NASPO ValuePoint Master Agreement No.: 23018

This Contract is between the State of Minnesota, acting through its Commissioner of Administration ("Lead State") and Oracle America, Inc., whose designated business address is 2300 Oracle Way, Austin, TX 78741 ("Contractor" or "Oracle"). State and Contractor may be referred to jointly as "Parties."

Recitals

1. The State of Minnesota, Department of Administration, Office of State Procurement, on behalf of the State of Minnesota and NASPO ValuePoint Cooperative Procurement Program ("NASPO ValuePoint") issued a solicitation to establish Minnesota NASPO ValuePoint Master Agreement(s) ("Contract") with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services);

2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and

3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract; and

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

Accordingly, the Parties agree as follows:

Contract

1. **Term of Contract**

   a. Effective date. July 1, 2023, or the date the Lead State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.

   b. Expiration date. June 30, 2025. This Master Agreement may be extended for up to an additional 36 months, in increments as determined by the Lead State, through a duly executed amendment.

   c. If, in the judgment of the Lead State, a follow-on, competitive procurement will be unavoidably delayed beyond the planned date of execution of the follow-on master agreement, this Master Agreement may be extended for a reasonable period of time, not to exceed six months. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

2. **Representations and Warranties**

a. Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law the Lead State is empowered to engage such assistance as deemed necessary.

b. Contractor warrants that it is duly qualified and shall perform its obligations under this Master Agreement in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor's industry, trade, or profession, and in accordance with the specifications set forth in this Master Agreement, to the reasonable satisfaction of the Lead State.

c. Contractor warrants that, as of the effective date of this Master Agreement, it possesses the legal authority to enter into this Master Agreement and to lawfully authorize its undersigned signatory to execute this Master Agreement, or any part thereof, and to bind Contractor to its terms. The parties acknowledge and agree that Paragraph 34 of Exhibit A (Indemnification) of the Master Agreement states the Lead State's exclusive remedy and Contractor's entire liability for any breach of this warranty.

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

Band 3, Servers and Storage

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

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

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

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

a. Software

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

2. Any software purchased must be related to the procurement of equipment.

3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment, except for the exceptions allowed under Paragraph 5.a.4.

4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 3) purchased, is allowed and may be procured after the initial purchase of equipment.

b. General Services

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

2. Service limits will be addressed by each State.

3. Wireless phone and internet service is not allowed.

4. Managed Print Services are not allowed.

c. Cloud Services

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

2. Any Cloud Service purchased must be related to the procurement of equipment.

d. Third-Party Products

1. Third-Party Products can be offered only in the Bands they have been awarded. All third-party products must meet the definition(s) of the Band(s) in which they are being offered.

2. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.

e. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.

2. Lease/Rentals of equipment may be allowed and will be addressed by each State.

3. Cellular Phone Equipment is not allowed.

4. EPEAT Bronze requirement may be waived, on a State case-by-case basis, if approved by the State's Chief Procurement Officer. EPEAT Bronze requirement does not currently apply to storage.

6. **Authorized Representative**

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

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

b. Contractor's Authorized Representative. The Contractor's Authorized Representative is Jae Lee, Contract Manager, Deal Management.

Jae Lee, Contract Manager, Deal Management
Oracle America, Inc.
Email: jae.won.lee@oracle.com
Phone: 703.364.0491

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

7. **Notices**

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. An email shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed to the Master Agreement Administrator. All notices to the Contractor shall be addressed to the following: Oracle America, Inc., 2300 Oracle Way, Austin, TX 78741, Attention: General Counsel, Legal Department, and with copy to the Contractor's Authorized Representative.

8. **Exhibits**

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

Exhibit A: NASPO ValuePoint Terms and Conditions
Exhibit B: Minnesota Terms and Conditions
Exhibit C: Requirements
Exhibit D: Price Schedule

9. **Survival of Terms:**

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

10. **Entire Agreement**

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

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

Print name: Michael Estrada

Signature: DocuSigned by: Michael Estrada B08D81052A88411...

Title: NAMER Senior Mgr - Deal Management Date: 2/22/2024

2. State Agency
With delegated authority

Print name: Elizabeth M. Randa

Signature: DocuSigned by: Elizabeth M. Randa 742DE739C8ED492...

Title: Acquisition Management Specialist Date: 2/22/2024

3. Commissioner of Administration
As delegated to The Office of State Procurement

Print name: Andy Doran

Signature: DocuSigned by: Andy Doran 68D02A26D7604BA...

Title: IT Acquisitions Supervisor Date: 2/22/2024

Exhibit A: NASPO ValuePoint Master Agreement Terms and Conditions

1. **Conflict of Terms/Order of Precedence.**

   a. Any order placed under this Master Agreement shall consist of the following documents:

      1. A Participating Entity's Participating Addendum ("PA");

      2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;

      3. An Order issued against a PA (terms and conditions set forth in an Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).

   b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

   c. Contractor terms and conditions may be incorporated if expressly accepted by the Lead State and attached to the Master Agreement as an Exhibit or Attachment, or by written reference (including reference to information contained in a URL or referenced policy). A written reference, including by URL or policy, is incorporated into the Master Agreement only if the Master Agreement expressly identifies that reference. Contractor shall make the terms and conditions incorporated by URL available to the Purchasing Entity for review prior to issuance of an Order. URL's must be explicitly referenced to be incorporated into the Master Agreement. URL's contained within the URL's that are explicitly referenced are not incorporated into the Master Agreement. Any Contractor term or condition incorporated by URL or written reference applies to this Master Agreement only to the extent such term or condition is not prohibited by applicable law. Any change to information contained in a URL or referenced policy will not affect any financial obligation, place any additional material obligation on an ordering entity, or materially diminish an ordering entity's ability to use the product or service.

   d. A written Master Agreement will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement.

   e. Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

   f. For clarity purposes, the parties acknowledge that Contractor will negotiate a separate Participating Addendum which each Participating Entity and such Participating Addendum will set forth Contractor's specific licensing terms which may include a provision which addresses the order of precedence as between the terms of the Participating Addendum and the specific Order.

