

MA 18P 23081100000000000020
NEW

State of Maine



Master Agreement

Effective Date: 08/11/23 **Expiration Date:** 12/31/27
Master Agreement Description: eProcurement Solutions and Services

Buyer Information

ext.

Issuer Information

Michelle Fournier 207-624-8868 ext. Michelle.Fournier@maine.gov

Requestor Information

Michelle Fournier 207-624-8868 ext. Michelle.Fournier@maine.gov

Agreement Reporting Categories

Authorized Departments

ALL

Vendor Information

Vendor Line #: 1

Vendor ID

VC0000261081

Vendor Name

IVALUA INC

Alias/DBA

Vendor Address Information

805 VETERANS BOULEVARD, #203

REDWOOD CITY, CA 94063
US

Vendor Contact Information

Aug 11, 2023, 11:49 AM

JOHN FRITCH
650-930-9700 ext.
BILLING-AMER@IVALUA.COM

Commodity Information

Vendor Line #: 1
Vendor Name: IVALUA INC
Commodity Line #: 1
Commodity Code: 20871
Commodity Description: eProcurement Solutions and Services
Commodity Specifications: Master Agreement awarded was awarded to IVALUA INC for eProcurement Solutions and Services, category(ies) awarded can be found in Attachment B: Scope of Work, through the NASPO ValuePoint cooperative purchasing program for the benefit of eligible entities. Initial agreement term is 5 years, with the option to extend to 12/31/32.
Commodity Extended Description: Master Agreement pricing can be found in Attachment C. Pricing Projections do not limit a consumer's ability to negotiate lower pricing. Listed prices are to act as a maximum amount for any State or Agency that enters into an agreement with the vendor for the aforementioned services.

Quantity	UOM	Unit Price
0.00000		0.000000
Delivery Days	Free On Board	
Contract Amount	Service Start Date	Service End Date
0.00	08/11/23	12/31/27
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

Please see authorized signatures displayed on the next page

Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.

State of Maine - Department of Administrative and Financial Services

DocuSigned by:	
<u>David Morris</u>	8/15/2023
Signature	Date

David Morris, Acting Chief Procurement Officer

IVALUA INC

DocuSigned by:	
<u>Suman Raju</u>	8/14/2023
Signature	Date

Suman Raju	CFO
Print Representative Name and Title	

State of Maine - Office of Information Technology

DocuSigned by:	
<u>Nicholas Marquis</u>	8/15/2023
Signature	Date

Nicholas Marquis, Interim Chief Information Officer

Master Agreement Number 18P 23081100000000000020

for
ePROCUREMENT SOLUTIONS AND SERVICES
between
the State of Maine
and
Ivalua Inc.

This Master Agreement is entered into by the State of Maine ("Lead State") and the following contractor (each a "Party" and collectively the "Parties") as a result of Solicitation Number RFP 202102021 (the "RFP") for the purpose of providing eProcurement Solutions and Services, limited to the category(ies) awarded to Contractor identified in Attachment B: Scope of Work, through the NASPO ValuePoint cooperative purchasing program:

Ivalua Inc. ("Contractor")
805 Veterans Blvd.
Redwood City, CA 94063

MASTER AGREEMENT CONTACTS.

Contractor's contact for this Master Agreement is:

David Pfarrer
Regional Vice President – Public Sector
dpf@ivalua.com
(980) 226-3788

Lead State's contact for this Master Agreement is:

Connor Smith
Procurement Analyst II
Connor.smith@maine.gov
(207)-441-7695

TERM. This Master Agreement is effective as of the date of the last signature below or 8/11/23, whichever is later, and will terminate on 12/31/2027 unless terminated sooner or extended or renewed in accordance with the terms set forth herein. Renewals totaling up to ten (10) years following the initial term may be exercised upon mutual agreement by the Parties.

ATTACHMENTS. This Master Agreement includes the following documents, in descending order of precedence:

- I. Attachments
 - A. Attachment A: NASPO ValuePoint Master Agreement Terms and Conditions
 - B. Attachment B: Scope of Work
 - C. Attachment C: Master Agreement Pricing
- II. Incorporated by reference but not attached
 - D. The RFP, including the Requirements Traceability Matrix
 - E. Contractor's response to the RFP, as revised (if permitted) and accepted by the Lead State

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SIGNATURE. The undersigned for each Party represents and warrants that this Master Agreement is a valid and legal agreement binding on the Party and enforceable in accordance with the Master Agreement’s terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Master Agreement and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Master Agreement.

CONTRACTOR: IVALUA, INC.

DocuSigned by:

Signature
Suman Raju

Printed Name
CFO

Title
8/14/2023

Date

LEAD STATE: STATE OF MAINE

DocuSigned by:

Signature
David Morris

Printed Name
Acting Chief Procurement Of

Title
8/15/2023

Date

LEAD STATE CIO APPROVAL:

DocuSigned by:

Signature
Nicholas Marquis

Printed Name
Interim CIO.

Title
8/15/2023

Date

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**ATTACHMENT A:
NASPO VALUEPOINT 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 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.
- 1.3 Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 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.
- 1.5 Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 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.
- 1.7 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.
- 1.8 Order or Purchase Order or Statement of Work** means any purchase order, sales order, contract or other document mutually executed by Contractor and a Purchasing Entity and used by a Purchasing Entity to order the Products, including but not limited to a subscription services agreement between the Contractor and Purchasing Entity.
- 1.9 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.).
- 1.10 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 of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.11 Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 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.
- 1.13 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

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if authorized by a Participating Addendum, that enters into a Purchase Order under the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- 2.1 Initial Term.** The initial term of this Master Agreement is for five (5) years. The term of this Master Agreement may be amended beyond the initial term for ten (10) 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.
- 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** This NASPO ValuePoint Master Agreement, including all attachments hereto;
 - 3.1.3** An Order or a Purchase Order or Statement of Work issued against the Master Agreement.
- 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, except that any conflicting term in a subscription services agreement negotiated and agreed to by a Purchasing Entity will take precedence as to that Purchasing Entity and Contractor. 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. Except as permitted under this Master Agreement, Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

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.** These 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

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with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.

- 4.3 Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- 4.4 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.
- 4.5 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.
- 4.6 Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 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.
- 4.8 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 this Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in this 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 this Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.
- 4.9 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.
- 4.10 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 Product and Services that are the subject of this Master Agreement without prior written consent.

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V. NASPO ValuePoint Provisions

5.1 Applicability. NASPO ValuePoint is not a party to this 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 in the amount of one-quarter of one percent (0.25% or 0.0025) of fees for all Orders invoiced by Contractor each calendar quarter (less any charges for taxes or shipping) no later than sixty (60) days following the end of the calendar quarter. Any net credit (as a result of credits, refunds, or adjustments to a previously issued invoice) or deficit resulting from Contractor's revision of a previously submitted Sales Data report shall be applied to the amount owed for the following calendar quarter, except that deficits of \$25 or greater shall be payable immediately. Any deficit or credit owed at the termination Contractor's reporting obligations shall be paid to or by Contractor, as applicable, within thirty (60) days of the end of the applicable calendar quarter. 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 (to be negotiated between Contractor and Participating Entities). 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"). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section, except that NASPO ValuePoint will not publicly disclose, distribute, or display a Purchasing Entity's Sales Data if (i) the Sales Data is specifically identified by the Purchasing Entity as confidential, (ii) the Sales Data cannot be used in a way that does not identify the Purchasing Entity, (iii) Contractor promptly notifies NASPO ValuePoint of the existence of confidential data in Sales Data submitted to NASPO ValuePoint, and (iv) the Purchasing Entity that owns the Sales Data has not provided prior written consent. For the avoidance of doubt, NASPO ValuePoint does not need prior consent to display, modify, copy, or use Sales Data that is considered public information in the Purchasing Entity's jurisdiction.

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- 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 may also 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.

5.4 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.
- 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.

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- 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 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 which are derived from this Master Agreement, for the purpose of avoiding compliance with Contractor's obligations under Section V. Nothing in this Section 5.4.5 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 its customers.
- 5.5 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may 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. 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.
- 5.6 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.
- 5.7 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 this Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in this 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 for the packages, modules or options specified. Changes to selected packages, modules or options may result in changes to price.
- 6.1.1** All prices and rates must be guaranteed for the initial term of the Master Agreement.
- 6.1.2** Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least sixty (60) days prior to the effective date.
- 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 or Statement of Work, Payment is due thirty (30) days following the Purchasing Entity's receipt of a correct invoice, the date

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of which shall be no earlier than commencement of a subscription term or the date of Acceptance of a Product, milestone, or other deliverable set forth in an Order or Statement of Work, as applicable. After forty-five (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.

6.3 Reserved.

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 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 an executed Purchase Order or Order between Contractor and the applicable 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. Unless a shorter period is specified in the applicable Participating Addendum, an Order for a multi-year subscription may have a performance period up to five (5) years 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. Cancellation of a Participating Addendum or Order due to non-appropriation of funds shall be addressed in the applicable Participating Addendum.

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

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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 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 Product and Services to be provided;
- 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 and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor; and
- 7.6.6** 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. Applicable federal requirements specific to a federal funding source used by a Participating Entity or Purchasing Entity must be included in the applicable Participating Addendum or Order placed under this Master Agreement. Notwithstanding the previous, Contractor is wholly responsible for complying with federal law applicable to the provision of the contracted services without additional notice by a Participating Entity or Purchasing Entity.

VIII. Reserved

IX. Inspection and Acceptance (for Fixed Fee Professional Services)

- 9.1 Laws and Regulations.** Any and all deliverables furnished must comply fully with all Federal, State, and local laws and regulations applicable to the provision of the contracted services.
- 9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or Order, 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 deliverables under a fixed fee Statement of Work are subject to inspection at reasonable times and places before Acceptance and as reasonably necessary. 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 the acceptance criteria set forth in the Statement of Work may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of

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liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.

- 9.4 Failure to Conform.** If the deliverables do not conform to the acceptance criteria as agreed by Contractor and set forth in the applicable Statement of Work after completion of the user acceptance testing, the Purchasing Entity may require the Contractor to re-perform the services in conformity with such acceptance criteria, at no increase in fees as provided in such Statement of Work. If after re-performance the deliverable still does not conform to the acceptance criteria, the Purchasing Entity may cancel, and be refunded amounts paid, if any, for the affected portions of the deliverables in accordance with the applicable Statement of Work.
- 9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the deliverables meet the acceptance criteria in accordance with the mutually agreed Statement of Work prior to Acceptance by the Purchasing Entity.
- 9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified in the applicable fixed fee Statement of Work, starting from the day Contractor notifies Purchasing Entity that a deliverable has been completed and is ready for Acceptance Testing.
- 9.5.2** If the deliverable does not meet the acceptance criteria, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the deliverable meets the acceptance criteria.
- 9.5.3** If the deliverable does not meet the acceptance criteria as agreed by Contractor in the applicable Statement of Work, the Contractor will have thirty (30) calendar days to cure. If after the cure period, the deliverable still does not conform to such acceptance criteria, the Purchasing Entity may, at its option: (a) terminate the applicable Statement of Work; or (b) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.
- 9.5.4** No deliverable will be deemed accepted until the acceptance criteria as agreed between the parties has been met.

X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, 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 deployment to production pursuant to a Statement of Work that: (a) the Product materially performs according to the documentation as set forth in an executed subscription services agreement, (b) the Product performs according to all representations made by Contractor in its response to the solicitation and any amendments thereto, (c) Contractor will not materially decrease the functionality of the Product described in the Documentation during the then-current subscription period, (d) Contractor will perform the Professional Services in a diligent and workmanlike manner, and (e) the Product is free of any material defects that are in violation of specifications set forth in the applicable Participating Addendum, Order, or subscription services agreement.
- 10.3 Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, CONTRACTOR DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Contractor does not and shall not be deemed to provide tax or legal advice in providing the Product and Services. Purchasing Entity is solely responsible for its compliance with all laws and governmental regulations associated with its use of the Product and Services.

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- 10.4 Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will use commercially reasonable efforts to repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If Contractor cannot substantially correct the deficiency in a commercially reasonable manner, Purchasing Entity may end the deficient service and Contractor will refund to Purchasing Entity any prepaid fees related to the Product prorated for the remainder of the subscription term.
- 10.5 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.
- 10.6 Warranty Period Start Date.** The warranty period will begin upon deployment to production pursuant to a Statement of Work.

XI. Reserved

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, relating to performance under this Master Agreement. This indemnity is subject to the indemnification procedure specified in Section 12.2.2 below.
- 12.2 Intellectual Property Indemnification.** The Contractor shall defend and indemnify any claim against NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party") by a third party to the extent such claim alleges use of the Product (as authorized in this Agreement) by the Participating Entities or Purchasing Entities directly infringes the US or Canada Intellectual Property rights of another person or entity ("Intellectual Property Claim"). Contractor will pay all damages (including reasonable attorney fees) finally awarded against the Indemnified Party by a court of competent jurisdiction (or amounts agreed in a monetary settlement) in any such Intellectual Property Claim.
- 12.2.1** Notwithstanding the foregoing, Contractor's defense and indemnity obligations do not apply to (1) any modification of the Product made by anyone other than Contractor; to the extent that the Cloud Service would not be infringing but for such modification and such modification was not directed by Contractor, (2) any use of the Product in combination with software, products or services not provided by Contractor; to the extent that the Product would not be infringing but for such combination and such combination was not directed by Contractor, (3) any Third-Party Applications not provided by Contractor, or (4) Customer's use of the Product not in compliance with the terms of this Agreement; to the extent the Product would not be infringing but for such non-compliance. This indemnity states Contractor's entire liability, and Customer's exclusive remedy, for any Intellectual Property Claims relating to the Product.
- 12.2.2** The defense and indemnity obligations above are conditioned upon the indemnified Party providing the indemnifying Party with: (i) prompt written notice, (ii) to the extent permitted by law, sole control over the defense and settlement of, and (iii) all information and assistance reasonably requested by the indemnifying Party in connection with the defense or settlement of, any claim. The indemnified Party may appear in connection with such claims, at its own expense, through counsel reasonably acceptable to the indemnifying Party. 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

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loss to the Contractor. 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 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.
- 12.2.5** If an Intellectual Property Claim is brought or threatened, or if Contractor reasonably believes that the Product may become the subject of an infringement claim, Contractor may, at its sole option and expense: (i) procure for the Purchasing Entity the right to continue to use the applicable Product; (ii) modify the Product to make it non-infringing; (iii) replace the affected aspect of the Product with non-infringing technology having substantially similar capabilities; or (iv) if Contractor determines none of the foregoing is commercially practicable, terminate the portion of the Order related to the applicable Product and refund Customer any prepaid fees related to the Product prorated for the remainder of the Subscription Term.

