreement period, any request for price adjustments must be for an equal guarantee period and must be received by the Lead State Contract Administrator at least 120 days prior to the requested effective date. Requests for price adjustments 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 pricing will be allowed prior to the effective date unless the pricing is decreased.

6.1.3 Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.

6.1.4 No retroactive adjustments to prices or rates will be allowed.

6.2 **Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (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 or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.

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6.3 **Leasing or Alternative Financing Methods**. The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

7.1 **Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

7.2 **Quotes.** Purchasing Entities may define entity-specific 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 quote 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.

7.3 **Applicable Rules.** 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 and/or services contemplated by this Master Agreement.

7.4 **Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

7.5 **Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.

7.5.1 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.

7.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.

7.5.3 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.

7.5.4 Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall 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 in any manner inconsistent with this Master Agreement's terms.

7.5.5 Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed

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after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

7.6 **Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:

7.6.1 The services or supplies being delivered;

7.6.2 A shipping address and other delivery requirements, if any;

7.6.3 A billing address;

7.6.4 Purchasing Entity contact information;

7.6.5 Pricing consistent with this Master Agreement or as adjusted by agreement of the Purchasing Entity and Contractor (i.e. volume discount, state-specific administrative fee, etc.);

7.6.6 A not-to-exceed total for the products or services being ordered; and

7.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

7.7 **Communication.** All communications concerning administration of Orders placed must 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.

7.8 **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.

VIII. Shipping and Delivery

8.1 **Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.

8.1.1 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. 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 will be shipped without charge.

8.3 **Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (*e.g.*, scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon

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becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

9.1 **Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

9.2 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

9.3 **Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. 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, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

9.3.1 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 substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.

9.3.2 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.

9.4 **Failure to Conform.** 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.

9.5 **Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.

9.5.1 The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

9.5.2 If the Product does not meet the standard of performance or specifications 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.

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9.5.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, 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.

9.5.4 Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to this section.

9.5.5 No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

10.1 **Applicability.** Unless otherwise specified in the Master Agreement Exhibit C, Participating Addendum, or ordering document, the terms of this Section X will apply.

10.2 **Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.

10.3 **Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.

10.4 **Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

10.5 **Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

XI. Product Title

11.1 **Conveyance of Title.** 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.

11.2 **Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

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11.3 **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.

XII. Indemnification

12.1 **General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.

12.2 **Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").

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

12.2.1.1 provided by the Contractor or the Contractor's subsidiaries or affiliates;

12.2.1.2 specified by the Contractor to work with the Product;

12.2.1.3 reasonably required 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

12.2.1.4 reasonably expected to be used in combination with the Product.

12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

12.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property

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Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

12.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

13.1 **Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

13.2 **Class.** 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.

13.3 **Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:

13.3.1 Contractor shall maintain Commercial General Liability insurance 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 and $2 million general aggregate;

13.3.2 Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

13.4 **Notice of Cancellation.** 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.

13.5 **Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.

13.6 **Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.

13.7 **Furnishing of Certificates.** 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 will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage

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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.

13.8 **Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.1.1 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 will 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/or 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 will 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 Master 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.

14.1.2 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.

14.1.3 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

14.2.1 **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.

14.2.1.1 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").

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14.2.1.2 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.

14.2.1.3 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.

14.2.2 **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.

14.2.2.1 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.

14.2.2.2 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.

14.2.2.3 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.

14.2.2.4 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.

14.2.3 **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be adequately

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compensated in monetary 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.

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

14.2.5 **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, 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 this Master Agreement. 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.

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

14.3 **Assignment/Subcontracts**

14.3.1 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.

14.3.2 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.

14.4 **Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall 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.

14.5 **Independent Contractor.** Contractor is an independent contractor. Contractor has 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 shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.6 **Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in

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whole or in part. Any cancellation under this provision will 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.