2. **Definitions.**

   a. **Acceptance** is defined in Section 19 (Acceptance and Acceptance Testing).

b. **Accessory** means a product that enhances the user experience but does not extend the functionality of the computer (e.g., mouse pad or monitor stand). For the purposes of this Contract, accessories are considered peripherals.

c. **_____ as a Service (_aaS)** refers to any good provided in a subscription-based model that is defined in the industry as "_____ as a Service". Examples are "Software as a Service", "Infrastructure as a Service", and "Storage as a Service", and shall follow the NIST definitions of those services. ____ as a Service are permitted only when they meet the restrictions found in Paragraph 5.a, above.

d. **Band** means a category of products. There are three product bands which may be awarded through this Contract. Each product band includes related peripherals and services.

e. **Components** are the parts that make up a computer configuration.

f. **Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

g. **Configuration** means the combination of hardware and software components that make up the total functioning system.

h. **Customer** means Purchasing Entity, as defined below.

i. **Desktop** means a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: (1) the processor, 2) display monitor, and 3) input devices usually a keyboard and a mouse. Desktops, including desktop virtualization endpoints such as zero and thin clients, are included in Bands 1 and 2 of this Contract.

j. **Energy Star®** is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes it easy to identify energy efficient computers by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at http://www.energystar.gov.

k. **EPEAT** is a type-1 ecolabel for identifying and purchasing sustainable IT products. EPEAT-registered products must meet sustainability criteria detailed in voluntary consensus-based standards that are free and publicly available on the Green Electronics Council's website at www.greenelectronicscouncil.org. Products are classified as Bronze, Silver, or Gold based on meeting criteria that address the life cycle of the products. Product life cycle includes material extraction, hazardous substance reduction, end-of-life management, packaging, and corporate sustainability. Only products listed as Active in the online EPEAT Registry are considered to meet the EPEAT criteria.

l. **FOB Destination** means that shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.

m. **FOB Inside Delivery** means that shipping charges are included in the price of the item, and that the shipped item becomes the legal property and responsibility of the receiver when it reaches the inside delivery point, which is beyond the front door or loading dock. FOB Inside Delivery is a special shipping arrangement that may include additional fees payable by the Purchasing Entity. FOB Inside Delivery must be annotated on the Purchasing Entity ordering document.

n. **Hardware** refers to the computer equipment, including components, options, and spare parts.

o. **Integrated Software** refers to any software or programmable code that is (a) embedded or integrated in the Hardware and enables the functionality of the Hardware or (b) specifically provided to the Purchasing Entity by Contractor and specifically listed (i) in accompanying documentation, (ii) on Contractor's webpage or (iii) via a mechanism that facilitates installation for use with Purchasing Entity's Hardware. Integrated Software does not include, and the Purchasing Entity does not have rights to (a) code or functionality for diagnostic, maintenance, repair or technical support services; or (b) separately licensed applications, operating systems, development tools, or system management software or other code that is separately licensed by Contractor. For specific Hardware, Integrated Software includes Integrated Software Options separately ordered.

p. **Integrated Software Options** refers to software or programmable code embedded in, installed on, or activated on the Hardware that requires one or more unit licenses that Purchasing Entity must separately order and agree to pay additional fees. Not all Hardware contains Integrated Software Options; please refer to the Contractor Integrated Software Options License Definitions, Rules and Metrics accessible at http://oracle.com/contracts (the "Integrated Software Options License Rules") for the specific Integrated Software Options that may apply to specific Hardware. Contractor shall make the Integrated Software Options License Definitions, Rules and Metrics available to Purchasing Entities for review prior to issuance of an Order. Contractor reserves the right to designate new software features as Integrated Software Options in subsequent releases and that designation will be specified in the applicable documentation and in the Integrated Software Options License Rules.

q. **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.

r. **Laptop** means a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad, and speakers in a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptops include notebooks, ultrabooks, netbooks, Zero and thin client devices, and computers with mobile operating systems. Laptops are included in Bands 1 and 2 of this Contract.

s. **Lead State** means the State centrally administering any resulting Master Agreement(s).

t. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.

u. **Manufacturer** means a company that, as one of its primary business functions, designs, assembles, owns the trademark/patent for, and markets branded computer equipment.

v. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor.

w. **Middleware** means the software "glue" that helps programs and databases (which may be on different computers) work together. The most basic function of middleware is to enable communication between different pieces of software.

x. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.

y. **Operating System** refers to the software that manages Hardware for Programs and other software.

z. **Option** means an item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.

aa. **Order** means any sales order, contract or other method used by a Purchasing Entity which is executed by the Contractor and the Purchasing Entity to effectuate the ordering and sale of Products and Services.

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

cc. **Participating Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

dd. **Participating State** means a state that has executed a Participating Addendum.

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

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

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

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

ii. **Product** means any Programs, Hardware, Integrated Software, Operating Systems, equipment, Software, documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions. For clarity, the term “equipment” as used herein refers to the computer equipment, including components, options and spare parts and may also be referred to as “Hardware.”

jj. **Programs** refers to (a) the software owned or distributed by Contractor that Purchasing Entity has ordered, (b) Program Documentation, and (c) any Program updates acquired through technical support. Programs do not include Integrated Software or any Operating System or any software release prior to general availability (e.g., beta releases).

kk. **Program Documentation** refers to the Program user manual and Program installation manuals. Program Documentation may be delivered with the Programs, and the documentation may be accessed online at http://oracle.com/documentation. Such terms shall be made available to Purchasing Entities for review prior to issuance of an Order.

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

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

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

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

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

pp. **Software** means, for the purposes of this Contract, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified in Paragraph 5.a. “Software” applies to all parts of software and documentation, including new releases, updates, and modifications of software.

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

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

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

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

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

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

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

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

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

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

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

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

4. **Amendments.**

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

5. **Participants and Scope.**

a. Canadian Participation. Subject to the prior written 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.

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

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

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

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

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

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

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

6. **Individual Customers.**

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

7. **Independent Contractor.**

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

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

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

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

11. **Contractor Performance Meeting.**
An annual performance meeting may be held each year with the NASPO ValuePoint Sourcing Team. Historically performance meetings have been held in Minnesota, but the Lead State may hold the meetings in person or virtually at the Lead State's discretion. All contractors that are invited to participate must send their Primary Account Representative, unless an exception is granted in writing by the Lead State. It is possible that not all contractors will be invited to participate in a performance meeting.

12. **Laws and Regulations.**
Contractor and Contractor's products will comply with all laws to the extent that such laws, by their terms, are applicable to Contractor's delivery of products and services under this Master Agreement and impose obligations directly upon Contractor in its role as an information technology services provider with respect to the delivery of products and services under this Master Agreement.

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

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

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

16. **Ordering.**

a. Master Agreement and Order numbers shall be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies, subject to mutual agreement. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Such requests will be subject to Contractor agreement.