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 and named as an additional insured within thirty (30) 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.

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- 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, upon request, 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 upon request within thirty (30) days after any renewal date to the applicable state Participating Entity.
- 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 confirm Contractor's compliance with the terms of this Master Agreement and reflect payments and fees owed hereunder. 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 (each an "Auditing Party") to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to Contractor's compliance with, and payment and fees owed under, this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. Any such inspection may take place no more than once per entity per each five year period, shall be preceded by reasonable prior written notice, is subject to an appropriate confidentiality agreement, and will be performed at the Auditing Party's sole cost, except that costs associated with an audit that results in a finding of Contractor's noncompliance with the obligations of this Master Agreement shall be paid or reimbursed by Contractor. 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.
- 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.
- 14.1.2.1** 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.

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14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

14.2.1 Confidentiality. Receiving Party acknowledges that it and its employees or agents may, in the course of this Master Agreement, be exposed to or acquire information that is confidential to Disclosing Party or Disclosing Party's clients. For purposes of this Section 14.2, Disclosing Party or Receiving Party can mean Contractor, the Lead State, Participating Entity, or the Purchasing Entity, as applicable. For avoidance of doubt, the Confidential Information of the Disclosing Party is and will remain owned exclusively by the relevant Disclosing Party.

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 Receiving Party or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Disclosing Party's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Disclosing Party ("Confidential Information").

14.2.1.2 Any reports or other documents or items (including software) that result from the use of the Confidential Information by Receiving Party 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 the Receiving Party) publicly known; (2) is furnished by Disclosing Party to the Receiving Party or others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Disclosing Party without the obligation of confidentiality, (5) is disclosed with the written consent of Disclosing Party; or (6) is independently developed by employees, agents or subcontractors of Disclosing Party who can be shown to have had no access to the Confidential Information.

14.2.2 Non-Disclosure. Receiving Party shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties (except as provided herein) or use Confidential Information for any purposes whatsoever other than what is necessary under this Master Agreement.

14.2.2.1 Receiving Party shall only disclose to the Receiving Party's employees, independent contractors, Affiliates, advisors, auditors, attorneys, service providers, and prospective investors or purchasers, who have a need to know the information, are informed of the confidential nature of the Confidential Information and who have agreed in writing or are otherwise legally bound to treat the Disclosing Party's Confidential Information in a manner consistent with Receiving Party's duties under this Agreement). Receiving Party shall use commercially reasonable efforts to assist Disclosing Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

14.2.2.2 Without limiting the generality of the foregoing, Receiving Party shall advise Disclosing Party immediately if Receiving Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Receiving Party

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shall at its expense cooperate with Disclosing Party in seeking injunctive or other equitable relief in the name of Disclosing Party against any such person.

- 14.2.2.3** Except as directed by Disclosing Party, Receiving Party will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except as necessary or expressly authorized in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Disclosing Party's request, Receiving Party shall turn over to Disclosing Party all documents, papers, and other matter in Receiving Party's possession that embody Confidential Information.
- 14.2.2.4** The Receiving Party will protect the Disclosing Party's Confidential Information using the same degree of care that it uses with respect to its own proprietary information, but in no event less than reasonable care.
- 14.2.2.5** Notwithstanding the foregoing, Receiving Party 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 Return of Confidential Information.** Upon termination of this Agreement for any reason, the Receiving Party shall (i) immediately cease use of the Disclosing Party's Confidential Information; and (ii) if requested by Disclosing Party, either promptly destroy or return all Confidential Information of the Disclosing Party; provided, however, that the Receiving Party may retain a reasonable number of copies of the Confidential Information for the sole purpose of satisfying legal or regulatory requirements regarding record and data retention that the Receiving Party is obligated to comply with, enforcing this Agreement or archiving consistent with good business practices. For the avoidance of doubt, such copies remain subject to confidentiality and restricted use provisions of this Agreement.
- 14.2.4 Injunctive Relief.** The Receiving Party acknowledges that Receiving Party's breach of Section 14.2 would cause irreparable injury to the Disclosing Party that cannot be inadequately compensated in monetary damages. Accordingly, Disclosing Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. The Receiving Party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the Disclosing Party and are reasonable in scope and content.
- 14.2.5 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.
- 14.2.6 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.
- 14.2.7 Public Information.** This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

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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; provided that Contractor may assign without the Lead State's consent in the event of a corporate reorganization, change of control, consolidation, merger, sale of all or substantially all of its business or assets related to this Master Agreement. Contractor shall notify the Lead State of a pending assignment (i) no fewer than 60 days prior to the effective date of the assignment or (ii) as soon as permitted pursuant to the applicable transaction. Subject to the foregoing, this Master Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

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 thirty (30) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Contractor shall replace key personnel with individuals 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 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 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 after sixty (60) days 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 this Master Agreement that proves to be untrue or materially misleading;

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- 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 forty-five (45) 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 non-breaching party shall issue a written notice of default, identifying the nature of the default, and providing a period of thirty (30) calendar days in which 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 a party's liability for damages, including liquidated damages to the extent provided for under the relevant Participating Addendum.
- 14.8.3** If a party is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default or if such default cannot be cured, such party shall be in breach of its obligations under this Master Agreement and the non-breaching party 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 or portions thereof affected by the default;
- 14.8.3.3** Suspension of Contractor from being able to respond to future bid solicitations; and
- 14.8.3.4** 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.
- 14.8.5 Effect of Termination.** Upon the expiration or termination of this Master Agreement for any reason, Orders will no longer be accepted from Purchasing Entities after the effective date of the termination, and following completion of an Order accepted prior to the effective date of the termination, all Submitted Data of the Purchasing Entity will be returned at no additional cost by Contractor in its original format for uploaded documents and in a standard database backup format for data stored into the application database, provided Purchasing Entity requests return of Submitted Data of Purchasing Entity within thirty (30) days of termination of the Master Agreement. Return of Submitted Data in an alternative format may be accomplished at additional cost subject to execution of a SOW. After thirty (30) days, Contractor will delete all Purchasing Entity environments and any Submitted Data of Purchasing Entity contained therein, except for archived backups (which are handled in accordance with Contractor's standard backup policies) or if Contractor is

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required to retain a copy of such Submitted Data of Purchasing Entity for legal purposes, provided that such copy remains subject to the confidentiality provisions of this Agreement.

- 14.9 Waiver of Breach.** Failure of a party 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 must be in writing. Waiver by a party 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 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

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party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

14.13 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.

14.14 Limitation of Liability

14.14.1 Each Party's total liability to the other Party for any direct damages arising out of or relating to the Product and Services provided under this Master Agreement shall be limited to the greater of (i) the total amount of fees paid to Contractor by the other party in the twenty-four (24) months immediately preceding the claim, and (ii) \$500,000 ("Maximum Aggregate Cumulative Liability Cap"). The existence of more than one claim shall not expand the limit in this Section.

14.14.2 Unless otherwise specified in the Participating Addendum, for direct damages arising out of or relating to the Services provided under a Participating Addendum, the limitation set forth in 14.14.1 shall apply as between the Participating Entity and Contractor and between Purchasing Entity and Contractor. The existence of more than one claim shall not expand the limit in this Section.

14.14.3 For avoidance of doubt, the Maximum Aggregate Cumulative Liability Cap is intended to establish a cap per entity regardless of whether any entity also acts as a Purchasing Entity, a Participating Entity and/or the Lead State or all of the above.

14.14.4 Exclusions. This Section 14.14 shall not apply to (1) the general indemnification obligations, (2) amounts finally awarded pursuant to the intellectual property indemnification obligations, (3) gross negligence or willful misconduct of either party, Participating Entity or Purchasing Entity, (4) breach of confidentiality obligations that result in an unauthorized disclosure of confidential information, (5) the amount of fees owed by a Purchasing Entity under this Master Agreement or the Participating Addendum, or (6) Purchasing Entity's material breach of the license restrictions set forth in the subscription services agreement and Participating Addendum. Nothing herein shall prohibit a Participating Entity or Purchasing Entity from imposing liquidated damages, subject to the limitations set forth in Section 14.14.1 and Section 14.14.2, if agreed to by the parties in a Participating Addendum or Order.

14.15 Exclusion of Damages. IN NO EVENT WILL CONTRACTOR, NASPO, NASPO VALUEPOINT, THE LEAD STATE, PARTICIPATING ENTITIES, AND PURCHASING ENTITIES, BE LIABLE TO ANY OF THE FOREGOING FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS MASTER AGREEMENT OR PARTICIPATING ADDENDUM, HOWEVER CAUSED, AND BASED ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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**ATTACHMENT B:
SCOPE OF WORK**

I. Overview

This Master Agreement is executed by the Lead State in collaboration with the NASPO ValuePoint cooperative purchasing program for the benefit of eligible entities, including state departments, institutions, agencies, and political subdivisions, federally recognized tribes, and other eligible public and nonprofit entities in the 50 states, the District of Columbia, and U.S. territories. This and other Master Agreements in the eProcurement Solutions and Services portfolio are intended to provide a diverse menu of solutions and services within multiple purchasing models.

II. Awarded Scope

Contractor has been awarded the following categories and combination(s) of software solutions(s) and/or services, to which the scope of this Master Agreement is limited:

	Software System	Service Provider
Category 1: Software & Services		
Full Solution	Ivalua	Ivalua
Category 2: Software & Services by Workstream		
Supplier Portal		
Supplier Enablement		
Buyer Portal		
Need Identification		
Request through Pay	Ivalua	Ivalua
Catalog Capability	Ivalua	Ivalua
Sourcing/Bid Management	Ivalua	Ivalua
Contract Management	Ivalua	Ivalua
Vendor Performance	Ivalua	Ivalua
Purchasing/Data Analytics		
Category 3: Software Only by Workstream		
Supplier Portal	Ivalua	
Supplier Enablement	Ivalua	
Buyer Portal	Ivalua	
Need Identification	Ivalua	
Request through Pay	Ivalua	
Catalog Capability	Ivalua	
Sourcing/Bid Management	Ivalua	
Contract Management	Ivalua	
Vendor Performance	Ivalua	
Purchasing/Data Analytics	Ivalua	
Category 4: Services Only (software system(s) serviced in parentheses)		
Implementation Services		

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Managed Services		
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III. Category Descriptions

This section briefly describes the scope of each category awarded to Contractor. Contractor may or may not offer all products and services described in each category. The Products and Services offered by Contractor within each category are identified and described in Contractor’s response to the RFP. All Products and Services shall comply with this Master Agreement and shall perform as required in this Master Agreement and as represented in Contractor’s response to the RFP. Participating Addenda may include Contractor’s Products and Services in whole or in part and may specify additional Participating Entity-specific requirements.

- 3.1 **Category 1: Full Solution.** Implementation of a comprehensive eProcurement Solution, including all workstreams and services described in Sections IV and V and meeting the requirements detailed in the Requirements Traceability Matrix included in Contractor’s response to the RFP, including licensing and maintenance, implementation and deployment, and ongoing operations and support. This category includes both access to software-as-a-service and professional services.
- 3.2 **Category 2: Individual Workstream Implementation.** Implementation of eProcurement functionality for one or more workstreams and services described in Sections IV and V and meeting the requirements detailed in the applicable sections of the Requirements Traceability Matrix included in Contractor’s response to the RFP, including licensing and maintenance, implementation and deployment, and ongoing operations and support. This category includes both access to software-as-a-service and professional services.
- 3.3 **Category 3: eSoftware Only.** Access to eProcurement software-as-a-service solution for one or more workstreams described in Section IV and meeting the requirements detailed in the applicable sections of the Requirements Traceability Matrix included in Contractor’s response to the RFP, including licensing and maintenance. This category excludes professional services.
- 3.4 **Category 4: Services Only.** Provision of one or more services described and meeting the requirements in Section V and meeting the requirements detailed in the applicable sections of the Requirements Traceability Matrix included in Contractor’s response to the RFP, including implementation and deployment and ongoing operations and support. This category excludes software.

IV. Workstream Descriptions

This section briefly describes each workstream included in the categories described in Section III. Contractor may or may not offer all products and services described in each workstream. The Products and Services offered by Contractor within each workstream are identified and described in Contractor’s response to the RFP. All Products and Services shall comply with the requirements set forth in this Master Agreement and shall perform as required in this Master Agreement and as represented in Contractor’s response to the RFP. Participating Addenda may include Contractor’s Products and Services in whole or in part and may specify additional Participating Entity-specific requirements.