14.7 **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 acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.8 **Defaults and Remedies**

14.8.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

14.8.1.1 Nonperformance of contractual requirements;

14.8.1.2 A material breach of any term or condition of this Master Agreement;

14.8.1.3 Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;

14.8.1.4 Institution of proceedings under any bankruptcy, insolvency, 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

14.8.1.5 Any default specified in another section of this Master Agreement.

14.8.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) 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 will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

14.8.3 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:

14.8.3.1 Any remedy provided by law;

14.8.3.2 Termination of this Master Agreement and any related Contracts or portions thereof;

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14.8.3.3 Assessment of liquidated damages as provided in this Master Agreement;

14.8.3.4 Suspension of Contractor from being able to respond to future bid solicitations;

14.8.3.5 Suspension of Contractor's performance; and

14.8.3.6 Withholding of payment until the default is remedied.

14.8.4 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 an 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 will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

14.9 **Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. 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 will 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, any Participating Addendum, or any Purchase Order.

14.10 **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 public procurement or contracting 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.

14.11 No Waiver of Sovereign Immunity

14.11.1 In no event will 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.

14.11.2 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

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limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.12 Governing Law and Venue

14.12.1 The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will 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 will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

14.12.2 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 state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will 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 will be in the Purchasing Entity's state.

14.12.3 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 the procurement, evaluation, award, or 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.

14.13 **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.

14.14 **Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

CONTRACTOR

Engense Inc., d.b.a DFNDR Armor

Signed by:
David Fernandez
F9D4F7E93D4741B...

By: David Fernandez, President/CEO

Date: 6/3/2025

STATE OF COLORADO

Jared S. Polis, Governor

Department of Personnel and Administration, State Purchasing and Contracts Office

Tony Gherardini, Executive Director

DocuSigned by:
John Chapman
EF45AFDEB51E414...

By: John Chapman State Purchasing Manager

Date: 6/4/2025

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: DocuSigned by:
Nathan Manley
66856696CC1A43A...
Nathan Manley

Effective Date: 6/4/2025

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated above by the State Controller or an authorized delegate.

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Exhibit A Scope of Work

I. Master Agreement Deliverables

1.1 Body Armor Products must meet the NIJ, ASTM, and/or any additional product standards as requested by the Lead State for the price list. As new standards are published, Contractor may or may not have transition dates provided to add new products to the Master Agreement. As products are no longer maintained on the NIJ CPL or ASTM Verified Products List, the Lead State will remove them from Contractor's Price List, if not removed by Contractor. If new verification and/or certification programs are completed by NIJ, ASTM, or other recognized conformity assessment body, the Lead State may request new products from Contractor. When new or revised standards are available, Contractor will be expected to submit products compliant with the new or revised standards during the term of the Master Agreement. If new standards are published in the last few months of the last term of the Master Agreements Contractor will not be required to submit new products compliant with new or revised standards. Contractor will not be required to provide all product types.

1.2 Product Standards

- NIJ Standard 0101.06, Ballistic Resistance of Body Armor. This standard applies until the associated NIJ CPL is no longer maintained by NIJ.
- NIJ 0101.07, Ballistic Resistance of Body Armor. This standard applies when the associated NIJ CPL is available; The associated NIJ CPL is expected to be maintained by NIJ throughout the time frame of the Master Agreements.
- NIJ Standard 0115.00, Stab Resistance of Personal Body Armor. This standard applies until the associated NIJ CPL is no longer maintained by NIJ.
- NIJ Standard 0115.01, Stab Resistance of Personal Body Armor. This standard applies when the associated NIJ CPL is available; The associated NIJ CPL is expected to be maintained by NIJ throughout the time frame of the Master Agreements.
- ASTM E3368/E3368M, Standard Specification for Ballistic-Resistant Helmets Worn by U.S. Public Safety Officers also to include ballistic resistant face shields when on Verified Products List. Helmets not yet on ASTM Verified Products List will be allowed until 12/31/2026 on the Non-Market Basket List with products that are not verified or certified.
- ASTM E3347/E3347M Standard Specification for Ballistic-Resistant Shields Used by Law Enforcement Officers. Shields not yet on ASTM Verified Products List will be allowed until 12/31/2026 on the Non-Market Basket List with products that are not verified or certified.
- New or revised product standards for body armor and ballistic-resistant products. Products compliant with new or revised product standards may be added to price lists if requested and approved by the Lead State. Requested additions to price list may or may not be approved in a timely manner.