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

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum shall include:

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

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

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

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

17. **Trade-In.**
Contractor will not offer a trade-in program under this Master Agreement.

18. **Shipping and Delivery.**

a. Contractor will deliver its Products in accordance with its established policies and in accordance with terms mutually agreeable to Contractor and Purchasing Entity as set forth in an applicable Participating Addendum. Contractor will use the delivery address specified by the Purchasing Entity on the applicable Order. Contractor may not make substitutions and modifications to the Products that cause a material adverse effect in overall Product performance, fit, or function unless Contractor obtains Purchasing Entity's prior written consent and Purchasing Entity agrees to the substitution(s) or modification(s). Contractor will use its reasonable commercial efforts to deliver the products within a timeframe that is consistent with its past practices regarding the amount and type of products that have been ordered by the Purchasing Entity. All deliveries shall be FOB Destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Contractor is liable and responsible for loss or damage incurred until delivery. Purchasing Entity is responsible for loss or damage incurred after delivery.

b. Specific delivery instructions will be noted on the Order.

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

19. **Acceptance and Acceptance Testing.**
Purchasing Entity shall determine whether the Products and Services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Services. In the event Contractor has not been notified within the thirty (30) calendar days from delivery of the Product or completion of the Services, the Product and Services will be deemed accepted on the 31st day after delivery of the Product or completion of the Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing. The Purchasing Entity and the Contractor shall determine if Acceptance Testing is applicable and/or required for the purchase. The terms in regard to acceptance testing will be negotiated, in writing, as mutually agreed. If acceptance testing is not applicable, the terms regarding acceptance in this Master Agreement shall prevail.

20. **Title of Product.**

a. **Title Passage**. Contractor must pass unencumbered title to any and all Products purchased under this Master Agreement upon delivery to the Purchasing Entity. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensors, or to unmodified commercial software that is available to the Purchasing Entity on the open market. Ownership rights to such materials shall not be affected in any manner by this Master Agreement.

b. **Ownership**

1. **Ownership of Documents/Copyright**. Each party retains its own pre-existing intellectual property rights, and any enhancements, modifications, derivatives thereto or improvements thereof ("Pre-existing IP").

Contractor or its licensors retain all ownership and intellectual property rights to the Programs. Contractor retains all ownership and intellectual property rights to anything developed and delivered under this Master Agreement resulting from the Services. Purchasing Entity may make a sufficient number of copies of each Software for its licensed use and one copy of each Software media.

Third party technology that may be appropriate or necessary for use with some Programs and Software is specified in the applicable program documentation provided by Contractor ("Program Documentation"). Such third party technology is licensed to Purchasing Entity under the terms of the third party technology license agreement specified in the Program Documentation and not under the terms of this Master Agreement.

Purchasing Entity may not: (a) remove or modify any Program markings or any notice of Contractor's or its licensors' proprietary rights; (b) make the Programs or materials resulting from the Services available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Program license or materials from the Services purchased); and (c) cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the Programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by the Programs).

2. **Rights Granted.** Except with respect to Pre-Existing IP, all rights, title and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the said documents that the Contractor conceives or originates, either individually or jointly with others, which arise out of the performance of the Master Agreement, will be the property of Contractor and are by the Master Agreement, assigned to Contractor along with ownership of any and all copyrights in the copyrightable material. Nothing in this Master Agreement shall be construed as transferring any right, title, or interest in any of the Lead State's or Contractor's or its third party confidential information, Pre-existing IP, trademarks, copyrights, intellectual property or other proprietary interest. Both parties are free to use any ideas, concepts, know-how or techniques which are developed or provided by the other party or jointly by both parties during a project. Both parties are free to enter into similar contracts with others and to develop and provide Products and services which are like or similar to those provided under this Master Agreement.

Upon Contractor's acceptance of an order from a Purchasing Entity, such Purchasing Entity shall have the non-exclusive, non-assignable, royalty-free perpetual (unless otherwise specified for certain Programs), limited right to use the Programs and receive any Services ordered solely for its internal business operations and subject to the terms of this Master Agreement, including the definitions and rules and the Program Documentation. Purchasing Entity may allow its agents and contract vendors (including, without limitation, outsourcers) to use the Programs for this purchase and Purchasing Entity is responsible for such agents' and contract vendors' compliance with the terms of this Master Agreement in such use. Program Documentation is delivered with the Programs and may be accessed online at http://oracle.com/contracts and http://oracle.com/documentation. Services are provided based on Contractor's policies for the applicable Services ordered, which are subject to change. Upon payment for Services, Purchasing Entity shall have the non-exclusive, non-assignable, royalty-free, perpetual, limited right to use for its internal business operations anything developed by Contractor and delivered to Purchasing Entity under this Master Agreement; however, certain deliverables may be subject to additional license terms as specified in the applicable Order. The Services provided under this Master Agreement may be related to Purchasing Entity's license to use Programs which were acquired under a separate Order under this Master Agreement. The terms of that Order shall govern Purchasing Entity's use of such Programs. Any Services acquired from Contractor are bid separately from such Program licenses and Purchasing

Entity may acquire either Services or such Program license without acquiring the other, except that Services must be related to the procurement of equipment.

Any and all licensing, maintenance or order specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the Master Agreement, and to the extent the terms are not in conflict with the Participating Entities' applicable laws.

21. **Warranty.**

a. Contractor warrants that the Services will be provided in a professional manner consistent with industry standards and performed in compliance with the terms of this Master Agreement and applicable Participating Addendum and Order. Purchasing Entity must notify Contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.

FOR ANY BREACH OF THE ABOVE WARRANTY, PURCHASING ENTITY'S EXCLUSIVE REMEDY AND CONTRACTOR'S ENTIRE LIABILITY SHALL BE THE REPERFORMANCE OF THE DEFICIENT SERVICES; OR, IF CONTRACTOR CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALLY REASONABLE MANNER BY ANY DEADLINE AGREED TO BY PURCHASING ENTITY AND CONTRACTOR, PURCHASING ENTITY MAY END THE RELEVANT SERVICES AND RECOVER THE FEES PAID TO CONTRACTOR FOR THE DEFICIENT SERVICES.

b. Contractor provides a limited warranty for (i) the Hardware, (ii) the Operating System and the Integrated Software and the Integrated Software Options, and (iii) the Operating System media, the Integrated Software media and the Integrated Software Options media ("media"). Contractor warrants that the Hardware will be free from material defects in materials and workmanship for one year from the date the Hardware is delivered to the Purchasing Entity. Contractor warrants that the media will be free from material defects in materials and workmanship for a period of 90 days from the date the media is delivered to Purchasing Entity.