- 4.1 **Supplier Portal**
 - 4.1.1 The Supplier Portal functionality must provide a single point of entry ‘front door’ that includes all supplier facing functions for the electronic procurement solution with the ability to also incorporate access to other applications or services such as certifications, invoicing and online interactions with the Participating Entity or Purchasing Entity. The Supplier Portal functionality must deliver valuable content upon logging in and be personalized to the supplier and the supplier user logged into the system.
- 4.2 **Supplier Enablement/Management**

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- 4.2.1 The Supplier Enablement/Management component, in conjunction with the Supplier Portal, must support all procurement activities and provide suppliers the ability to establish and maintain an account defining who they are and what they sell along with other key data elements required by the Participating Entity or Purchasing Entity to procure from and pay the supplier. Suppliers will use this account to access all relevant electronic procurement and financial functionalities such as solicitations, solicitation response, order receipts, contract awards, load sales reports, and submit invoices.
 - 4.2.2 This functionality should also provide capabilities to establish and maintain pre-qualified suppliers lists for bidding on specific categories of goods/services.
 - 4.2.3 Integration may be required with the Participating Entity or Purchasing Entity finance system to establish and maintain supplier payee records needed for accounts payable (A/P) processing.
 - 4.3 **Buyer Portal**
 - 4.3.1 The Buyer Portal component of the system must provide functionality that acts as a personalized single point of entry ("front door") to initiate the full life cycle of procurement activities for Participating Entity and Purchasing Entity users. The Buyer Portal must deliver valuable content unique to the user once logged in.
 - 4.4 **Need Identification**
 - 4.4.1 The Need Identification component of the system provides functionality for a user to initiate any type of procurement action with configurable business rules to support Purchasing Entities' custom business needs. The user interface must be user-friendly, intuitive, flexible, and adaptable to support users.
 - 4.5 **Request through Pay**
 - 4.5.1 The purchase Request through Pay component of the systems provide functionality to automate the ordering process from the end-user purchase request through authorizing payment for the resulting order. Key components include:
 - 4.5.1.1 Purchase request;
 - 4.5.1.2 Catalog shopping to drive spend to existing contracts;
 - 4.5.1.3 Access to external retail marketplaces products;
 - 4.5.1.4 Intelligent workflow engine to apply entity and enterprise-wide business rules;
 - 4.5.1.5 Online approvals;
 - 4.5.1.6 Electronic order dispatch;
 - 4.5.1.7 Receiving;
 - 4.5.1.8 Electronic and paper invoicing;
 - 4.5.1.9 Invoice matching for payment authorization;
 - 4.5.1.10 3-way match for payment authorization; and
 - 4.5.1.11 Integration with finance system.
 - 4.5.2 The solution must also provide the capability to support the procurement of services from pre-established services contracts (e.g., Professional Services, Contingent Labor, Healthcare Services) that may include characteristics such as deliverable-based fee services. This specialized type of purchasing would need functionality to address scope/need definition (e.g., SOW), contract supplier submission of quotes with attachments (e.g., resumes, specifications), quote evaluation/selection, order generation and receiving concepts such as recording of timesheets, deliverables acceptance, milestone completions, and expenses.

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4.6 Catalog Capability

- 4.6.1 The Catalog components of the system provide the functionality to maintain contract/non-contract catalogs in the shopping component of the system as described in Section 4.5 (Request through Pay). Catalog content can be hosted within the system or made available by 'punching out' to the supplier's shopping website. Contract catalogs must be capable of being automatically generated as part of the award process through integration with the Sourcing and the Contract Management component of the system. Maintenance of contract catalog content throughout the life of the contract/agreement must be available through integration with the Contract Management component of the system.
- 4.6.2 Other key components include utilities for suppliers to setup, manage and maintain their catalogs. User access to these utilities should be controlled through definition and assignment of roles. Workflow functionality should also be available to automate authorized Participating Entity and Purchasing Entity user review and approval of catalog content before it is made available.
- 4.6.3 The solution must provide an open marketplace environment that provides access to the aforementioned catalog components and to other non-contract, external internet retail or commercial markets of goods/services, as authorized by the Participating Entity or Purchasing Entity. This environment provides the buyer with a supported "catalog of catalogs" shopping experience with a single view of all sources as described in Section 4.5 (Request through Pay). The objective of this experience is to give the user options to make the best possible purchasing decision that optimizes price, quality, terms/conditions, and policies. A key aspect of the open marketplace environment is that it will allow the Participating Entity or Purchasing Entity to effectively manage spend.
- 4.6.4 Support and maintenance of the open marketplace that supports the Participating Entity or Purchasing Entity in the overall management of the open marketplace environment inclusive of: integrations with online suppliers; regular (or real time) synchronization of products, prices for items in the catalog; available products and services; establishment of contracted suppliers within the marketplace as well as the overall management, maintenance and operations of the technical elements that comprise this "catalog of catalogs" environment as to comply with Participating Entity or Purchasing Entity operating, service level, and performance requirements.
- 4.6.5 Contractor must provide continuous support of both suppliers with contracts and non-contract suppliers offering goods and services in the open marketplace environment. Contractor should also provide ongoing support functions to continuously and proactively expand the open marketplace environment ecosystem with additional non-contract and retail/commercial market products and services.

4.7 Sourcing/Bid Management

- 4.7.1 The Sourcing components of the system provide functionality to automate the entire solicitation process for both the buyer and the supplier. All types of solicitations can be created leveraging standard templates and libraries. Formal or informal, sealed or unsealed, complex or simple. Other key functionalities include initiating solicitations from a requisition, public posting, supplier notification, evaluation of bids/proposals, making the award and the Integration with other solution components to automate the creation of catalogs and contracts.

4.8 Contract Management

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- 4.8.1** The Contract Management components of the Solution encompass all aspects of contract development, tracking, electronic signature, and administration. Contract document authoring is automated through templates and libraries to provide consistency across the Participating Entity or Purchasing Entity. Workflow functionality provides oversight by automating the review and approval processes.
- 4.8.2** Key contract administration functions address management of subcontractors, identification of authorized resellers (dealers, distributors, etc.), tracking and managing supplier sales reports, contractor performance and compliance, and amendments and renewals.
- 4.9 Vendor Performance**
 - 4.9.1** Vendor Performance management is a business practice that is used to measure, analyze, and manage the performance of a supplier in an effort to cut costs, alleviate risks, and drive continuous improvement. The ultimate intent is to identify potential issues/risks and their root causes so that they can be resolved/managed to all parties benefit as early as possible. The electronic procurement Vendor Performance functionality must capture vendor performance information and data including, but not limited to, delivery dates, receipt dates, pricing accuracy, cure letters, contract milestone completion, and customer surveys. The data must be collected in a manner that allows for reporting and analysis. The solution will provide the Participating Entity or Purchasing Entity with a means to assess, track, manage and report supplier performance across all procurement activities and include capabilities to capture and address performance complaints/issues.
- 4.10 Purchasing/Data Analytics**
 - 4.10.1** Purchasing/Data Analytic components of the system provide robust data analytics and reporting to allow the Participating Entity or Purchasing Entity to strategically assess procurement transactions and records for more effective sourcing and contracting, to include spend. These functionalities also provide the means to assess across operation dimensions such as supplier classification, organizational elements and buying trends. Reporting is presented in the form of interactive charts and dashboards with the ability to “drill down” to the transactional data for comprehensive analysis. Transparency is also a key feature to this component as reports, charts and dashboards can be designed for public access.

V. Service Descriptions

This section briefly describes each service included in the categories described in Section III. Contractor may or may not offer all services described below. The Services offered by Contractor are identified and described in Contractor’s response to the RFP. All Services shall comply with the requirements set forth in this Master Agreement and shall be performed as required in this Master Agreement and as represented in Contractor’s response to the RFP. Participating Addenda may include Contractor’s Services in whole or in part and may specify additional Participating Entity-specific requirements.

5.1 Implementation Services

- 5.1.1** Implementation services may include one or more of the following:
 - 5.1.1.1** Project management;
 - 5.1.1.2** Project implementation;
 - 5.1.1.3** Catalog support services;
 - 5.1.1.4** Data conversion services;
 - 5.1.1.5** Interface/integration development services;
 - 5.1.1.6** Organizational change management (OCM) services;

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- 5.1.1.7 Training services;
- 5.1.1.8 Help desk services; and
- 5.1.1.9 On-site system stabilization support

5.2 Managed Services

5.2.1 Managed services may include one or more of the following:

- 5.2.1.1 Solution support;
- 5.2.1.2 Organizational change management (OCM) services;
- 5.2.1.3 Training services;
- 5.2.1.4 Catalog support services;
- 5.2.1.5 Help desk services; and
- 5.2.1.6 Transition out assistance services

5.3 Other Services

5.3.1 Contractor may also offer other related services as identified and described in Contractor's response to the RFP.

VI. Sample Subscription Services Agreement Documents

6.1 The documents in Exhibit 1 to this Attachment B, below, are being provided for **informational purposes only**. They are intended to be negotiated and executed by Contractor and Purchasing Entities as part of an Order. Unless such terms are expressly accepted in writing by the Purchasing Entity, terms in the following documents that derogate the application to a Purchasing Entity of a corresponding term in this Master Agreement or applicable Participating Addendum shall be deemed void.

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**ATTACHMENT B, EXHIBIT 1:
IVALUA SUBSCRIPTION SERVICES AGREEMENT**

This Subscription Services Agreement (“**Agreement**”) is entered into as of the date fully executed below (the “**Effective Date**”) by and between Ivalua, Inc., a company organized under the laws of Delaware with offices at 805 Veterans’ Blvd., Suite 203, Redwood City, CA 94063 USA (“**Ivalua**”) and CUSTOMER FULL NAME, a company organized under the laws of state\country with offices at ADDRESS (“**Customer**”). If Customer is not identified in this Agreement, then “Customer” refers to the entity executing the applicable Order.

Customer and Ivalua are individually referred to as a “Party” and jointly referred to as the “Parties”.

1. DEFINITIONS

1.1 “**Affiliate**” means an entity that controls, is controlled by, or is under common control of a Party to this Agreement, where control means ownership of more than fifty percent (50%) of the voting interest of such entity or Party (but only for so long as such control exists).

1.2 “**Authorized Users**” means employees, consultants and third-party contractors of Customer and its Affiliates accessing the Cloud Service on Customer’s behalf pursuant to the terms of this Agreement.

1.3 “**Cloud Service**” means access to Ivalua’s proprietary software-as-a-service applications granted to Customer pursuant to an Order.

1.4 “**Confidential Information**” means any information disclosed, directly or indirectly, by one Party (“**Disclosing Party**”) to the other (“**Receiving Party**”) pursuant to this Agreement that: (a) is designated as “confidential” or in some other manner to indicate its confidential nature, or (b) a person exercising reasonable business judgment would understand to be confidential based on the circumstances of its disclosure or the nature of the information itself. The Cloud Service and related Documentation, as well as any audit or test results or reports, shared during the Term of this Agreement or the preceding sales and negotiation process, are deemed to be Ivalua’s Confidential Information and Submitted Data is deemed to be Customer’s Confidential Information.

1.5 “**Documentation**” means Ivalua published documents relating to the operation and use of the Services including the then-current online manuals, help guides, and other materials made available to Customer within the Cloud Service or via the Ivalua extranet at <https://project.ivalua.com>.

1.6 “**Maintenance & Support Services**” means Ivalua’s maintenance and support services provided to Customer at the level purchased by Customer in an Order and pursuant to the terms attached hereto as Schedule 1 and which are incorporated into this Agreement.

1.7 “**Metrics**” means the specific parameters and limitations related to Customer’s access and use of the Cloud Service, including but not limited to, the number and description of modules, types of Authorized Users or other mutually agreed criteria as specified in an Order.

1.8 “**Order**” means a mutually agreed and executed document, i.e., a quote, proposal or order form provided by Ivalua and referencing this Agreement, which sets forth the Services to be provided to Customer as well as any applicable Fees, Subscription Term and Metrics related to such Services. Each Order will be governed by and will incorporate this Agreement.

1.9 “**Personal Data**” has the meaning set forth in the Data Privacy Addendum attached hereto as Schedule 5.

1.10 “**Professional Services**” means any implementation, configuration, consulting, training and similar services provided by Ivalua related to the Cloud Service as identified in an Order or SOW and provided in accordance with Ivalua’s Professional Services terms attached hereto as Schedule 4 and which are incorporated into this Agreement.

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1.11 “**Services**” means the Cloud Service, Maintenance & Support Services, and/or Professional Services to be provided under this Agreement.

1.12 “**Statement of Work**” or “**SOW**” means a document executed by the Parties describing Professional Services purchased by Customer. Each SOW will be governed by this Agreement and is incorporated herein by this reference.

1.13 “**Submitted Data**” means any electronic content, data, materials and information submitted by or for Customer to the Cloud Service.

1.14 “**Subscription Term**” means the period during which Customer is entitled to access the Cloud Service as set forth in the applicable Order. The Subscription Term will include the initial term set forth in an Order (the “**Initial Term**”) as well as any Renewal Period in accordance with Section 6.2.

1.15 “**Supplier**” means an entity with which Customer engages via the “supplier portal” portion of the Cloud Service.

2. ACCESS TO THE SERVICES

2.1 Access to Cloud Services. Subject to Customer’s compliance with the terms of this Agreement, during the Subscription Term Ivalua will:

- (a) Make the Cloud Service available to Customer pursuant to an Order for Customer’s internal procurement use at the service level purchased by Customer and in accordance with Ivalua’s Service Level Agreement terms attached hereto as Schedule 2 and which are incorporated by reference into this Agreement;
- (b) Provide Customer with Maintenance & Support Services in accordance with Schedule 1 and at the level purchased by Customer;
- (c) Protect Submitted Data in accordance with Section 8; and
- (d) Provide Customer with Professional Services purchased by Customer (if any).

The Cloud Services are deemed accepted when made available and no additional acceptance or inspection is required.