1.3 Product Category

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- **Ballistic-resistant Vest**: NIJ Standard 0101.07 Protection Levels HG1, HG2, RF1, RF2, RF3. NIJ Standard 0101.06 Products will be accepted on the price lists until the NIJ CPL for 0101.06 is no longer online. When it is no longer maintained by NIJ these products will not be acceptable on the Master Agreements.
- **Stab-resistant Vest**: NIJ Standard 0115.00 or 0115.01 Spike or Edged Blade Protection Levels 1, 2, and 3. Vest models shall be listed on the NIJ Stab Armor CPL. When available from NIJ, the stab panel shall have the NIJ mark on the label.
- **Combination Vest:** Ballistic and Spike and/or Edged Blade: All vests offered as combination vests shall be listed on both the NIJ Ballistic Armor CPL and the NIJ Stab Armor CPL. The ballistic panel shall have the NIJ mark on the label. When available from NIJ, the stab panel shall have the NIJ mark on the label.
- **In Conjunction With Armor:** NIJ -0101.07 Protection Levels HG1, HG2, RF1, RF2, RF3. The ballistic panels shall have the NIJ mark on the label.
- **K-9 Ballistic-resistant Vest:** There is no NIJ standard or Compliance Testing Program for K-9 body armor. K-9 vests will be located on the Non-Market Basket List with products that are not verified or certified
- **K-9 Combination Vest:** There is no NIJ standard or Compliance Testing Program for K-9 body armor. K-9 vests will be located on the Non-Market Basket List with products that are not verified or certified.
- **K-9 Stab-resistant Vest**: There is no NIJ standard or Compliance Testing Program for K-9 body armor. K-9 vests will be located on the Non-Market Basket List with products that are not verified or certified.
- **Ballistic-resistant Helmets**: ASTM Standard Specification for Ballistic Resistant-Resistant Helmets Worn by U.S. Public Safety Officers ASTM E3368/E3368M. To include ballistic resistant face shields as well when listed on the Verified Products List. Models shall be listed on the ASTM Verified Products List.
- **Ballistic-resistant Shields**: ASTM Standard Specification for Ballistic-Resistant Shields Used by Law Enforcement Officers E3347/E3347M. Models shall be listed on the ASTM Verified Products List.
- **Carriers**: Carriers are an integral part of a vest (providing no ballistic protection), and some types of carriers are: Concealable, uniform shirt, and tactical.

1.4 Accessories: includes but is not limited to the following items:

- **Ballistic-resistant**: As of the date of the posting of this RFP, NIJ, ASTM or other group does not certify or verify ballistic-resistant accessories. During the term of this Master Agreement, when certification or verification programs are implemented for any of these categories, including shoulder, neck, groin, and other ballistic-resistant accessories, Contractor will be expected to provide new products in these verification or certification programs. Transition dates may or may not be provided for adding new items to price lists.
- **Groin, yoke, bicep, collar, shoulder, and throat protectors:** To be added to Market Basket list after verification or certification programs are implemented.
- **Non-ballistic-resistant Products**
- **Trauma pack:** Located on Non-Market Basket list with products that are not verified or certified.
- **Trauma plate:** Located on Non-Market Basket list with products that are not verified or certified.
- **Insert (soft armor or hard armor)** Located on Non-Market Basket list with products that are not verified or certified.
- **Pouches:** Located on Non-Market Basket list with products that are not verified or certified.