CONTRACTOR DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE HARDWARE. Purchasing Entity may access a more detailed description of the limited hardware warranty at http://oracle.com/support/policies.html (the "warranty web page"). Any changes to the hardware warranty details specified on the warranty web page will not apply to Hardware ordered prior to such change.

PURCHASING ENTITY'S SOLE AND EXCLUSIVE REMEDY AND CONTRACTOR'S ENTIRE LIABILITY FOR BREACH OF THE ABOVE WARRANTIES WILL BE THE REPAIR, OR AT CONTRACTOR'S OPTION AND EXPENSE, REPLACEMENT OF THE DEFECTIVE HARDWARE OR MEDIA, OR, IF SUCH REPAIR OR REPLACEMENT IS NOT REASONABLY ACHIEVABLE, THE REFUND OF THE PURCHASE PRICE FOR THE DEFFECTIVE HARDWARE OR MEDIA. ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLEID WARRANTY OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

No warranty will apply to the Hardware or media which has been:

1. modified, altered or adapted without Contractor's written consent (including modification by removal of the serial number on the Hardware);

2. maltreated or used in a manner other than in accordance with the relevant documentation;

3. repaired by any third party in a manner which fails to meet Contractor's quality standards;

4. improperly installed by any party other than Contractor or an authorized Contractor certified installation partner;

5. used with equipment or software not covered by a Contractor warranty (except where use with such equipment or software is directed by Contractor), to the extent that the problems are attributable to such use;

6. relocated without Contractor's written consent, to the extent that problems are attributable to such relocation;

7. used directly or indirectly in supporting activities prohibited by U.S. or other national export regulations;

8. used by parties appearing on the most current U.S. export exclusion list;

9. relocated to countries subject to U.S. trade embargo or restrictions;

10. used remotely to facilitate any activities in the countries referenced in (9) above; or

11. purchased from any entity other than Contractor or an authorized reseller of Contractor.

c. Contractor warrants that a Program licensed to Purchasing Entity will operate in all material respects as described in the applicable Program Documentation for one year after delivery (i.e., via physical shipment or electronic download). Purchasing Entity must notify Contractor of any Program deficiency within one year of delivery. **CONTRACTOR DOES NOT WARRANT THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT CONTRACTOR WILL CORRECT ALL PROGRAM ERRORS. FOR ANY BREACH OF THE WARRANTY IN THIS SECTION, PURCHASING ENTITY'S SOLE AND EXCLUSIVE REMEDY AND CONTRACTOR'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY; OR, IF CONTRACTOR CANNOT SUBSTANTIALLY CORRECT SUCH BREACH IN A COMMERCIALLY REASONABLE MANNER, PURCHASING ENTITY MAY END ITS PROGRAM LICENSE AND RECOVER THE FEES PAID TO CONTRACTOR FOR THE PROGRAM LICENSE AND ANY UNSUED, PREPAID TECHNICAL SUPPORT SERVICE FEES PURCHASING ENTITY HAD PAID FOR THE PROGRAM LICENSE.**

d. **TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

e. Contractor's Premier Support Services are provided under Contractor's Hardware and Systems Support Policies in effect at the time the technical support services are provided. The Purchasing Entity agrees to cooperate with Contractor and provide the access, resources, materials, personnel, information and consents that Contractor may require in order to perform the technical support services. Contractor's Hardware and Systems Support Policies are incorporated into this Master Agreement and are subject to change at Contractor's discretion; however, Contractor will not materially reduce the level of technical support services provided during the period for which fees for technical support have been paid. Purchasing Entity should review the policies prior to entering into an Order for technical support services. The current version of the Hardware and Systems Support Policies are available at http://oracle.com/contracts.

22. **System Failure or Damage. [INTENTIONALLY DELETED]**

23. **Payment.**

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

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

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

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

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

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

27. **Assignment.**

a. Except in the event of a merger, consolidation, acquisition, internal restructuring, or sale of all or substantially all of the assets of Contractor, Contractor shall not assign this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

b. The Lead State, or Participating Entity, shall not assign, delegate or otherwise transfer all or any part of this Master Agreement without prior written consent from Contractor, except for assignment or delegation to a Participating Entity State agency or eligible Purchasing Entity in which case the Lead State or Participating Entity must provide Contractor with written notice of such assignment or delegation within ten (10) business days of the effective date of such assignment or delegation. 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 and shall provide Contractor with written notice of such assignment of duties within ten (10) business days of the effective date of such assignment.

28. **Insurance.**

a. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Lead State and in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

1. Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $1 million per occurrence/$2 million general aggregate;

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

c. Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement or applicable Participating Addendum, and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Participating Entity by the Contractor.

d. Prior to commencement of performance, Contractor shall provide to the Participating Entity a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating Entity as an additional insured, (2) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating Entity has been given at least thirty (30) days prior written notice and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating Entity as secondary and noncontributory.

e. During the term of this Master Agreement, the Lead State and Participating Entities may request Contractor provide evidence of coverage that meets the requirements of this Section. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

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

29. **Administrative Fees.**

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

b. The NASPO ValuePoint Administrative Fee in this section shall be based on the amount invoiced to Purchasing Entities (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

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

30. **NASPO ValuePoint Reports.**

a. Sales Data Reporting. In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable advance written notice to Contractor. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

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

c. Detailed Sales Data. "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

d. Sales Data Crosswalks. Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable advance written notice to Contractor . Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.

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

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

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

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

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider a Purchasing Entity's proposed terms and conditions, as deemed important to such Purchasing Entity, for possible inclusion into the Order to be entered between Contractor and such Purchasing Entity. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review, which may be held in person or virtually. The annual contract performance review may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees. If the annual performance meeting is held in person, the Contractor will have the option to attend virtually at the Contractor's discretion.