2.2 Authorized Users & Suppliers. Only Authorized Users are permitted to access and use the Cloud Service; provided Suppliers may access and use only the “supplier portal” portion of the Cloud Service. Customer is solely responsible for: (a) approving and maintaining access, identifying and authenticating Authorized Users or Suppliers, and controlling against unauthorized access by Authorized Users and Suppliers including use or access that is inconsistent with the Metrics; (b) maintaining the confidentiality of usernames, passwords and account information; (c) all activities that occur under its Authorized Users’ usernames, passwords or accounts as a result of Authorized Users’ access to the Cloud Service; and (d) ensuring Authorized Users’ and Suppliers abide by all applicable local, state, national and foreign laws applicable to Customer’s use of the Cloud Service. Customer will notify Ivalua immediately of any unauthorized use of, or access to, the Cloud Service, and will use reasonable efforts to promptly stop any unauthorized access to or use of the Cloud Service. Customer acknowledges that Ivalua may monitor Customer’s use of the Cloud Service for the purpose of verifying compliance with this Agreement. If Customer or any of its Affiliates actual use exceeds the agreed-upon Metrics under the applicable Order, Ivalua will invoice Customer and Customer will pay the applicable fees (as specified in an Order or, if not specified, at Ivalua’s then current standard rates) for any use that exceeds the agreed upon Metrics in accordance with Section 4.2.

2.3 Restrictions. Customer may not and may not authorize any third party to: (a) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code, structure, ideas, algorithms, or associated know-how of, the Services, Documentation, or reconstruct, or discover, any hidden or non-public elements of the Cloud Service (except to the extent expressly permitted by applicable law notwithstanding this restriction); (b) translate, adapt, create derivative works from or modify the Cloud Service, Documentation, any results of any Professional Services, or any portion of any of the foregoing; (c) write or develop any program based upon the Services, Documentation, or any portion or software applications thereof, or otherwise use the Services in any manner for the purpose of developing, distributing or making accessible products or services

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that compete with any or all of the Services; (d) sell, sublicense, transfer, assign, lease, rent, distribute, or grant a security interest in the Services or any rights thereto; (e) use the Services, or sell or distribute any content or other portion thereof, for the benefit of, or allow access to the Services (or any content or other portion thereof) by, any third persons except as permitted under this Agreement; (f) transmit unlawful, infringing, harmful, or other data or code which Customer is not authorized to transmit, either to or from the Cloud Service; (g) alter or remove any trademarks or proprietary notices contained in or on the Cloud Service or Documentation; or (h) circumvent or otherwise interfere with any authentication or security measures of the Cloud Service, or otherwise interfere with or disrupt the integrity or performance thereof.

3. THIRD PARTY APPLICATIONS

Ivalua may make third-party products or services available to Customer through the Cloud Service (“**Third-Party Applications**”). Certain providers of Third-Party Applications (“**Providers**”) may require Customer to accept additional terms and/or pay an additional fee directly to the Provider in order to use such Third-Party Application. Customer can elect which Third-Party Applications it will use. By using Third-Party Applications, Customer permits Ivalua to grant such Third-Party Applications access to Submitted Data or other data as required for the operation and support of such Third-Party Applications. Ivalua is not responsible and provides no warranty with respect to Third-Party Applications, nor Providers’ use or protection of Submitted Data or for the security practices (or any acts or omissions) of such Providers.

4. FEES; PAYMENT; TAXES

4.1 Fees. Customer will pay Ivalua all fees of the type and amount and in accordance with the payment schedule set forth in the applicable Order or SOW (“**Fees**”). All subscription Fees are non-cancellable, non-refundable and non-recoupable.

4.2 Payment Terms. Unless otherwise set forth in the applicable Order, all Fees (except for Professional Services fees) will be billed annually in advance, and all invoices for Fees are due and payable within thirty (30) days from the invoice date, without deduction or setoff. Interest accrues from the due date at the higher of 1.5% per month or the highest rate allowed by law. Customer is responsible for providing complete and accurate billing and contact information to Ivalua and notifying Ivalua of any changes to such information. If Customer disputes the amounts charged on any invoice, it must pay for the undisputed portion of the invoice and communicate those to Ivalua within fourteen (14) days of the receipt of such invoice. Ivalua shall not exercise its right to charge interest or suspend Services as set forth in this Section if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

4.3 Taxes. Customer is responsible for all local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, sales, use or withholding taxes arising out of this Agreement other than taxes based on Ivalua’s net income or employment. Customer agrees to pay all such taxes directly to the applicable taxing authorities, or, if at any time Ivalua is required by law to collect such taxes from Customer, Customer will pay them directly to Ivalua within thirty (30) days after Ivalua issues an invoice. If Customer is legally entitled to an exemption, Customer will provide a legally sufficient tax exemption certificate, and Ivalua will not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer will notify and pay Ivalua any additional amounts necessary to ensure that the net amount that Ivalua receives, after any deduction and withholding, equals the amount Ivalua would have received if no deduction or withholding had been required. If Customer is required by any governmental authority to deduct any portion of the amount invoiced by Ivalua, Customer shall increase payment by an amount necessary for the total payment to Ivalua equal to the amount originally invoiced or may contact Ivalua to request any withholding tax exemption certificates and withhold for the reduced rate based on bilateral tax treaty, as applicable. Customer shall also provide the withholding tax certificate and itemized breakdown to arrive at the net payment amount.

4.4 Purchase Orders. Customer may issue a purchase order to facilitate payment under this Agreement. If a purchase order is to be issued by Customer, Customer will issue the purchase order within seven (7) days of the effective date of an Order. No additional or inconsistent terms of any such purchase order, or other form provided by Customer, will modify or supplement this Agreement, regardless of any failure of Ivalua to object to such terms and any such additional or inconsistent terms in the purchase order shall be null and void. Customer agrees that a failure to provide Ivalua with a purchase order will not relieve Customer of its payment obligations hereunder.

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5. PROPRIETARY RIGHTS

5.1 Ownership Rights. As between Ivalua and Customer, all rights, title and interest in and to all intellectual property rights in the Services and Ivalua's Confidential Information are and will remain owned exclusively by Ivalua and its licensors. Ownership in all derivatives, modifications, new functionalities, enhancements and customization related to the Services created by Ivalua or by or for Customer will immediately vest in Ivalua upon creation. Unless otherwise specified in the applicable SOW, all deliverables provided in the performance of Professional Services are owned by Ivalua and will be made available as part of the Cloud Service provided under this Agreement. Nothing in this Agreement will preclude or restrict Ivalua from using or exploiting any concepts, ideas, techniques or know-how of or related to the Services. Other than as expressly set forth in this Agreement, no license or other rights in or to the Services or other Ivalua intellectual property rights are granted to Customer, and all such rights are expressly reserved to Ivalua and its licensors.

5.2 Submitted Data. As between Customer and Ivalua, all rights, title and interest in and to all intellectual property rights in Submitted Data and Customer Confidential Information are and will remain owned exclusively by Customer. Customer hereby grants Ivalua the right to use, transmit, store, disclose, and otherwise process Submitted Data (subject to Section 8) for the sole purpose of providing, monitoring, and improving the Services and as otherwise set forth in this Agreement. Customer has and will retain sole responsibility for the accuracy, quality, integrity, legality, completeness and appropriateness of the Submitted Data.

5.3 Aggregated Data. Notwithstanding anything to the contrary, Ivalua may collect and use quantitative information, during and after the Term, derived from Customer's use of the Cloud Service (e.g. number of projects, frequency of log-ins) solely in aggregate form for industry analysis, benchmarking, marketing and other business purposes. All such data may only be disclosed to third parties in aggregate and anonymized form without identifying the Customer or its Authorized Users.

5.4 Feedback. To the extent that Customer provides any recommendations, suggestions, proposals, ideas, improvements, or other feedback regarding the Services or Documentation ("**Feedback**"), Customer hereby grants Ivalua an irrevocable perpetual license to use and further develop such Feedback without any restrictions or attribution.

6. TERM AND TERMINATION; SUSPENSION

6.1 Term. This Agreement will commence on the Effective Date and unless terminated earlier in accordance with the terms of this Agreement, will continue until all Orders have expired or have been terminated. The term of each Order for the Cloud Service is the Subscription Term.

6.2 Renewals. Unless otherwise provided in the Order, after the Initial Term subscriptions will automatically renew for additional one (1) year periods (each a "Renewal Period") on the same terms unless either Party gives the other notice of non-renewal at least sixty (60) days prior to the end of the Initial Term or then-current Renewal Period. Notwithstanding the foregoing, and unless otherwise agreed in an Order, the annual fees for any renewal shall be increased by the higher of:

- (a) five percent (5%) over the prior year's annual subscription fees; or
- (b) the percentage increase in the applicable index over the twelve (12) months prior to the renewal month. The applicable index is:
 - (i) If contracting with Ivalua SAS: The Harmonized Index of Consumer Prices – HCPI, Overall index, or its replacement index, as published by the European Central Bank and reported on their website at <https://www.ecb.europa.eu>; or
 - (ii) If contracting with Ivalua, Inc. or Ivalua Canada Inc.: The Consumer Price Index, All Urban Consumers, U.S. City Average, All items (1982-84=100) (CPI) or its replacement index, as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, as reported on their website at www.bls.gov/cpi.

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6.3 Suspension of Services.

- (a) Without Prior Notice. Ivalua will have the right to disable, suspend or restrict Customer's access to the Cloud Service without prior notice: (1) in situations involving actual or reasonably suspected violations of applicable law; (2) if Customer's use of the Cloud Service breaches or jeopardizes the security of the Cloud Service; or (3) if Ivalua reasonably determines that Customer has breached Section 2.3 (Restrictions). Ivalua will use commercially reasonable efforts to notify Customer prior to any such suspension, unless Ivalua reasonably believes that: (a) it is prohibited from doing so under applicable law or under legal process (such as court or government administrative agency processes, orders, or mandates) or (b) is necessary to prevent imminent harm to the Ivalua Cloud Service or a third party. Under circumstances where notice is delayed, Ivalua will provide notice when the circumstances for delay of notice no longer apply.
- (b) With Prior Notice. If any amount owing by Customer is overdue or if Customer is in material breach of this Agreement, Ivalua may, without limiting its other rights and remedies, suspend Services until such amounts are paid in full or the breach has been cured, provided Ivalua has given Customer at least ten (10) days prior written notice of its intent to suspend Services.

6.4 Termination. Either Party may terminate this Agreement or any Order by written notice if the other Party is in material breach of this Agreement, where such material breach is not cured within thirty (30) days after written notice of such breach from the non-breaching Party or with immediate effect where such material breach cannot be cured. For the avoidance of doubt, Customer's noncompliance with Section 2.3 is deemed a material breach of this Agreement. This Agreement may be terminated by either Party with immediate effect upon the occurrence of a Bankruptcy Event regarding the other Party. **"Bankruptcy Event"** means the occurrence of any one or more of the following events in respect to a Party: (a) it ceases to carry on its business; (b) a receiver or similar officer is appointed for its business, property, affairs or revenues and such proceedings continue for forty-five (45) days; (c) it becomes insolvent, admits in writing its inability to pay debts generally as they come due, is adjudicated bankrupt, or enters composition proceedings, makes an assignment for the benefit of its creditors or another arrangement of similar import; or (d) proceedings under bankruptcy or insolvency laws are commenced by or against it and are not dismissed or withdrawn within forty-five (45) days.

6.5 Effect of Termination. Upon the expiration or termination of this Agreement for any reason: (a) all outstanding Orders and access to the Services will automatically terminate; (b) all outstanding payment obligations of Customer will become due and payable immediately; and (c) all Submitted Data will be returned at no additional cost by Ivalua in its original format for uploaded documents and in a standard database backup format for data stored into the application database, provided Customer requests return of Submitted Data within thirty (30) days of termination of the Agreement. Return of Submitted Data in an alternative format may be accomplished at additional cost subject to execution of a SOW. After thirty (30) days, Ivalua will delete all Customer environments and any Submitted Data contained therein, except for archived backups (which are handled in accordance with Ivalua's standard backup policies) or if Ivalua is required to retain a copy of such Submitted Data for legal purposes, provided that such copy remains subject to the confidentiality provisions of this Agreement.

6.6 Survival. The Sections titled "Fees; Payment; Taxes," "Proprietary Rights," "Term and Termination; Suspension," "Confidentiality," "Limitation of Liability," and "General Provisions" will survive the expiration or termination of this Agreement for any reason.

7. CONFIDENTIALITY

7.1 Confidentiality Obligations. The Receiving Party agrees not to disclose the Disclosing Party's Confidential Information, except to the Receiving Party's employees, independent contractors, Affiliates, advisors, auditors, attorneys, service providers, and prospective investors or purchasers, who have a need to know the information, are informed of the confidential nature of the Confidential Information and who have agreed in writing or are otherwise legally bound to treat the Disclosing Party's Confidential Information in a manner consistent with Receiving Party's duties under this Agreement. The Receiving Party will not use the Disclosing Party's Confidential Information except (i) as necessary to perform the Receiving Party's duties under this Agreement; or (ii) in any other manner that this Agreement expressly authorizes. The Receiving Party will protect the Disclosing Party's Confidential Information using the same degree of care that it uses with respect to its own proprietary information, but in no event less than reasonable care.

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7.2 Compliance with Legal Duties. If Confidential Information must be disclosed to a third party by reason of legal, accounting or regulatory requirements beyond the reasonable control of the Receiving Party, Receiving Party will: (a) assert the confidential nature of the information in the action or proceeding; (b) disclose only that portion of the Confidential Information that is minimally required to comply with the request; (c) promptly notify the Disclosing Party of the order or request within, wherever possible, at least fifteen (15) business days in advance of the disclosure; and (d) permit the Disclosing Party (at its own expense) to seek an appropriate protective order or other confidentiality protections, cooperating with any reasonable requests relating to confidentiality from Ivalua in the process.

7.3 Exceptions. The confidentiality obligations under this Section 7 will not apply in the event that any information (i) is or becomes generally known and available to the public through no fault or breach of this Agreement by the Receiving Party; (ii) was rightfully in the Receiving Party's possession at the time of disclosure without restriction or use; (iii) was lawfully obtained by the Receiving Party from a third party who has the express right to make such disclosure; or (iv) was independently developed by the Receiving Party without breach of its confidentiality obligations.