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- **Replacement carrier straps:** Located on Non-Market Basket list with products that are not verified or certified.
- **ID Patches:** Located on Non-Market Basket list with products that are not verified or certified.
- **Carry bags for concealable vest, tactical vest, shield, and helmet:** Located on Non-Market Basket list with products that are not verified or certified.
- **Helmet equipment rails, pads, and retention/suspension system:** Located on Non-Market Basket list with products that are not verified or certified.
- **Shield lights, shoulder straps, logos:** Located on Non-Market Basket list with products that are not verified or certified.

II. Product Specifications

Body Armor and Ballistic-Resistant Products must be ordered new and unused, and shall not contain re-used/remanufactured or re-purposed components.

Body Armor and Ballistic-resistant Products that are listed on NIJ-CPL, ASTM-Verified Products List, or other verification or certification program, shall be constructed identically to the original model tested and certified or verified to comply with the NIJ or ASTM Standards referenced in this solicitation or provided by ASTM, NIJ or other body as approved by the Lead State. For body armor and ballistic-resistant products not certified by NIJ or verified by ASTM, the Contractor shall specify the standard(s) and threats against which the product was tested, shall provide attestation of compliance with the standard(s), and shall provide (upon request of the Lead State or Purchasing Entity) the test report.

All materials and construction shall be of the same as reported to NIJ in the “Build Sheet” or in the “submittal package” which lists the materials and construction for the model for NIJ certified products. All materials and construction shall be the same as in the ASTM-required build sheet or submittal package for ASTM verified products.

Workmanship shall be first quality, with no defects that might affect performance, wearability, or durability of the vest.

Products intended to be worn by end users shall not be “bulk ordered” inventory, nor substantially tailored or modified “off the shelf” items. Items worn by end users are to fit personnel as needed, since altering products could potentially change the performance aspects originally tested under NIJ Compliance Testing Program or ASTM Verification Process.

Each product intended to be worn by end users shall be made to professionally conducted measurements intended to fit a specific individual. Under no circumstances shall measurements result in a product that does not properly fit and/or provide adequate protective coverage for that individual.

All vest measurements must be made according to Contractor procedures and take into account all clearances of panels and duty belts as described in the most recent version of ASTM E3003, Standard Practice for Measurement of Body Armor Wearers and Fitting of Armor.

Available sizes for soft armor vests (handgun protection) shall be consistent with the NIJ Compliance Testing Program requirements for the size range listed on the NIJ CPL.

All Body Armor Products that include the option of additional trauma packs, trauma plates, or inserts shall have the pocket/holder securely attached to keep the inserts in position while worn.

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All fasteners, including hook and pile (Velcro), non-directional snaps, webbing, side release buckles, Fastex buckles (or approved equivalent), and zippers, shall be the same or similar color, as approved by the Purchasing Entity, as the carrier.

The label shall withstand normal wear and cleaning and shall remain legible and attached throughout the entire warranted life of the product. All Body Armor shall be labeled with strict adherence to any applicable laws and regulations and follow the appropriate labeling requirements according to NIJ Standards for body armor or ASTM Verification Mark standards for ballistic-resistant products other than body armor, as updated or amended. This shall include at least the following for applicable products:

- **a)** Name of Contractor.
- **b)** Location of Contractor.
- **c)** Model designation from the relevant NIJ CPL or ASTM Verified Products List (The model designation number shall match the submitted price list and letter of certification/verification.)
- **d)** ASTM Verification Mark and name of the standard to which the product is verified
- **e)** NIJ Mark and identifier for the relevant NIJ Standard, such as NIJ Standard- 0101.06, NIJ Standard-0101.07 or NIJ Standard-0115.00 or NIJ Standard- 0115.01 (Combination armor shall indicate both).
- **f)** Completed manufacturing date
- **g)** Lot number.
- **h)** Unique serial number.
- **i)** Brand name and catalog number.
- **j)** A “Property of” space so Purchasing Entity can enter an agency or officer name.
- **k)** An “Asset Number” space so Purchasing Entity can enter as needed.
- **l)** Basic care and maintenance instructions.
- **m)** For body armor and shields, basic care and maintenance instructions.
- **n)** Size of product.
- **o)** Ballistic protection warranty period.