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

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

32. **Right to Publish.**

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

33. **Records Administration and Audit.**

a. The disclosure of records in Participating States relating to the Participating Addenda and Orders placed against the Master Agreement shall be governed by the laws of the Participating State and Purchasing Entity.

b. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Master Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

c. Upon 45 days written notice, Contractor may audit a Participating State's or Participating Entity's use of the Programs. Each Participating State and Participating Entity agrees to cooperate with Contractor's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with such Participating State's or Participating Entity's normal business operations. Each Participating State and Participating Entity agrees to pay within 30 days of written notification any fees applicable to such Participating State's or Participating Entity's use of the Programs in excess of such Participating State's or Participating Entity's license rights. If a Participating State or Participating Entity does not pay, Contractor can end such Participating State's or Participating Entity's technical support, licenses and/or the applicable Participating Addendum or order. Each Participating State and Participating Entity agrees that Contractor shall not be responsible for any of such Participating State's or Participating Entity's costs incurred in cooperating with the audit.

34. **Indemnification.**

a. **General Indemnity.** Contractor shall indemnify the Lead State, NASPO, Participating Entities, Purchasing Entities, and their representatives and employees (each an "Indemnified Party"), from any and all claims or causes of action, including all legal fees incurred by the Indemnified Party arising from the performance of the Master Agreement by the Contractor or its agents, employees, or subcontractors for bodily injury (including wrongful death) or damage to real property or tangible personal property, arising from a negligent or willful act or omissions of the Contractor, its agents, employees or subcontractors. Contractor shall not be liable for the portion of damages that are the result of negligence of the Indemnified Party and/or its respective representatives and employees. As used in this section, the term "tangible personal property" shall not include software, documentation, data or data files. This clause shall not be construed to bar any remedy available to the Indemnified Party or any legal remedies the Contractor may have with the Indemnified Party's failure to fulfill its obligations pursuant to the Master Agreement.

Contractor's indemnification obligations are contingent upon the following: (a) the Indemnified Party notifies Contractor promptly in writing, not later than thirty (30) days after Indemnified Party receives notice of the claim (or sooner if required by law); (b) the Indemnified Party gives Contractor sole control of the defense and any settlement negotiations, unless the Indemnified Party's law requires approval of a third party to defend the Indemnified Party and such approval is not received; and (c) the Indemnified Party gives Contractor the information, authority, and assistance Contractor needs to defend against or settle the claim. This section states the parties' entire liability and exclusive remedy for bodily injury and property damage.

b. **Intellectual Property Indemnification.** Subject to the sub-sections (4), (5) and (6) below, if a third party makes a claim against either the Purchasing Entity that any information, design, specification, instruction, software, data, hardware, or material (collectively, "Material") furnished by Contractor and used by the Purchasing Entity infringes the third party's intellectual property rights, Contractor, at Contractor's sole cost and expense, will defend the Purchasing Entity against the claim and indemnify the Purchasing Entity from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Contractor, if the Purchasing Entity does the following: (i) notifies Contractor promptly in writing, not later than 30 days after the Purchasing Entity receives notice of the claim (or sooner if required by applicable law); (ii) gives Contractor sole control of the defense and any settlement negotiations, unless the Purchasing Entity's law requires approval of a third party to defend the Purchasing Entity and such approval is not received; and (iii) gives Contractor the information, authority and assistance Contractor needs to defend against or settle the claim.

1. If Contractor believes or it is determined that any of the Material may have violated a third party's intellectual property rights, Contractor may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, Contractor may end the license for, and require return of, the

applicable Material and refund any fees the Purchasing Entity may have paid to the other party for it and, if Contractor is the provider of an infringing Program, any unused, prepaid technical support fees Purchasing Entity paid to Contractor for the license of the infringing Program. If such return materially affects Contractor's ability to meet its obligations under the relevant Order, then Contractor may, at its option and upon 30 days prior written notice, terminate the Order.

2. Notwithstanding the provisions of subsection (1) above and with respect to Hardware only, if Contractor believes or it is determined that the Hardware (or portion thereof) may have violated a third party's intellectual property rights, Contractor may choose to either replace or modify the Hardware (or portion thereof) to be non-infringing (while substantially preserving its utility or functionality) or obtain a right to allow for continued use, or if these alternatives are not commercially reasonable, Contractor may remove the applicable Hardware (or portion thereof) and refund the net book value and, if Contractor is the provider of infringing Hardware, any unused, prepaid technical support fees Purchasing Entity had paid to Contractor for the Hardware.

3. In the event that the Material is third party technology that is licensed under separate terms apart from this Master Agreement and the associated separate terms do not allow termination of the license, in lieu of ending the license for the Material, Contractor may end the license for, and require return of, the Program associated with that separately licensed third party technology and shall refund any Program license fees Purchasing Entity may have paid to Contractor for the Program license and any unused, prepaid technical support fees Purchasing Entity had paid to Contractor for the Program license.

4. Provided Purchasing Entity is a current subscriber to Contractor's technical support services for the Operating System (e.g., Oracle Premier Support for Systems, Oracle Premier Support for Operating Systems or Oracle Linux Premier Support), then for the period of time for which Purchasing Entity was a subscriber to the applicable Contractor technical support services (a) the phrase "Material" above in section (b) shall include the Operating System and the Integrated Software and Integrated Software Options that Purchasing Entity had licensed and (b) the phrase "Program(s)" in this section is replaced by the phrase "Program(s) or the Operating System or Integrated Software or Integrated Software Options (as applicable)". Notwithstanding the foregoing, with respect solely to the Linux operating system, Contractor will not indemnify Purchasing Entity for Materials that are not part of the Oracle Linux covered files as defined at http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf. For purposes of this provision, the following definitions apply: (i) "Operating System" refers to the software that manages Hardware for Programs and the other software; (ii) "Integrated Software" refers to any software or programmable code that is (a) embedded or integrated in the Hardware and enables the functionality of the Hardware or (b) specifically provided to Purchasing Entity by Contractor and specifically listed (i) in accompanying documentation, (ii) on Contractor's webpage or (iii) via a mechanism that facilitates installation for use with the Hardware. Integrated Software does not include and Purchasing Entity does not have rights to (a) code or functionality for diagnostic, maintenance, repair or technical support services; or (b) separately licensed applications, operating systems, development tools, or system management software or other code that is separately licensed by Contractor; and (iii) "Integrated Software Options" refers to software or programmable code embedded in, installed on, or activated on the Hardware that requires one or more unit licenses that Purchasing Entity must separately order and agree to pay additional fees. Not all Hardware contains Integrated Software Options. Contractor reserves the right to designate new software features as Integrated Software Options in subsequent releases and that designation will be specified in the applicable documentation and in the Integrated Software Options License Rules.