7.4 Return of Confidential Information. Upon termination of this Agreement for any reason, the Receiving Party shall (i) immediately cease use of the Disclosing Party's Confidential Information; and (ii) if requested by Disclosing Party, either promptly destroy or return all Confidential Information of the Disclosing Party; provided, however, that the Receiving Party may retain a reasonable number of copies of the Confidential Information for the sole purpose of satisfying legal or regulatory requirements regarding record and data retention that the Receiving Party is obligated to comply with, enforcing this Agreement or archiving consistent with good business practices. For the avoidance of doubt, such copies remain subject to confidentiality and restricted use provisions of this Agreement.

8. DATA PROTECTION AND PRIVACY

8.1 Protection of Submitted Data. Ivalua will maintain appropriate administrative, physical, and technical safeguards for protection of the security and integrity of Submitted Data, including a written information security program of policies, procedures and controls ("**Security Program**"). Ivalua's Security Program is attached as Schedule 3 and is hereby incorporated into this Agreement. The Security Program includes industry standard practices designed to protect Submitted Data from unauthorized access, acquisition, use, disclosure, or destruction. Ivalua may periodically review and update the Security Program, provided that any such update does not materially reduce the overall level of security provided to Customer as described herein.

8.2 Responsibilities of Ivalua. Ivalua shall not (a) modify Submitted Data, (b) disclose Submitted Data except as compelled by law or as expressly permitted in writing by Customer, or (c) access Submitted Data except to provide the Services and prevent or address service or technical problems, or at Customer's request in connection with Customer support matters. Notwithstanding the foregoing, Ivalua reserves the right to access, alter, and/or remove Submitted Data if such Submitted Data violates this Agreement, or negatively impacts Ivalua's Services or Ivalua's ability to provide services to any other customer.

8.3 Data Privacy. Submitted Data may contain Personal Data which may be subject to laws restricting collection, use, processing and free movement of Personal Data. To the extent Ivalua processes any Personal Data on behalf of Customer as part of the Submitted Data, Ivalua will process such Personal Data according to the Data Processing Addendum attached as Schedule 5.

8.4 Data Security Notification. Ivalua will notify Customer in writing without undue delay upon becoming aware of any confirmed access to Submitted Data not authorized by this Agreement or elsewhere in writing by Customer. Ivalua will subsequently provide Customer with a report which shall identify, to the extent feasible: (i) the nature of the unauthorized access, (ii) the Submitted Data accessed, (iii) who affected the unauthorized access, (iv) what Ivalua has done or shall do to mitigate any deleterious effect of the unauthorized access, and (v) what corrective action Ivalua has taken or shall take to prevent future similar unauthorized access. Ivalua shall provide such other information as reasonably requested by Customer.

9. REPRESENTATIONS AND WARRANTIES

9.1 Warranties. Notwithstanding any warranties included elsewhere the Parties' only warranty rights and obligations are as follows: Each Party represents that it has validly entered into this Agreement and that it has the power and authority to do

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so. Ivalua warrants that, (1) for a period of ninety (90) days from deployment to production pursuant to a SOW, the Cloud Service provided by Ivalua under this Agreement will materially conform to the Documentation, (2) Ivalua will not materially decrease the functionality of the Cloud Service described in the Documentation during the then-current subscription period, (3) Ivalua will use industry standard measures to prevent the introduction of viruses, Trojan horses, worms, spyware, or other such malicious code into the Cloud Service, and (4) Ivalua will perform the Professional Services in a diligent and workmanlike manner. Customer's exclusive remedy and Ivalua's entire liability for a breach of the above warranties shall be the correction of the deficient service that caused the breach of warranty, or, if Ivalua cannot substantially correct the deficiency in a commercially reasonable manner, Customer may end the deficient service and Ivalua will refund to Customer the Fees for the terminated service that customer pre-paid to Ivalua prorated for the period following the effective date of termination.

9.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 9.1, IVALUA DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Ivalua does not and shall not be deemed to provide tax or legal advice in providing the Services. Customer is solely responsible for compliance with all laws and governmental regulations associated with its use of the Cloud Service.

10. RESERVED

11. RESERVED

12. GENERAL PROVISIONS

12.1 Publicity. Ivalua will not use Customer's identity in promotional material, publications, or press releases or other forms of publicity relating to the Ivalua Services without Customer's prior written consent, provided, however, that Ivalua may use Customer's name and logo without obtaining prior consent for the limited purpose of identifying Customer as a customer of Ivalua on Ivalua's website and marketing collateral.

12.2 Governing Law & Dispute Resolution. This Agreement will be governed by and construed and enforced in all respects under the laws indicated below based on the Ivalua contracting entity as reflected on the Order, without reference to conflict of laws principles. The provisions of the United Nations Convention of Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Acts will not apply to this Agreement in any manner whatsoever. The Parties will be subject to the exclusive jurisdiction of the state and federal courts indicated below based on the Ivalua contracting entity as reflected on the Order, and the Parties agree and consent to the exclusive jurisdiction and venue of such courts.

Region	Governing Law	Jurisdiction and Venue
Americas	State of California	San Mateo County, California
Canada	Province of Ontario	Province of Ontario
EMEA	France	Paris, France
Asia Pacific (including India)	Singapore	Singapore

12.3 Notices. Any required notice will be given in writing by customary means with receipt confirmed at the address of each Party set forth below, or to such other address as either Party may substitute by written notice to the other. Notices will be deemed to have been given at the time of actual delivery in person, one (1) day after delivery to an overnight courier service, or three (3) days after deposit via certified mail.

12.4 Force Majeure. Neither Party will be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in its performance under this Agreement (except for payment of Fees) due to any cause beyond its reasonable control, including without limitation: elements of nature or acts of God, war, riots, civil disorders, rebellions, revolutions, acts or threats of terrorism, strikes, labor disputes, failure of utilities or telecommunications, or other causes beyond the reasonable control of the affected Party (each a "**Force Majeure Event**"). The Party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

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12.5 Assignment. This Agreement may not be assigned by either Party in whole or part without the prior written consent of the other Party, which shall not be unreasonably withheld; provided that Ivalua may assign without Customer's consent in the event of a corporate reorganization, change of control, consolidation, merger, sale of all or substantially all of its business or assets related to this Agreement. Ivalua shall notify Customer of a pending assignment (i) no fewer than 60 days prior to the effective date of the assignment or (ii) as soon as permitted pursuant to the applicable transaction. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

12.6 Export Control & Trade Sanctions. Each Party shall comply with all applicable export control and sanctions laws and regulations in the performance of this Agreement, including without limitation, the applicable export control and sanctions laws and regulations of the United States, the EU, and France. Without limiting the foregoing, (i) each Party represents that it is not listed on any list of entities or individuals who are restricted under these laws and regulations from receiving services or items (including but not limited to the Specially Designated Nationals and Blocked Persons List) nor is it owned or controlled by or acting on behalf of any such listed entity; and (ii) Customer shall not, and shall ensure that Authorized User or Suppliers in performance of this agreement do not, violate any applicable export control or sanctions prohibition, regulation, or other restriction or cause any such violation to occur; and (iii) , Customer shall not, and shall ensure that Authorized Users or Suppliers in performance of this agreement do not, use or allow use of the Cloud Service from Cuba, Iran, Syria, North Korea or the Crimea, LNR, DNR regions of Ukraine.

12.7 Anti-Corruption. In connection with the Services provided under this Agreement, the Parties agree to comply with all applicable anti-corruption and anti-bribery related laws, statutes, and regulations.

12.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts to this Agreement transmitted by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as a signed original.

12.9 Entire Agreement. This Agreement (together with any Orders and linked terms in effect on the Effective Date and the terms of Master Agreement #_____ and Participating Addendum #_____) contains the entire agreement of the Parties concerning the subject matter of this Agreement and supersedes all prior communications, representations, agreements, and understandings, either oral or written between the Parties with respect to said subject matter. This Agreement may only be amended or waived by a writing signed by both Parties.

12.10 Miscellaneous. This Agreement will not create any agency, employment relationship, partnership or other form of joint enterprise between the Parties. If a provision of this Agreement is unenforceable or invalid, the provision will be revised so as to best accomplish the objectives of the Parties. This Agreement is in the English language only, which language will be controlling in all respects, and all versions of this Agreement in any other language will be for accommodation only and will not be binding on the Parties to this Agreement. Waiver of any term of this Agreement or forbearance to enforce any term by either Party shall not constitute a waiver as to any subsequent breach or failure of the same term or a waiver of any other term of this Agreement. Any provision found to be unlawful, unenforceable or void shall be severed from the remainder of this Agreement, and the remainder of this Agreement will continue in full force and effect without said provision. There are no third-party beneficiaries to this Agreement, and Customer acknowledges that Ivalua will have no obligations or liability whatsoever to any third parties with which Customer does business.

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**SCHEDULE 1
MAINTENANCE AND SUPPORT TERMS**

The Ivalua Maintenance & Support Services Terms (“**Maintenance & Support Terms**”) are governed by the Subscription Services Agreement between Ivalua and Customer (the “**Agreement**”). Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

1. IVALUA RESPONSIBILITIES

- 1.1 Severity Levels. Ivalua classifies each material nonconformity of the Cloud Service to the Documentation which was reported by Customer Contacts (“**Defect**”) into one of the following three (3) severity levels:

SEVERITY LEVEL	DEFINITION
Level 1 – Blocking Defect	Means a Defect that prevents operation of a major part of the functionalities of the Cloud Service by a majority of Authorized Users, and which cannot be bypassed by a Workaround.
Level 2 – Major Defect	Means a Defect that allows operation of the Cloud Service, but only for part of its major functionalities.
Level 3 – Minor Defect	Means a Defect that does not prevent Customer from having access to the Cloud Service’s major functionalities.

- 1.2 Online Portal & Defect Reporting. Defect reporting is managed solely online through the Ivalua Customer Support Extranet (“**CSE**”) made available to Customer Contacts 24x7 via login and password. Response times for Defects and other details based on the service level purchased by Customer are as set forth in Attachment 1.
- 1.3 Defect Correction. Ivalua will use commercially reasonable efforts to adapt, re-configure or re-program the affected Cloud Service, as applicable, to correct acknowledged Defects. Ivalua may correct a Defect by developing in a timely fashion procedures or routines for use by Authorized Users of the affected Cloud Service that, when employed in the regular operation of, or access to, the affected Cloud Service, will avoid or substantially diminish the practical adverse effects of the Defect (“**Workaround**”). Ivalua may also, in its sole reasonable discretion, deliver (i) a fix to a Blocking or Major Defect or to address a security performance, or critical product issue (“**Patch**”), or (ii) at a mutually agreed time, a release containing one or more corrections for a Defect, and which may or may not contain new functionality (“**Maintenance Release**”). Workarounds, Patches, Maintenance Releases and Upgrades (as defined below) shall be referred to collectively as “**Maintenance**”. For avoidance of doubt, Maintenance does not include implementation activities, configuration, product training, or customization which may be available at additional cost via Professional Services.
- 1.4 Monitoring. Ivalua will use reasonable commercial efforts to monitor the Cloud Service in relation to performance, availability, and security issues. Ivalua may, in its discretion, develop functionality improvements or enhancements to address Customer and market requirements and to improve the Cloud Service (“**Upgrade**”). Ivalua’s process for releasing and implementing Upgrades, as updated from time to time, can be viewed at: <https://info.ivalua.com/private/upgrade-process>, which document is incorporated into these Maintenance & Support Terms (“**Upgrade Process**”). Attached is the Upgrade Process current as of the Effective Date. Upgrades are deemed to constitute part of the Cloud Service and are subject to all the terms and conditions of the Agreement.
- 1.5 Customer Success Program. During the Subscription Term, Ivalua will make available to Customer Ivalua’s Customer Success Program as described at https://www.ivalua.com/private/cs_program.pdf. Attached is the Customer Success Program current as of the Effective Date.

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2. CUSTOMER RESPONSIBILITIES

- 2.1 Contacts. Customer must designate qualified contacts (“**Customer Contacts**”) for the purpose of reporting Defects and obtaining Maintenance and ensure that their information is current in the CSE. Customer may replace Customer Contacts as reasonably necessary by providing written (email) notice to Ivalua’s business contact. Customer may not exceed the number of Customer Contacts permitted according to its purchased level of support.
- 2.2 Maintenance Requests. Customer may submit requests to Ivalua (“**Maintenance Requests**”) solely through its designated Customer Contacts and via the CSE. The Customer Contacts entering Maintenance Requests will take action to implement the resolutions to Defects. Customer agrees that Ivalua may communicate and follow instructions to make changes to Submitted Data and/or Customer’s instances, with its Customer Contacts.
- 2.3 Cooperation. Customer will provide Ivalua with such information and access to Customer resources as Ivalua may reasonably require in order to provide Technical Support and Maintenance. Ivalua is excused from non-performance hereunder to the extent attributable to Customer’s failure to provide such information.
- 2.4 Upgrades. Customer agrees to take necessary action to address Defects or security issues in the Cloud Service and will use reasonable commercial efforts to comply with the Upgrade Process. Customer understands that only the latest release of the Cloud Service contains the most current features, performance and security, including Patches. Ivalua is not responsible for Defects or security issues affecting the Cloud Service or failure to meet the SLA for the Cloud Service, in the event Customer is not in compliance with the Upgrade Process.
- 2.5 Certifications. Prior to conducting any configuration of the Cloud Service, Customer will ensure that the resources performing and implementing the configuration have successfully completed Ivalua Level 2 Certification, and Ivalua Level 3 Certification for configurations of integrations, and/or ensure that the third party mandated by the Customer is an Ivalua certified partner. In addition, all configurations performed by or on behalf of Customer must be uploaded onto the Extranet. Ivalua recommends that the core Customer project team completes an Ivalua Level 1 Certification in order to acquire a solid knowledge of Ivalua's standard capabilities.