Contractor, agent, and/or distributor must have the serial numbers stored in a readily accessible database.

Ballistic-resistant components must have at least a 5-year Contractor’s warranty.

All carriers must have at least an 18-month Contractor’s warranty.

Warranty periods specified shall begin when Body Armor Products are delivered and accepted following inspection by Purchasing Entity.

All fasteners, including hook and pile (Velcro®), non-directional snaps, webbing, side release buckles, Fastex buckles (or approved equivalent), and zippers, shall be the same or similar color, as approved by the Purchasing Entity, as the carrier.

III. Contractor Responsibilities and Tasks

3.1 Customer Service

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Contractor shall provide a single point of contact for all issues and questions regarding the goods and services provided, including, but not limited to: pricing, product issues, delivery, status of orders, and Contract issues.

Contractor must provide full service and support for awarded products during normal business hours.

Distributors must be able to service Purchasing Entities within a reasonable time frame, and must have the ability to travel to the Purchasing Entity's specified location once an order, regardless of quantity, has been received.

Distributors shall offer instruction or provide presentations, as requested by Purchasing Entities, regarding the care, usage, and limitation of bullet-resistant and stab-resistant armor.

3.2 Ordering and Invoicing Specifications

All items subject to NIJ compliance testing must be listed on the NIJ CPL with a model status of "active" on the date the Order is placed. Items not subject to NIJ compliance testing or ASTM Verification shall have evidence of compliance with an appropriate standard.

Contractor may not provide Body Armor and Ballistic Resistant Products that have not been approved by the Lead State.

The price list shall be ceiling pricing. Contractor may offer lower pricing on a per Order basis to Purchasing Entities; likewise, Purchasing Entities may request lower pricing on a per Order basis only from Contractor.

All approved Price Lists will be submitted by the Lead State to NASPO ValuePoint. Contractor shall then update all applicable websites with the new Price Lists after the NASPO ValuePoint website has been updated. Contractor is not permitted to send Price List updates directly to NASPO ValuePoint.

All requested changes to price lists, additional products requested to be added, products removed, price modifications or other changes will be provided to the Lead State for approval and will be provided with colored text, or strike through colored text. If price list changes are not clear they may be requested to be modified for clarification.

Pricing must include all shipping, delivery and service costs associated with the product.

All sizing, measurements, and final fitting shall be done at no expense to, and shall be scheduled at the convenience of, the Purchasing Entity.

All orders, regardless of quantity, shall be delivered to Purchasing Entities within sixty (60) calendar days after Manufacturer receipt of order.

The Contractor must coordinate delivery with the Purchasing Entity specified on the order.

Body Armor improperly fitted to an individual wearer shall be altered or replaced and delivered to the individual within thirty (30) calendar days by the Contractor at no expense to the Purchasing Entity.

Product invoice shall contain, at a minimum:

- **a)** Name of Purchasing Entity.
- **b)** Order date.
- **c)** Description of the product ordered.
- **d)** NIJ CPL model designation and Threat Level.

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e) Serial number.

f) Price.

g) Any additional information required by the Purchasing Entity.

3.3 Packaging Requirements

All Body Armor and Ballistic-resistant products shall be packaged in such a manner as to ensure delivery in undamaged condition.

All packages must be labeled to indicate, at minimum, the Contractor's name and order number and the Purchasing Entity's name, address, and contact person.

Packages that cannot be clearly identified may be refused and/or returned at no cost to the Purchasing Entity.