5. Contractor will not indemnify the Purchasing Entity if the Purchasing Entity alters Material or uses it outside the scope of use identified in the Contractor's user documentation or if the Purchasing Entity uses a version of Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of Material which was provided to the Purchasing Entity, or if the Purchasing Entity continues to

use the applicable Material after the end of the license to use that Material. Contractor will not indemnify the Purchasing Entity to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by Contractor. Contractor will not indemnify Purchasing Entity for any portion of an infringement claim that is based upon the combination of any Material with any products or services not provided by Contractor. Solely with respect to separately licensed third party technology that is part of or is required to use a Program and that is used: (a) in unmodified form; (b) as part of or as required to use a Program; and (c) in accordance with the license grant for the relevant Program and all other terms and conditions of the Master Agreement, Contractor will indemnify Purchasing Entity for infringement claims for separately licensed third party technology to the same extent as Contractor is required to provide infringement indemnification for the Program under the terms of the Master Agreement. Contractor will not indemnify Purchasing Entity for infringement caused by Purchasing Entity actions against any third party if the Program(s) as delivered to Purchasing Entity and used in accordance with the terms of the Master Agreement would not otherwise infringe any third party intellectual property rights. Contractor will not indemnify Purchasing Entity for any intellectual property infringement claim(s) known to Purchasing Entity at the time license rights are obtained.

6. This section provides the parties' exclusive remedy for any infringement claims or damages.

35. **Limitations of Liability.**
NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. CONTRACTOR'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS MASTER AGREEMENT OR AN ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE GREATER OF: (1) THE AMOUNT OF THE FEES PURCHASING ENTITY PAID TO CONTRACTOR UNDER THIS MASTER AGREEMENT; OR (2) $5,000,000. THE FOREGOING LIMITATION DOES NOT APPLY TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS IN THE MASTER AGREEMENT AS SET FORTH IN SECTION 34 OR TO DAMAGES RESULTING FROM DEATH, BODILY INJURY, REAL PROPERTY AND/OR TANGIBLE PERSONAL PROPERTY, OR INTELLECTUAL PROPERTY INFRINGEMENT CAUSED BY CONTRACTOR'S NEGLIGENCE OR WILLFUL ACTS.

36. **License of Pre-Existing Intellectual Property. [INTENTIONALLY DELETED]**

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

38. **Debarment.**
The Contractor certifies, to the best of the Contractor's knowledge, and as of the effective date of this Master Agreement that neither it nor Oracle Corporation's Section 16 officers (as defined in Section 16 of the U.S. Securities and Exchange Act of 1934), or subcontractors with whom Contractor contracts to provide goods and services under this Master Agreement ("subcontractors"), are presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from participation in this Master Agreement by any federal department or agency or the State of Minnesota. If Contractor becomes debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from participation in this Master Agreement by any federal department or agency or the State of Minnesota, Contractor must immediately notify the Lead State and all Participating and Purchasing Entities. The Contractor further certifies that it will include this provision in any subcontracts with subcontractors resulting from this Master Agreement.

39. **Governing Law and Venue.**
The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state or federal courts in the state serving as Lead State. Venue for any claim, dispute, or action concerning the terms of a Participating Addendum shall be in state or federal courts in the Participating Entity's State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement shall be in state or federal courts in the Purchasing Entity's State.

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

a. Confidentiality. Each party (including a Participating Entity) acknowledges that it and its employees or agents may, by virtue of this Master Agreement, be exposed to or acquire information that is confidential to the other party ("Confidential Information"). Each party agrees to disclose only information that is required for the performance of obligations under this Master Agreement. Confidential Information shall be limited to information in any form that is clearly identified or marked as confidential and is confidential according to the public disclosure laws of (1) the Lead State, for Confidential Information relating to the Master Agreement, (2) the Participating Entity, for Confidential Information relating to a Participating Addendum, or (3) the Purchasing Entity, for Confidential Information relating to an Order. Confidential Information does not include information that (1) is or becomes (other than by disclosure by a party hereto) publicly known; (2) is furnished by a party to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in a party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is lawfully obtained from a source other than a party hereto without the obligation of confidentiality, (5) is disclosed with the written consent of the applicable party or; (6) is independently developed by employees, agents or subcontractors of a party who can be shown to have had no prior access to the Confidential Information.

b. Non-Disclosure. Each party agrees to hold Confidential Information in confidence for a period of ten years from the date of disclosure, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the performance of this Master Agreement, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Upon termination of this Master Agreement, termination of applicable Participating Addendum, or at Purchasing Entity's request, and to the extent permitted by applicable law, at the Purchasing Entity's option, Contractor shall destroy or turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Purchasing Entity's Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement. Contractor shall maintain the confidentiality of such information and shall destroy the copy of such Confidential Information when it is no longer necessary for quality assurance, audits, and evidence of the performance of this Master Agreement. Notwithstanding anything to the contrary set forth herein, nothing shall prevent either party from disclosing the terms or pricing under this Master Agreement or orders submitted under this Master Agreement in any legal proceeding arising from or in connection with this Master Agreement or disclosing any Confidential Information to a federal or state governmental entity or as required by law.

c. Injunctive Relief. Each party acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to the other party that is inadequately compensable in damages. Accordingly, each 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. Each party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the other party and are reasonable in scope and content.

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

e. Open Records Laws. Notwithstanding the foregoing, nothing shall prevent either party from disclosing the Confidential Information to a federal or state governmental entity or as required by law (including, without limitation, the Minnesota Government Data Practices Act).

41. **Public Information.**
This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws. Notwithstanding the foregoing, in the event the Lead State, Participating Entity, or Purchasing Entity ("Government Entity" for purposes of this section, only) receives a valid request for Contractor's Confidential Information, as defined by the Government Entity's data practices rules, pursuant to such applicable law, and the Government Entity determines such request should be fulfilled, the Government Entity shall provide Contractor with reasonable notice of such request and give Contractor an opportunity to object to or limit any such disclosure. The Government Entity shall have the ultimate authority to determine what information must be disclosed according to applicable law.

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

43. **Force Majeure.**
Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement. Any termination under this provision shall not affect the rights of payment for products and services delivered and accepted.