3. LIMITATIONS

- 3.1 Exclusions. Ivalua shall have no obligation with respect to any Defect to the extent caused by (i) use of the Cloud Service other than according to the terms of the Agreement and these Support Terms (ii) modification of the Cloud Service by Customer or any third party, except as expressly permitted in writing by Ivalua; (iii) any combination or integration of the Cloud Service with hardware, software or technology not provided by Ivalua, including third-party software, unless such combination or integration is expressly permitted in writing by Ivalua; (iv) Defects that cannot be reproduced by Ivalua based on information provided by Customer; (v) Customer configurations performed or implemented in violation of Section 2.5 (Certifications); or (vi) Customer has not paid Subscription Fees.
- 3.2 Limitations. Notwithstanding the foregoing, Ivalua will take the necessary actions to plan and correct any Defect arising from configuration performed or implemented in violation of Section 2.5 (Certifications) but reserves the right to charge Customer for the work associated with correction of such Defects.

4. OPTIONAL SUPPORT SERVICES

- 4.1 Helpdesk Support. If Customer purchased Helpdesk Support, Ivalua will provide Customer’s end-users and/or Suppliers with technical support, which consists only of level 1 assistance through a dedicated geographic phone number and dedicated email address at the hours and languages detailed in Attachment 1. For clarity, the CSE is used for the management of Customer Maintenance Requests.

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ATTACHMENT 1 TO IVALUA MAINTENANCE & SUPPORT TERMS

Maintenance Hours and Details Per Service Level Purchased

	STANDARD	PREMIUM	PLATINUM
Hours (English)	8am to 6pm (M – F) †	Severity 1: 24x5 (M – F) † Severity 2-3: 8am to 6pm (M – F) †	Severity 1: 24x7 (M – Su) Severity 2-3: 8am to 6pm (M – F) †
# of Customer Contacts	2	Up to 5	Up to 10
Channels	CSE		
Review Call	Monthly	Monthly	Weekly

† Times are local to Customer's headquarters' Region* and exclude local public holidays.

Help-Desk Support (optional) Hours and Details

	AMER	EMEA	APAC
Operating Hours	8am to 8pm Eastern Time (Montreal) †	8am to 6pm Central European Time (France) †	6am to 6pm India Standard Time †
Languages during Operating Hours	English, French, Spanish, Portuguese	English, French, German, Spanish, Italian, Portuguese	English, Hindi, Chinese (Mandarin), Japanese, Arabic
Languages 24*7	English		
Contact Type	Phone and/or Email		
Time to Respond During Business Hours	90% of questions answered within 1 hour		
Time to Respond During Non-Business Hours	Within 8 hours, may be responded to by another region to reduce Time to Respond		

† Times are local to selected Region and exclude local public holidays.

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Maintenance SLA

STANDARD SERVICE LEVEL	
SEVERITY LEVEL	RESPONSE TIME*
1 (Blocking Defects)	Within 2 hours
2 (Major Defects)	Within 6 hours
3 (Minor Defects)	Within 2 days

PREMIUM SERVICE LEVEL [†]	
SEVERITY LEVEL	RESPONSE TIME*
1 (Blocking Defects)	Within 2 hours
2 (Major Defects)	Within 4 hours
3 (Minor Defects)	Within 24 hours

PLATINUM SERVICE LEVEL [†]	
SEVERITY LEVEL	RESPONSE TIME*
1 (Blocking Defects)	Within 1 hour
2 (Major Defects)	Within 2 hours
3 (Minor Defects)	Within 24 hours

* The Response Time commences at the time a Defect is reported by Customer via CSE.

[†] Note that Response Times Service Levels for Premium and Platinum Maintenance are dependent on Ivalua resources being allowed to support requests and access Submitted Data from all Ivalua locations worldwide (France, Canada, India and US).

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ATTACHMENT 2 TO IVALUA MAINTENANCE & SUPPORT TERMS

IVALUA UPGRADE PROGRAM

The following delineates Ivalua's Upgrade Process. Capitalized terms used but not defined herein have the meanings set forth in the Subscription Services Agreement.

Ivalua active customers that have paid all Fees in accordance with their Agreement are entitled to future supported versions of the Ivalua Cloud Service. Typically, the most recent 2 versions released are "destinations" for a prospective Upgrade. It is the responsibility of Customer and Ivalua to determine the best version for an Upgrade, as well as the appropriate schedule for and resources required to implement the Upgrade.

- ▶ Ivalua recommends at least one Upgrade every 12 to 18 months for the Customer to be able to get the best quality of from the Cloud Service.
- ▶ Ivalua requires Customer to Upgrade at least once every 2 years.

1. Details. The Fees paid by Customer for the Services include Ivalua resources required to support an Upgrade, subject to the following stipulations:

(a) Scope:

- (i) Customer is limited to one Upgrade per 12 months unless mutually agreed by both Customer and Ivalua.
- (ii) New features or modules introduced in the upgraded version may require extra labor costs.
- (iii) After the initial "go live," customizations or complex configurations/integrations made by Customer or an Ivalua implementation partner which are not covered by incremental subscription or Maintenance and Support fees will incur labor charges for each Upgrade.

(b) Planning:

- (i) Upgrades will require a pause in enhancement projects while the Upgrade is tested and deployed (an "Enhancement Pause"). Shortening the duration of the Enhancement Pause may incur fees for extra merge and re-testing activities.
- (ii) Ivalua resource availability to perform the Upgrade may be constrained by other priorities; adequate planning is expected.
- (iii) Client resources are expected to facilitate many of the Upgrade Process steps as set forth herein and beyond.
- (iv) A specific Upgrade project plan is required to document scheduling, resource requirements, Enhancement Pause timing, exceptional labor required, etc.

2. Ivalua Upgrade Process

(a) The estimated overall elapsed time for an Upgrade is dependent on complexity in 2 dimensions:

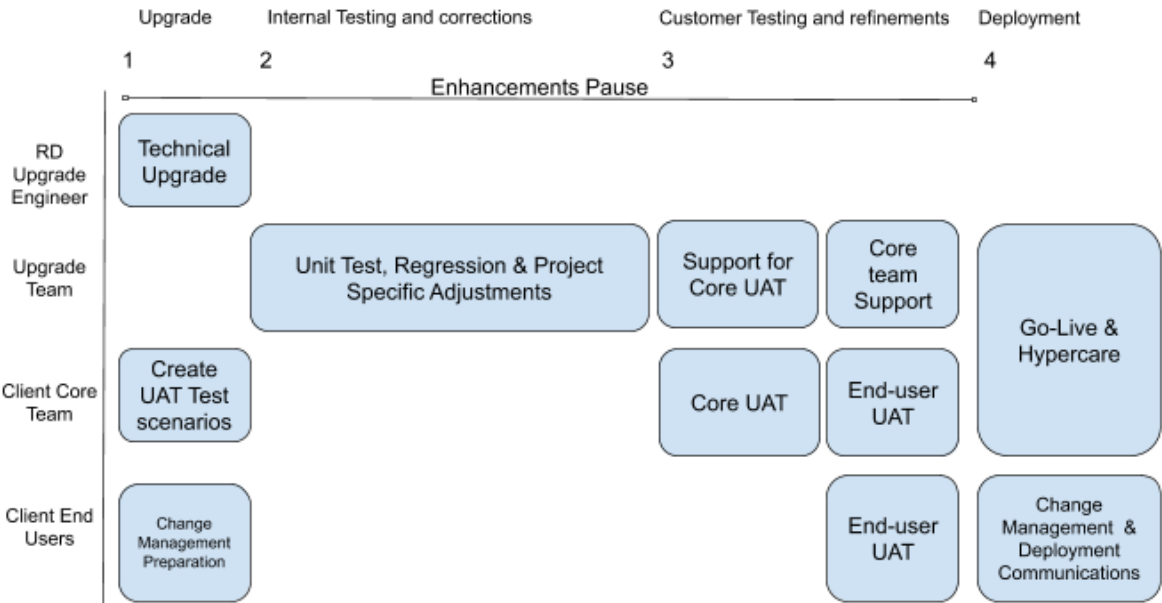
- (i) Complexity of client implementation (customizations, complex configurations, regional variations, non-standard integrations, number of modules, etc.); and
- (ii) Extent of the Upgrade (e.g. the number of versions being jumped, as certain versions may have refactoring or migration requirements)

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- (b) The 4 periods in the process described in the below graphic could be days, weeks or months. For a short Upgrade process, Ivalua recommends sticking to the standard features and upgrading your application regularly. The Ivalua project team will advise Customer on the specific estimated time based on these factors.
- (c) The following graphic illustrates the high-level components of the Upgrade Process:



3. Pre-requisites for Upgrades. Upgrades will be started when the following is well planned and documented:

- (a) Detailed Test Scripts are established by Customer and communicated to Ivalua’s team during the upgrade kick-off meeting.
- (b) A project plan stating the dates and resources for the project is signed off by all Parties.
- (c) The “destination” version must be released as Generally Available.
- (d) Any applicable labor charges are documented in an appropriate Statement of Work.

4. Enhancement Pause.

- (a) Requirement. Because of the complexity of most implementations, the Upgrade Process requires a “pause” in enhancement work during the entire process. This ensures that the upgrade is the ONLY change being done and tested adequately. In the process diagram, then, this means all 4 time periods are using the DEV-EVOL environment to perform the upgrade and no changes for other enhancements are allowed.
- (b) Shortening the Enhancement Pause. The time to implement an Upgrade may be minimized with a shorter Enhancement Pause (only impacting the last 2 time periods in the above graphic), but at the cost of a longer overall Upgrade cycle (5 periods instead of 4, with one additional period to merge the enhancements with the Upgrade) and including one-time labor charge to support the effort to merge the enhancements to the upgraded environment.

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ATTACHMENT 3 TO IVALUA MAINTENANCE & SUPPORT TERMS**IVALUA CUSTOMER SUCCESS TERMS**

The Ivalua Customer Success Terms attach to the Support Services terms and are governed by the Subscription Services Agreement entered into between the Parties ("Agreement"). Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

1. Customer Success

Ivalua's customer success offerings, further detailed on Ivalua's website, are designed to help the Customer generate value from their investment in Ivalua.

As part of Ivalua's customer success program and for the duration of the Subscription Term, Ivalua will assign Customer a dedicated Customer Success Manager ("CSM"). CSM will be responsible for scheduling quarterly business reviews to analyze success metrics. Quarterly business reviews will include survey of Customer's usage of Ivalua products and suggestions for increasing value by driving higher adoption.

As part of Ivalua's customer success program, Customer will also be provided with access to: (i) webinars for each new product release detailing the new features included in such release; (ii) Ivalua's user forums and (iii) up to 5 seats at no cost to Ivalua's annual user Conference.

2. Governance

During the implementation phase of Ivalua's Cloud Service through an Ivalua authorized implementation partner ("Partner"), Ivalua will use reasonable efforts to:

- 2.1. Participate in Customer steering committee meetings related to the implementation of the Cloud Service and provide input on overall implementation strategy in support of Customer's desired business outcomes.
- 2.2. Provide a designated contact person for operational escalations by Customer related to the implementation of the Cloud Service.

3. Design Review

During the implementation phase of Ivalua's Cloud Service by a Partner, Ivalua will review the Design Document against Ivalua's best practices for implementation of its Cloud Service and provide Customer with its recommendations.

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SCHEDULE 2
SERVICE LEVEL AGREEMENT

The Ivalua Service Level Agreement (“*SLA*”) is governed by the Subscription Services Agreement between Ivalua and Customer (the “*Agreement*”). Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

1. **DEFINITIONS.** For purposes of this SLA the following definitions will apply.
- 1.1 “**Downtime**” means the total minutes of the calendar month during which the production instance of the Cloud Service is not accessible to Authorized Users, except for Excluded Downtimes.
- 1.2 “**Monthly Fees**” means one-twelfth of the base annual fee for the Cloud Service.
- 1.3 “**Service Credit**” means the percentage (as set forth in the table in Section 3.2) of the Monthly Fees paid for the Cloud Service that is awarded to Customer relating to a failure to meet the Service Availability Percentage during that calendar month, not to exceed 10% of the Monthly Fees.
- 1.4 “**Scheduled Maintenance**” means such activities of Ivalua to maintain or improve the systems supporting the Cloud Service, including but not limited to installation of hard hardware or software or other agreed Maintenance Releases. Unless otherwise communicated in advance to Customer, Scheduled Maintenance shall occur as detailed below.
- 1.5 “**Uptime**” means the total minutes of the calendar month.
2. **CLOUD SERVICE AVAILABILITY SLA.** During the Subscription Term, Ivalua commits to an availability or Uptime percentage of 99.80% during each calendar month (“**Service Availability Percentage**”), which is calculated as follows:

$$\frac{(Uptime - Downtime)}{(Uptime)} \times 100$$

3. **SERVICE CREDITS**
- 3.1 Ivalua will provide a report showing the Service Availability Percentage for each calendar month (“**Monthly Report**”) in accordance with the Cloud Service level purchased by the Customer.
- 3.2 If the Service Availability Percentage is not met during a calendar month and Customer was negatively impacted (i.e., attempted to log into or access the Cloud Service and failed), Ivalua will provide Customer with a Service Credit for such calendar month. The Service Credit will be calculated in accordance with the table below. The Service Credit will be calculated in accordance with the table below. Service Credits represent Customer's sole and exclusive remedy for Ivalua’s breach of the SLA.

Service Availability Percentage (per Calendar Month)	Service Credit (% of Monthly Fees)
99.80% and above	0%
< 99.80%	2.5%
< 99.00%	5%
< 98.00%	7.5%
< 97.00%	10%

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- 3.3 In the event of a failure to meet the Service Availability Percentage in any given calendar month, Customer may claim a Service Credit via Support Ticket (in accordance with Ivalua's Standard Support Terms) within ten (10) business days after the end of such calendar month. Customer's Support Ticket must provide details of the relevant incident. Failure to comply with these reporting requirements may forfeit Customer's right to receive a Service Credit.
- 3.4 Any Service Credits will be applied against future Professional Services Fees and must be used within twelve (12) months of Customer's receipt of any such Service Credits.
- 3.5 In no event will Customer be provided a Service Credit in cash, refund, or any form other than as a credit against Fees, unless a Service Credit is owed at the termination or expiration of this Agreement without a renewal order, in which case, such Service Credit shall be paid to Customer within ninety (90) days of the end of the Subscription Term.