3.4 Delivery Requirements

All deliveries must be FOB Destination; freight prepaid by the Contractor, to the Purchasing Entity's specified location. Responsibility and liability for loss or damage for all orders will remain with the Contractor until final inspection and acceptance, when responsibility will pass to the Purchasing Entity, except the responsibility for latent defects, fraud, and the warranty obligations.

All deliveries shall be made during normal working hours, which may vary for each Purchasing Entity of each Participating State.

It shall be the responsibility of the Contractor to be aware of the delivery days and receiving hours for each Purchasing Entity.

The Purchasing Entity shall not be responsible for any additional charges, should the Contractor fail to observe specific delivery days and receiving hours.

The delivery days and delivery hours shall be established after contract award by each individual Purchasing Entity.

3.5 Recycling

Contractors are encouraged to facilitate recycling of used ballistic panels and other products on behalf of Purchasing Entities. Details listed in Exhibit E.

Recycling programs may be operated in-house by the Contractor, or through contractual or other arrangements which the Contractor shall establish with reputable domestic firms who have an established history of recycling ballistic materials and other products and providing chain of custody documentation.

Expired, unsafe and aged ballistic vests and other personal protection gear are transported to a processor where the material is processed and rendered unusable in ballistic protection applications. After the deconstruction of ballistic panels and/or other technical materials, the fiber is converted into end-use items such as gloves, brake pads, boat ropes, tire treads, etc. This will aid in keeping sensitive ballistic material out of circulation.

Recycled ballistic panels shall be tracked by serial number throughout the recycling process.

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IV. Lead State Responsibilities and Tasks

4.1 Product and Distributor List Revisions

As new products are made available; Contractor may submit these products for consideration by the Lead State. Only products that are new item numbers (i.e., having different materials, styles and/or construction) will be considered. Contractor may submit new products once per quarter by the 1st day of the quarter, and final approval of new products is at the discretion of the Lead State. New approved products will be listed on the website after approval by the Lead State. For new products submitted after the first of the month, having errors in the submission or errors in the items, or requested changes from the Contractor after initial approval, may have delays in approval for addition to the Master Agreement.

New products receiving Certification or Verification to the NIJ CPL or the ASTM Verified Products List may be added to the price list at the currently existing MSRP/List Price Discount Percentages in between quarters if requested by Contractor and at the discretion and approval of the Lead State.

Contractor shall notify the Lead State when products previously approved are suspended or removed from the NIJ CPL (e.g., NIJ Safety Notice or NIJ Advisory Notice issued) or removed from the ASTM Verified Products List.

Distributor lists to be provided to the Lead State when changes are requested by Contractor. Agent/Distributor form to be provided with all update requests.

After the first (12) months of the contract, the MRSP/List Price Discount Percentages will be used as one part of a guideline for price change reviews; other parts of the guideline include, but are not limited to, the overall increase from the current contract BID Price.

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Exhibit B – Product and Price List

Go to NASPO ValuePoint Master Agreement web page for current Lead State and Contractor Approved Product and Price List.

Exhibit C – Agents and Distributors by State

Go to NASPO ValuePoint Master Agreement web page for current Lead State and Contractor Approved Agents and Distributors by State list.

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Exhibit D – Authorized Distributor Form

To be completed and returned to the Lead State for review and approval at the Lead State's discretion with any Distributor List Update requests.

Manufacturer/Contractor Name

Master Agreement Number

(Check one)

☐ The Agent/Distributor listed below is an authorized reseller and will provide Goods and Services in accordance with the State of Colorado and NASPO ValuePoint Request for Proposal and Master Agreement.

☐ The Agent/Distributor listed below will no longer provide Goods and Services under the NASPO ValuePoint Body Armor and Ballistic Resistant Products Master Agreement.