44. **Defaults and Remedies.**

a. The occurrence of any of the following events that is uncured following the expiration of the applicable cure period shall be an event of default under this Master Agreement:

1. Nonperformance of contractual requirements; or

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

3. Any representation or warranty by a party hereto in this Master Agreement that proves to be untrue or materially misleading; or

4. Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

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

b. 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 30 calendar days in which the breaching party shall have an opportunity to cure the default. With respect to a breach by Contractor, the Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If the breaching party is afforded an opportunity to cure and fails to cure the default within the period specified above or, if longer, in the written notice of default, the breaching 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:

1. Exercise any remedy provided by law or equity; and

2. Terminate this Master Agreement, if the breaching party is the Contractor or the Lead State, or terminate the breaching party's Participating Addendum, if the breaching party is the Contractor or a Participating Entity, or, in each case, any portions thereof; and

3. Impose liquidated damages as and if provided for in this Master Agreement; and

4. In the event of a default by Contractor, and to the extent permitted by the law of the Participating State or the Participating Entity, suspend Contractor from responding to future bid solicitations; and

5. In the case of a default by the Contractor, suspend Contractor's performance.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, the non-breaching party 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. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to the non-breaching party under the applicable commercial code.

45. **Waiver of Breach.**

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

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

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

All notices to Contractor shall be addressed as follows:

Oracle America, Inc.,
2300 Oracle Way
Austin, Texas 78710
Attention: General Counsel, Legal Department

All notices to Contractor which relate to an indemnification claim or the Participating Entity or Purchasing Entity's involvement in insolvency or other similar legal proceedings shall be addressed as follows:

Oracle America, Inc.,
500 Oracle Parkway,
Redwood Shores, CA 94065
Attention: General Counsel, Legal Department

47. **No Waiver of Sovereign Immunity.**
The Lead State does not waive its sovereign immunity by entering into this Master Agreement. A Participating Entity does not waive its sovereign immunity by entering into a Participating Addendum. A Purchasing Entity does not waive its sovereign immunity by entering into an Order. The Lead State, Participating Entity, and Purchasing Entity fully retain all immunities and defenses provided by law with regard to any action based on this Master Agreement, a Participating Addendum, or an Order.

Exhibit B: Minnesota Terms and Conditions

1. **Change Requests. [INTENTIONALLY DELETED]**

2. **Product and Service Schedule (PSS).**

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

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

    b. Maintaining the PSS.

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

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

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

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

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

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

3. **Orders.**

There will be no minimum order requirements or charges to process an individual Order. The Participating Addendum number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.).

4. **Risk of Loss or Damage.**

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

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

Contractor assures all its Network Components, Applications, Servers, and Subcontractors (if any) that are in scope to provide Contractor services are identified as, and designed to accept and process PCIDSS Cardholder Data, comply with the Payment Card Industry Data Security Standard ("PCI DSS"). In that scope, "Network Components" shall include, but are not limited to, Contractor’s firewalls, switches, routers, wireless access points, network appliances, and other security appliances; “Applications” shall include, but are not limited to, all purchased and custom external (web) applications. “Servers” shall include, but are not limited to, all of Contractor’s web, database, authentication, DNS, mail, proxy, and NTP servers. “Cardholder Data” shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder’s account number, expiration date, name, address, social security number, or telephone number. Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. In that scope, Contractor must have a business continuity program to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and, in accordance with the provisions of the Data Processing Agreement, ensure that a representative or agent of the payment card industry and a representative or agent of the Purchasing Entity shall be provided with reasonable cooperation to conduct a thorough security review of Contractor’s operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

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

7. **State Audits (Minn. Stat. § 16C.05, subd. 5).**
The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Lead State’s Legislative Auditor or State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The Lead State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

8. **Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).**
If the value of this Contract, including all extensions, is $50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the Contractor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

9. **Human Rights/Affirmative Action.**
The Lead State requires affirmative action compliance by its Contractors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

a. Covered Contracts and Contractors. If the Contract exceeds $100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.

b. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400 5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552 5000.3559.

c. Disabled Workers. Minn. R. 5000.3550 provides the Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

(a) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(c) In the event of the Contractor’s noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

d. Consequences. The consequences of a Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

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

10. **Equal Pay Certification.**

If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized

Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the Lead State may require Contractor to verify its exempt status.

11. **Americans with Disabilities Act (ADA). [INTENTIONALLY DELETED]**

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

a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

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

13. **Accessibility Standards.**
Contractor acknowledges and is fully aware of the accessibility requirements of Minnesota Statutes section 16E.03 and the State of Minnesota Accessibility Standards – available online at https://mn.gov/mnit/government/policies/accessibility/ – that incorporate both Section 508 of the Rehabilitation Act and Web Content Accessibility Guidelines 2.0 level 'AA'. The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others.

The extent to which an Contractor product is, prior to any customizations, capable of providing comparable access to individuals with disabilities consistent with the applicable provisions of the Architectural and Transportation Barriers Compliance Board standards set out in 36 CFR Part 1194 (known as 'Section 508'), effective as of June, 2001, or the revised version in Appendix A (known as 'Revised Section 508') effective as of January 2018 and the Web Content Accessibility Guidelines (WCAG) version 2.0 level AA, or the Web Content Accessibility Guidelines (WCAG) version 2.1 level AA as indicated by the dependencies, comments and exceptions (some of which may be significant, if any) noted on the applicable Accessibility Conformance Report (ACR) based on the Voluntary Product Accessibility Templates (VPAT) available at www.oracle.com/accessibility for each product, when they are used in accordance with Oracle's associated documents and other written information, and provided that any assistive technologies and any other products used with them properly interoperate with them. In the event that no ACR is available for a particular Oracle product, please contact the Oracle Accessibility Program Office at accessible_ww@oracle.com. In some cases, the outcome may be that a product is still being evaluated for accessibility, may be scheduled to meet accessibility standards in a future release, or may not be scheduled to meet accessibility standards at all. Oracle Support customers with disabilities may use the online My Oracle Support or call Oracle Support at 1.800.223.1711. Hearing-impaired customers in the U.S. who wish to speak to an Oracle Support representative may use a telecommunications relay service (TRS). Information about the TRS is available at https://www.fcc.gov/file/15195/download (PDF), and a list of telephone numbers is available at http://www.fcc.gov/cgb/dro/trsphonebk.html. International hearing-impaired customers should use the TRS at +1.605.224.1837. Oracle Support will respond to product accessibility issues according to the current Technical Support Policies. No other terms, conditions, statements or any other such representations regarding or related to accessibility shall apply to the Contractor Products provided under this Master Agreement. Contractor cannot make any commitments about future product directions, including plans to address accessibility or the availability of VPATs. Product direction remains at the sole discretion of Contractor.

14. **Conflict Minerals.**
Contractor must provide information to the public on its website regarding the use of conflict minerals, as required by Section 13(p) of the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder.