4. EXCLUDED DOWNTIMES

- 4.1 Downtime which occurred due to any of the following shall be excluded for the purpose of calculating the Service Availability Percentage ("**Excluded Downtimes**"):
- (a) Scheduled Maintenance or emergency maintenance required to apply patches or fixes or undertake other maintenance activities mutually agreed with the Customer; or
 - (b) A failure of any third-party software, hardware or network infrastructure outside of Ivalua's data center and not under the direct control of Ivalua.

5. SERVICE LEVEL DEFINITIONS

- 5.1 "**Hit Response Time**" means the response time of a web request measured on the application server which excludes Internet and any network latency. Hits related to upload and download of attachments, to data import and export, to data analytics reporting, to functions involving calls to external applications or systems as well as to specific application functions agreed upon by Ivalua and the Customer are excluded from measurement.
- 5.2 "**Allocated Storage**" refers to user-uploaded files. For clarity, there is no limit on size of the database used in the Services. Should Customer exceed Allocated Storage for more than three (3) months, Ivalua shall notify Customer of the need to purchase additional Allocated Storage at an additional cost.
- 5.3 "**RPO**" means Recovery Point Objective, which defines the volume of data lost during an interval of time between the loss event and the most recent preceding back up.
- 5.4 "**RTO**" means Recovery Time Objective, which is the duration of time within which the business process is restored after notification of business process disruption.
- 5.5 **Ivalua Standard Hosting Service Levels.** Unless stated otherwise in an applicable Order, Ivalua's hosting Service Levels are as follows. Hosting Service Level options may be different as indicated in the applicable Order.

Hosting Services	Service Level
Recovery Time Objective	24hr
Hit Response Time (per month)	90% < 3 seconds
Recovery Point Objective	24hr
Allocated Storage	1 TB

- 5.6 **Disaster Recovery.** Ivalua maintains a Disaster Recovery Plan as part of our Data Security Program. Backups are performed daily (once every 24 hours), unless a shorter RPO time is selected by Customer.

6. Scheduled Maintenance

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- 6.1 Scheduled Maintenance shall occur between the hours of Friday 11:59 pm to Sunday 11:59 pm Eastern Standard Time (EST) or Friday 11:59 pm to Sunday 11:59 pm Central European Time (CET) (depending on the location of the Customer's datacenter) after the second Tuesday of each calendar month and may take up to 90 minutes. Ivalua reserves the right to change the time and day of such Scheduled Maintenance by providing written notice to Customers.

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**SCHEDULE 3
DATA SECURITY PROGRAM**

This Ivalua Data Security Program (“**Security Program**”) is governed by the Ivalua Subscription Services Agreement entered into between the Parties (“**Agreement**”). Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

Ivalua’s Security Program adheres to industry best practices and includes at least the following measures:

1. Technical Security Measures:
 - a. Patching: Controls are implemented to update all data center systems on a regular schedule.
 - b. Malware Detection: Controls are implemented to detect and prevent unauthorized access, intrusion and computer viruses and other malware.
 - c. Vulnerability Scanning: Vulnerability scans are completed on a regular schedule.
 - d. Encryption: Submitted Data is encrypted in transit and is stored on encrypted drives. In addition, backup files are encrypted. Ivalua uses industry standard encryption algorithm AES with a minimum key length of 256 bits.
 - e. System Hardening: Data center system is hardened against attacks and misuse, using appropriate security best practices for the hardening of the specific deployed platform, before placing those systems into production.
 - f. Network Security: Firewall is deployed applying security best practices and “Least Privilege” principle. Intrusion prevention system is implemented to control and filter traffic flow leaving and entering systems and configures the intrusion prevention system applying security best practices.
 - g. Security Logs: Logging of security events is enabled on applicable systems components.
 - h. Separation of Environments: Production environment is segregated from non-production environments (such as development, test and training environments).
2. Access Controls: Ivalua maintains policies, procedures, and logical controls to manage and monitor personnel with access to Submitted Data.
3. Physical and Environmental Security: Controls are in place to provide reasonable assurance that access to physical servers at the production data center is limited to properly authorized individuals and that environmental controls are established to detect, prevent and control destruction due to environmental extremes.
4. Security Incident Response: Ivalua maintains a security incident response plan that includes procedures to be followed in the event of data security incident.
5. Contingency Planning/Disaster Recovery: Ivalua maintains policies and procedures for responding to an emergency or other occurrence (for example, fire, vandalism, and natural disaster) that could damage production systems that contain Submitted Data. The disaster recovery plan is reviewed and updated annually. Recovery tests are conducted at least annually (based on the service level purchased by the Customer).
6. Secure Disposal: Tangible property containing Submitted Data is securely disposed.
7. Security Reports: Ivalua retains an external auditor annually to complete the Service Organization Controls 2, Type 2 Report (“SOC 2 Report”) (or its substantially equivalent successor) in accordance with Service Organization and Statement on Standards for Attestation Engagements No. 18 Reporting on Controls at a Service Organization (“SSAE 18”) as well as in accordance with International Standard on Assurance Engagements No. 3402 Reporting on Controls at a Service Organization (“ISAE 3402”). Upon written request, Ivalua will provide Customer with a copy of its current SOC 2 Report.
8. Monitoring: Ivalua monitors the network and production systems for potential problems.
9. Change and Configuration Management: Ivalua maintains policies and procedures for managing changes to production systems and applications and conducts adequate testing before a change is put into production.

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**SCHEDULE 4
PROFESSIONAL SERVICES TERMS**

The Ivalua Professional Services Terms are governed by the Subscription Services Agreement entered into between the Parties (“**Agreement**”). Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

1. PROFESSIONAL SERVICES

- 1.1 **Professional Services.** Ivalua shall use commercially reasonable efforts to perform the Professional Services (e.g. implementation, integration and consulting services) as set forth in a SOW. Ivalua shall perform the Professional Services in a professional manner in accordance with industry standards. Ivalua shall exclusively determine the method, details and means of performing the Professional Services, including without limitation, utilizing personnel which Ivalua deems appropriate to perform the Professional Services.
- 1.2 **Statement of Work.** The SOW will describe the scope of the Professional Services as well as the fees, costs and expenses payable by Customer to Ivalua in connection with the performance of such Professional Services. Each SOW shall become effective upon execution by authorized representatives of both Parties.
- 1.3 **Change Request.** Customer may at any time submit a change request via the Ivalua Customer Support Extranet (“**Change Request**”) proposing changes to the SOW. Change Requests shall contain sufficient level of detail to permit Ivalua to properly evaluate the Change Request. Ivalua shall determine whether the Change Request is, in its reasonable judgment, technically and commercially feasible and shall respond to Customer in writing with either: (a) proposed modifications to the Change Request; (b) the reasons why such a Change Request cannot be accepted; or (c) acceptance of the Change Request with an estimate of the revised cost and schedule. Once the Change Request is acceptable to both Parties, the Parties shall amend the applicable SOW in a change order (a “**Change Order**”) signed by their respective authorized representatives. Modifications to any SOW shall become effective once a Change Order has been executed by both Parties.
- 1.4 **Customer Responsibilities.** Customer will make available in a timely manner at no charge to Ivalua all technical data, interfaces, computer and network facilities, programs, files, documentation, test data, sample output, or other applicable information and resources of Customer required by Ivalua for the performance of the Professional Services (“**Customer Materials**”). Customer grants Ivalua a nonexclusive, royalty-free license to Ivalua and its personnel to make, have made, use, modify, create derivative works, perform, display, execute and reproduce any Customer Materials solely for the purpose of performing the Professional Services, and will obtain all licenses and other rights required for Ivalua and its personnel to use any third party materials provided together with or as part of the Customer Materials.
- 1.5 **Acceptance.** For fixed fee arrangements, unless otherwise set forth in a SOW, the Parties will prepare and mutually execute a design document which includes the implementation, testing and acceptance requirements for the planned deliverables (“**Design Document**”). Acceptance of a deliverable will be deemed to occur on the earlier of either (i) failure of Customer to reject the deliverable within fifteen (15) business days after Ivalua notifies Customer that a deliverable has been completed according to the Design Document; or (ii) deployment of a deliverable into the production version of the Cloud Service. Deliverables may only be rejected if they do not conform to the Design Document.
2. **ASSUMPTIONS.** The Parties acknowledge that in developing a SOW (including pricing and schedule) they will rely on certain mutually assumed facts which will be detailed in the SOW (“**Assumptions**”). If any of the Assumptions are found to be materially incorrect or inaccurate, Ivalua will not be required to continue to perform Professional Services under such SOW until the Parties execute an appropriate Change Order which will be negotiated in good faith.
3. **TERMINATION.** Either Party may terminate a SOW, effective immediately upon written notice to the other Party, if the other Party fails to pay any amount due or otherwise breaches the SOW in any material respect and fails to cure such breach within thirty (30) days after receipt of written notice specifying the nature of the breach and specific steps that should be followed to cure the breach. All SOWs will automatically terminate in the event of a termination of the Agreement in accordance with its terms. Upon expiration or termination of a SOW, Ivalua’s obligation to provide

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further Services under such SOW will end and Ivalua will immediately cease any activities subject to such SOW. If a SOW is terminated prior to completion of Services charged on a time and materials basis, Customer shall compensate Ivalua for all Services performed and all expenses incurred up to termination.

4. **LIMITATION ON LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 11.2 OF THE AGREEMENT, EITHER PARTY'S (OR THEIR RESPECTIVE AFFILIATES) AGGREGATE CUMULATIVE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THE PROFESSIONAL SERVICES PROVIDED UNDER A SOW WILL NOT EXCEED THE FEES PAID OR OWED TO IVALUA UNDER SUCH SOW FOR THE APPLICABLE SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM.

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**SCHEDULE 5
DATA PROTECTION ADDENDUM**

This Data Privacy Addendum is incorporated into and forms part of the Agreement and is subject to the provisions therein. Capitalized terms used but not defined herein have the meaning set forth in the Agreement. Except as modified below, the terms of the Agreement shall remain in full force and effect.

1. DEFINITIONS

- 1.1. **"Agreement"** means the Subscription Services Agreement or similar agreement governing Customer's access and use of the Ivalua Services.
- 1.2. **"CCPA"** shall mean the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq. as amended by the California Privacy Rights Act of 2020, and its implementing regulations.
- 1.3. **"CONTROLLER"** means an entity that determines the purposes and means of the Processing of Personal Data.
- 1.4. **"Data Subject"** means a natural person whose Personal Data is Processed in the context of this Data Privacy Addendum.
- 1.5. **"Data Protection Laws"** means all laws and regulations relating to data protection and privacy, including the GDPR, the UK GDPR, the Swiss DPA, the PIPEDA and the CCPA, applicable to the Processing of Personal Data under the Agreement.
- 1.6. **"GDPR"** shall mean Regulation (EU) 2016 / 679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regards to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- 1.7. **"Personal Data"** means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 1.8. **"PIPEDA"** shall mean the Canadian Personal Information Protection and Electronic Documents Act.
- 1.9. **"Processing"** (and its cognates) means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, storage, structuring, organization, adaptation, or alteration, retrieval, consultations, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure or destruction.
- 1.10. **"Processor"** means an entity that Processes Personal Data on behalf of a Controller.
- 1.11. **"Restricted Transfer"** means: (i) where the GDPR applies, a transfer of Personal Data from the European Economic Area to a country outside of the European Economic Area which is not subject to an adequacy determination by the European Commission; (ii) where the UK GDPR applies, a transfer of Personal Data from the United Kingdom to any other country which is not based on adequacy regulations pursuant to Section 17A of the United Kingdom Data Protection Act 2018; and where the Swiss DPA applies, a transfer of Personal Data from Switzerland to any other country which is not based on an adequacy decision recognized under the Swiss DPA.
- 1.12. **"Supervisory Authority"** means any regulatory, supervisory, governmental, or other competent authority with jurisdiction over compliance with the Data Protection Laws.
- 1.13. **"Swiss DPA"** means the Swiss Federal Data Protection Act of 19 June 1992 and its corresponding ordinances as amended from time to time.

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- 1.14. **"UK GDPR"** means the GDPR as saved into United Kingdom law by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018.
- 1.15. **"Standard Contractual Clauses"** means (i) where the GDPR applies, the contractual clauses annexed to the European Commission's Implementing Decision 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council ("SCCs"); (ii) where the UK GDPR applies, the "International Data Transfer Addendum to the EU Commission Standard Contractual Clauses" issued by the Information Commissioner under s.119A(1) of the Data Protection Act 2018 ("UK Addendum"); and (iii) where the Swiss DPA applies, the SCC's with the Swiss additions ("Swiss SCCs").

2. PROCESSING OF PERSONAL DATA

- 2.1. With respect to Personal Data within Submitted Data, the parties agree that the Customer is the Controller and Ivalua is the Processor. Customer shall comply with Data Protection Laws and ensure that any instructions it issues to Ivalua shall comply with Data Protection Laws.
- 2.2. Ivalua shall comply with Data Protection Laws when carrying out its obligations under the Agreement. Ivalua shall only Process Personal Data as a Processor in accordance with Customer's written instructions or as required by the law. Customer instructs Ivalua to Process Personal Data to perform the Services and as described in this Data Privacy Addendum and the Agreement. This Data Privacy Addendum, the Agreement and any written instructions provided under this clause are Customer's complete and final instructions to Ivalua for the Processing of Personal Data. Ivalua shall not be bound by additional or alternate instructions except pursuant to the Parties' written agreement.
- 2.3. The Customer acknowledges that Ivalua is not responsible for determining the requirements of all laws applicable to the Customer's business, including but not limited to Data Protection Laws. The Customer will ensure that Ivalua's Processing of Customer Personal Data, when done in accordance with Customer's instructions, will not cause Ivalua to violate any applicable law, regulation, or rule, including but not limited to Data Protection Laws. Ivalua shall promptly notify the Customer, in writing, unless prohibited from doing so under Data Protection Laws, if it becomes aware or believes that any data Processing instruction from the Customer violates any Data Protection Laws.