Agent / Distributor Company Name

State(s) Serviced by Agent/Distributor

Date(s) Training Completed (for new Distributors)

State(s) Serviced by Agent/Distributor

Agent/Distributor Name

Address:

Phone (include Toll-Free, if available)

Contact Person(s)

Email Address(es)

FEIN

Agent/Distributor Website (If available)

Signed: _____ _____ Date: _____
(Master Agreement Contractor)

Signed: _____ Date: _____
(Distributor Representative)

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Exhibit E – Warranty and Recycling Plan

Warranty Information

All items that are damaged or are being submitted for a warranty claim must be returned and inspected by DFNDR Armor personnel. Warranty validity will be determined after DFNDR Armor personnel completes the assessment.

Warranty - Carrier Vests, Components, and Accessories

• Carrier vest and other non-ballistic components are warranted to be free from material and manufacturing defects for eighteen (18) months and will be repaired or replaced at no cost to customer.
• Carrier vest, components, and accessories warranty shall be void if the product has been altered, abused, misused, stored improperly, or not properly maintained.

Warranty - Soft and Hard Armor Products

• Products are warranted to be free from defects in workmanship and materials for a period of five (5) years from the date of purchase.
• Should the ballistic plates be broken, interrupted, or damaged in any way, cease using the plates immediately and return it to DFNDR Armor for inspection and repair to ensure proper functioning.
• If the damage of the plate is determined to be caused by neglect or abuse, then DFNDR Armor will advise the owner of recommended repair or replacement and the cost.
• The Warranty for the DFNDR Armor soft and hard armor products shall be immediately terminated and of no effect should the armor be damaged through neglect or abuse or worn or used with other damaged products, or should any part of the armor be altered, modified, or repaired by anyone other than DFNDR Armor.
• This warranty is subject to, and expressly conditioned upon, strict compliance with the following conditions:
  • The armor must not be torn, damaged, or altered in any way
  • The armor must not be subjected to abuse or misuse during service
  • The armor may only be used or placed in a cover or carrier it is designed or intended for
  • The armor must not be permitted to be excessively wet
  • The armor must not be subjected to excessive heat
  • The armor must be safely stored (i.e., not folded or creased, not in excessively hot or damp conditions)

All Returns require an RMA number from DFNDR Armor prior to return which must accompany shipment.
All Returns will be shipped at the expense of the returning party to the DFNDR Armor address below.
All Returns found to be damaged by no fault of the purchasing party DFNDR will repair or replace the item at its discretion on a prorated basis calculated from original sale date unless stated otherwise.
The replacement or repair of any product does not extend the original warranty period end date.

DFNDR Armor Inc.
Warranty Claims Department
2255 Pleasant Valley Road, Suite G
Camarillo, CA 93012

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Recycling Information

DFNDR Armor recommends Fiber Brokers International, LLC as an agency partner to facilitate the destruction and recycling of expired or unwanted ballistic body armor. Fiber Brokers International, LLC specializes in the secure destruction and recycling of aged ballistic body armor, as well as other ballistic and non-ballistic materials. As a service provider to agencies throughout North America for more than 15 years, Fiber Brokers constantly strives to provide unparalleled service to military and law enforcement professionals alike. Please note: this is applicable for soft armor inserts only. Hard ballistic plates and hand shields are excluded from this program.

Visit: www.fiberbrokers.com for more information and up to date instructions.

To Get Started

1. Complete the Enrollment, Receipt, and Destruction (ERD) Request with all specified information.
   - Contact Kyle at kyle.l@fiberbrokers.com for the form.
2. Ship items via common carrier (e.g., FedEx, UPS, or DHL) to: Fiber Brokers, 289 Cooper Ave, Brent, AL 35034.
   - The NIJ recommends sealing all vests in boxes using tamper-evident tape.
   - All departments should retain tracking records and maintain a chain of custody.
3. Upon destruction and validation, your department will receive certification of proper disposal and a list of serial numbers.

*Information is subject to change. Contact Kyle at kyle.l@fiberbrokers.com for specific details regarding your shipment.