3. ASSISTANCE

- 3.1. Ivalua shall, to the extent it may be legally permitted, promptly notify the Customer if Ivalua receives a request from a Data Subject to exercise any rights under Data Protection Law (with each such request being a **"Data Subject Request"**). If Ivalua receives a Data Subject Request in relation to Customer Personal Data, Ivalua will advise the Data Subject to submit their request to the Customer and the Customer will be responsible for responding to such request. For the avoidance of doubt, Ivalua shall not be obligated to grant a Data Subject Request where the Data Subject is not entitled to the relief sought.
- 3.2. Ivalua shall, at the request of the Customer, and taking into account the nature of the Processing, reasonably assist the Customer in the fulfillment of Customer's obligation to respond to a Data Subject Request under the Data Protection Laws and/or in demonstrating such compliance, where possible; provided that (i) the Customer is itself unable to respond without Ivalua's assistance and (ii) Ivalua is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws.
- 3.3. Ivalua shall provide Customer with reasonable assistance and cooperation to support its obligation to conduct a data protection impact assessment in accordance with Data Protection Law including, if necessary, to assist Customer to consult with its relevant data protection authority. Ivalua providing Customer with access to the relevant requested information shall satisfy the requirement to provide reasonable assistance and cooperation to the Customer under this Section.

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4. TERM

- 4.1. Upon termination or expiration of the Agreement, Ivalua shall (at Customer's election) destroy or return to Customer all Personal Data within the Submitted Data in accordance with Section 6.4 of the Agreement (including all copies of the Personal Data in Ivalua's possession or control). Parties hereby acknowledge that Personal Data is part of Submitted Data. . Notwithstanding the expiration of the Agreement, this Data Privacy Addendum will remain in effect until, and automatically expire upon, Ivalua's deletion or return to Customer of all Personal Data.
- 4.2. Expiration of this Data Privacy Addendum shall not discharge the parties from their confidentiality obligations pursuant to Section 10.
- 4.3. If Ivalua has a legal obligation to retain Personal Data beyond the period otherwise specified by the Agreement, Ivalua will notify Customer in writing of that obligation, to the extent permitted by law, and will return or destroy Personal Data in accordance with the Agreement after expiration of its legal obligation.

5. SUBPROCESSING

- 5.1. Customer consents to Ivalua engaging sub-processors to Process Personal Data in accordance with the provision of the Agreement. The current list of sub-processors is set out at the following link <https://www.ivalua.com/contract/>. Ivalua shall provide at least 30 days' prior notice of the addition or removal of any sub-processor (including details of the processing it performs or will perform), which may be given by posting details of such addition or removal at the following <https://www.ivalua.com/contract/>. Customer may object within 14 days of the prior notice to Ivalua's appointment of a sub-processor on reasonable grounds relating to the protection of the Customer Personal Data, and then either Ivalua will not appoint the sub-processor or Customer and Ivalua will discuss in good faith the potential impact of such refusal on the Services and especially the elected Service Levels and Hosting options.
- 5.2. Ivalua shall remain fully liable to the Customer for the performance of any sub-processor that fails to fulfil its obligations under this Data Privacy Addendum.
- 5.3. Ivalua shall ensure that the sub-processor is bound by data protection obligations compatible with those of Ivalua under this Data Privacy Addendum, shall supervise compliance thereof, and shall impose on its sub-processors the obligation to implement appropriate technical and organizational measures in such a manner that the Processing will meet the requirements of Data Protection Laws.

6. SECURITY

- 6.1. Taking into account the state of the art, the costs of implementation for both parties and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the parties shall implement appropriate technical organizational measures to ensure a level of security of the Processing of Personal Data appropriate to the risk. The measures shall include, at a minimum the security measures agreed upon in Annex II of the Agreement – Data Security Program.
- 6.2. The parties shall maintain written security policies that are fully implemented and applicable to the Processing of Personal Data. At a minimum, such policies should include assignment of internal responsibilities for information security management, devoting adequate personnel resources to information security, carrying out, as legally permissible verification checks on permanent staff who will have access to Personal Data, conducting appropriate background checks, requiring employees and sub-processors with access to Personal Data to enter into adequate written confidentiality provisions, and conducting training to make employees and sub-processors with access to Personal Data aware of information security risks of the Processing.
- 6.3. Ivalua's adherence to either an approved code of conduct or to an approved certification mechanism recognized under Data Protection Laws and/or the Supervisory Authority and/or the IT industry recognized standards such as ISO 27001, SSAE 3401 I & II, may be used as an element which demonstrates Ivalua's compliance with the requirements set out in Section 6.1, provided that the requirements contained in Ivalua's Data Security Program are also addressed by such code

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of conduct or certification mechanism. Upon written request, Ivalua will provide the Customer with a copy of its current SOC 2 Report. Ivalua reserves the right to refuse to provide additional information to that extent as it might potentially lead to an unauthorized disclosure under such standards.

- 6.4. The parties acknowledge that security requirements are constantly changing, and that effective security requires frequent evaluation and regular improvements of security measures. Ivalua will therefore evaluate the measures as implemented in accordance with Section 6 on an on-going basis. The Parties will negotiate in good faith the cost, if any, to implement material changes required by specific updated security requirements set forth in the Data Protection Laws or by data protection authorities of competent jurisdiction.

7. SECURITY BREACH

- 7.1. A "**Personal Data Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data within Submitted Data Processed by Ivalua under the Agreement.
- 7.2. Ivalua will notify Customer of a Personal Data Breach in accordance with section 8.4 of the Agreement.

8. AUDIT

- 8.1. Upon Customer's request, Ivalua shall provide Customer with a copy of Ivalua's most recent annual third-party assessment, such as an ISO 27001, SSAE 16 SOC 2, ISAE 3402 or similar assessment ("Audit Report"), provided that such Audit Report shall be deemed Confidential Information of Ivalua.
- 8.2. If Customer has a reasonable basis to conclude that an Audit Report provided by Ivalua is not satisfactory to confirm Ivalua's compliance with this Data Privacy Addendum, Customer may, at Customer's sole expense, upon thirty (30) days' prior notice, request an audit during normal business hours of those Ivalua systems and records relevant to Ivalua's Processing of Personal Data on Customer's behalf. Customer's audit right under this Section is limited to once in any twelve (12) calendar month period.
- 8.3. In addition, in the event of a confirmed Personal Data Breach or if required by a Supervisory Authority of competent jurisdiction, Customer shall be entitled, subject to providing at least 30 days' notice to Ivalua, to carry out, or have carried out by a third party who has entered into a written confidentiality agreement with Customer with terms no less protective than those in the Agreement with respect to protection of Ivalua's Confidential Information, to audit Ivalua's systems and records relevant to Ivalua's Processing of Personal Data on Customer's behalf.

9. INTERNATIONAL DATA TRANSFERS

- 9.1. The parties agree that Ivalua may transfer Personal Data Processed under this Data Privacy Addendum outside the EEA, United Kingdom and Switzerland, as necessary to provide the Services and in accordance with Data Protection Laws. To the extent Ivalua's cross-border Processing of Personal Data involves a Restricted Transfer, Module 3 of the Standard Contractual Clauses constitutes the legal basis for any such Restricted Transfer. Ivalua's inter-company international transfers are listed here: <https://www.ivalua.com/contract/>
- 9.2. Ivalua shall not participate in (nor permit any sub-processor to participate in) any other Restricted Transfers of Personal Data (whether as an exporter or an importer of the Personal Data) unless the Restricted Transfer is made in full compliance with Data Protection Law and pursuant to Standard Contractual Clauses implemented between the relevant exporter and importer of the Personal Data.

10. CONFIDENTIALITY

Without prejudice to confidentiality provisions set forth in the Agreement, Ivalua shall treat all Personal Data as confidential and shall inform its employees, agents and/or approved sub-processors engaged in the Processing of Personal Data of the confidential nature of the Personal Data. Ivalua shall ensure that all such persons or parties have

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signed an appropriate confidentiality agreement, are otherwise bound to a duty of confidentiality, or are under appropriate statutory obligation of confidentiality.

11. CONFLICTS WITH THE AGREEMENT

In the event of any conflict or inconsistency between this Data Privacy Addendum and the terms of the Agreement, this Data Privacy Addendum shall prevail with respect to Personal Data.

12. JURISDICTION SPECIFIC TERMS

12.1. **State of California (USA).** To the extent that CCPA is applicable, except as permitted under the Agreement, this Clause 12.1 shall take precedence to the extent of any contradictory term otherwise contained herein solely with respect to Processing of Personal Data in the Agreement:

12.1.1. To the extent Ivalua acts as a “Service Provider” as defined in CCPA Section 1798.140(ag)(1) in addition to the obligations set forth above, Ivalua will not (i) Sell or Share Personal Data; (ii) retain, use, or disclose Personal Data for any purpose other than for the business purposes specified in the Agreement, including retaining, using, or disclosing it for a commercial purpose other than the business purposes specified in the Agreement or as otherwise permitted under Data Protection Law; (iii) retain, use, or disclose Personal Data outside of the direct business relationship between Customer and Ivalua; or (iv) combine it with Personal Data it receives from or on behalf of another entity or that it collects from its own interaction with the Data Subject unless permitted by the CCPA. To the extent required by the CCPA, Ivalua certifies that it understands these restrictions and will comply with them.

12.1.2. In addition to the obligations set forth in Clause 12.1.1, Ivalua will, regardless of its role under the CCPA (i) process Personal Data only for the limited and specified purposes under the Agreement and this Data Processing Addendum; (ii) comply with applicable obligations under the CCPA and provide the same level of privacy protection as is required by the CCPA, (iii) allow Customer to take reasonable and appropriate steps to ensure that Ivalua uses Personal Data in a manner consistent with Customer’s obligations under the CCPA; (iv) notify Customer if Ivalua makes a determination that it can no longer meet its obligations under the CCPA; and (v) allow Customer, upon reasonable notice, to stop and remediate Ivalua’s unauthorized use of Personal Data.

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**SCHEDULE 6
IVALUA, INC. SPECIFIC TERMS**

The following additional terms will apply to any agreement entered into with Ivalua, Inc.:

1. INSURANCE.

The following insurance coverages and limits shall apply to contracts entered into with Ivalua, Inc.:

During the term of this Agreement Ivalua shall maintain: (a) Commercial General Liability Insurance including Contractual Liability with a minimum limit of US\$1,000,000 per occurrence and US\$2,000,000 in the aggregate; (b) Commercial Automobile Liability Insurance including coverage for hired and non-owned motor vehicles with a combined single limit of US\$1,000,000 per occurrence; (c) Umbrella Liability providing excess liability coverage in the minimum amount of USD \$3,000,000; (d) Professional Liability Insurance (Errors and Omissions Insurance) with a minimum limit of US\$5,000,000.00 per claim and per year; (e) Cyber Liability and Data Breach Insurance, which policy also includes cyber-liability insurance for financial losses arising from destruction or corruption of data with a minimum limit of US\$5,000,000 per claim and per year; and (f) Workers Compensation Insurance as required by applicable state laws, and at the limits statutorily required for each such state, and including Employer's Liability coverage for US\$1,000,000 in the aggregate. Upon request, Ivalua shall provide Customer with a certificate evidencing the coverages set forth above.

2. U.S. GOVERNMENT RIGHTS.

For purposes of Ivalua, Inc. contracting with any entity subject to Federal procurement regulations:

The Services and Documentation provided hereunder or derived therefrom and any related technical data are "commercial items" as defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 and are provided to the U.S. Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies in 48 C.F.R. 227.7202-1 and 22.7202-3. This is in lieu of and supersedes any Federal Acquisition Regulations ("FAR"), the Defense FAR Supplement ("DFARS"), or other clause or provision that addresses government rights in computer software or technical data.

**MASTER AGREEMENT NUMBER 18P 23081100000000000020 FOR
EPROCUREMENT SOLUTIONS AND SERVICES**

Between the **State of Maine** and
Ivalua



**ATTACHMENT C:
MASTER AGREEMENT PRICING**

I. Overview

The below pricing projections do not limit a consumer's ability to negotiate a lower price. These prices are to act as a maximum amount for any State or Agency that enters into an agreement with the vendor for the aforementioned services. The below costs represent the proposed implementation and Licensing Costs.

Cost Workbook Section	Ivalua Inc.		
Scenario One Implementation– Large State Pricing	\$3,680,000.00	Licensing / Maintenance – Large State Pricing (10 Years)	\$23,000,000.01
Scenario One Implementation – Medium State Pricing	\$3,170,000.00	Licensing / Maintenance – Medium State Pricing (10 Years)	\$19,000,000.01
Scenario One Implementation– Small State Pricing	\$2,340,000.00	Licensing / Maintenance – Small State Pricing (10 Years)	\$12,999,999.99

II. Pricing Breakdown

The breakdown of Ivalua Inc. cost projections can be found at [Ivalua Inc. Cost Proposal](#). The breakdown includes overall cost proposals, solution implementation costs, annual licensing costs including maintenance, and managed services support costs.

III. Cost Scoring

The scoring breakdown for Ivalua Inc., including the proposed discounts can be found at the [Ivalua Inc. Scorebook](#).

IV. Price Changes

Vendor agrees that the prices and discounts listed in Attachment C: Master Agreement Pricing will act as the prices for services provided. Changes in prices will be outside the scope of this agreement unless they are posted on the NASPO ValuePoint Ivalua Inc. Master Agreement web page.