15. **Hazardous Substances.**
To the extent that the goods to be supplied by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and Federal laws and regulations, the Contractor must provide Material Safety Data Sheets or other forms of product information regarding those substances.

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

Notwithstanding the foregoing, Contractor does not waive any copyright or other intellectual property rights in all or any portion of Contractor's response.

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

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

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

a. the Contractor is unable or potentially unable to render impartial assistance or advice to the Lead State;

b. the Contractor's objectivity in performing the work is or might be otherwise impaired; or

c. the Contractor has an unfair competitive advantage.

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

20. **Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion**
If the Contractor knowingly renders an erroneous certification required in Exhibit A, Section 38, in addition to remedies available to the Minnesota Department of Administration, the Federal Government may pursue available remedies, including but not limited to suspension or debarment.

21. **Government Data Practices.**
The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor, and with respect to the Contractor, to the extent that the Minnesota Government Data Practices Act, by its terms, is applicable to Contractor's delivery of Products and Services under this Master Agreement and impose obligations directly upon Contractor in its role as an information technology services provider with respect to the Services performed under this Master Agreement.

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

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

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

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

Exhibit C: Requirements

1. **Contractor Verification.**

If the Contractor ceases production, sells or assigns their manufacturing to another vendor, or otherwise no longer manufactures a product during the life of the Master Agreement the Lead State reserves the right to terminate the Contractor's Master Agreement.

2. **Warranty and Maintenance. [INTENTIONALLY DELETED]**

3. **Website.**

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

a. Mandatory Specifications:

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

b. Desirable Specifications:

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

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

4. **Environmental Certifications.**

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

5. **EPEAT Registration. [INTENTIONALLY DELETED]**

6. **Third-Party Products.**

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

Third-Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of Contractor's total sales under this Master Agreement. During the life of the Master Agreement Contractor's sale of Third-Party Products should not consistently exceed one third of the total sales each quarter under this Master Agreement.

7. **Partner Utilization.**

Participating Entities have the option of utilizing Partners. Only Partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove Partners in their Participating Addendum. Contractor must ensure Partners utilized in the performance of this contract adhere to all the terms and conditions. Use and approval of Partners, as well as determination of the process to add and remove Partners under a Participating Addendum, is subject to mutual agreement.

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

Under the 2019 National Defense Authorization Act, Section 889(f)(3), the US military is prohibited from purchasing video surveillance and telecommunications equipment from certain Chinese-owned technology firms. While US states are not subject to this act, there is increasing concern for the security of state data. Oracle America, Inc. represents that in accordance with Sections 889(a)(1)(A) and (B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), as amended: (1) It will not provide covered telecommunications equipment or services to any Purchasing Entity in the performance of this Agreement; and (2) After conducting a reasonable inquiry, for purposes of this representation, it does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services.

Exhibit D: Pricing Schedule

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

NASPO ValuePoint Computer Equipment (2023-2028)
CONTROL SET

Master Agreement: 23018
Contractor Name: Oracle America, Inc.

Awarded Bands:

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

Band	Category Code	Category Description	Discount off Baseline List
3	3B	Band 3 - Minimum Discount	5.0%
3	3B-1	Exadata Hardware Products (X9 or prior)	20.0%
3	3B-2	Exadata Hardware Products (X10 or newer)	5.0%
3	3B-3	Oracle Database Appliance	14.0%
3	3B-4	Private Cloud Appliance (X9 or prior)	15.0%
3	3B-5	Private Cloud Appliance (X10 or newer)	5.0%
3	3B-6	SPARC T8-1 Server	15.0%
3	3B-7	SPARC S7-2 Server	5.0%
3	3T	Band 3 - Third Party Product Minimum Discount	10.0%
3	3T-1	Fujitsu M10 Server Configured Options	15.0%
3	3T-2	Fujitsu M10 Server Features	15.0%
3	3T-3	Fujitsu M10 Server X-Options	15.0%
3	3T-4	Fujitsu M10-1 Server	15.0%
3	3T-5	Fujitsu M10-4 Server	15.0%
3	3T-6	Fujitsu SPARC M12 Server	15.0%
3	3T-7	Brocade SAN Software	24.0%
	S	Enterprise Installation Services	0.0%

Exhibit D: Price Schedule

Discount Structure

Master Agreement: 23018
Contractor Name: Oracle America, Inc.
Baseline Price List: Posted on Contractor's dedicated NASPO ValuePoint website

Band 3: Servers and Storage			
Band	**Category Code**	**Category Description**	**Discount off Baseline List**
3	**3B**	**Band 3 - Minimum Discount**	**5.0%**
3	3B-1	Exadata Hardware Products (X9 or prior)	20.0%
3	3B-2	Exadata Hardware Products (X10 or newer)	5.0%
3	3B-3	Oracle Database Appliance	14.0%
3	3B-4	Private Cloud Appliance (X9 or prior)	15.0%
3	3B-5	Private Cloud Appliance (X10 or newer)	5.0%
3	3B-6	SPARC T8-1 Server	15.0%
3	3B-7	SPARC S7-2 Server	5.0%
3	**3T**	**Band 3 - Third Party Product Minimum Discount**	**10.0%**
3	3T-1	Fujitsu M10 Server Configured Options	15.0%
3	3T-2	Fujitsu M10 Server Features	15.0%
3	3T-3	Fujitsu M10 Server X-Options	15.0%
3	3T-4	Fujitsu M10-1 Server	15.0%
3	3T-5	Fujitsu M10-4 Server	15.0%
3	3T-6	Fujitsu SPARC M12 Server	15.0%
3	3T-7	Brocade SAN Software	24.0%

Exhibit D: Price Schedule

Volume-Based Discounts

Master Agreement: 23018
Contractor Name: Oracle America, Inc.

All Awarded Bands

1. Per Transaction Multiple Unit Discount(s)

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

A per transaction discount for a single purchase order over $2.5 million. If the net fees on a single order are greater than $2.5 million, an additional 1% discount will be applied to product line items on that order.

2. Cumulative Discount(s)

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

N/A

3. Other Discount(s)

Additional discount(s) available.

N/A

Exhibit D: Price Schedule

Master Agreement: 23018
Contractor Name: Oracle America, Inc.

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

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

All Awarded Bands		
Category Code	**Description of Service**	**Percent Discount**
S	Enterprise Installation Services	0.0%

Exhibit D: Price Schedule

Master Agreement: 23018
Contractor Name: Oracle America, Inc.

All Awarded Bands

Optional: Lease Rates

Individual Purchasing Entities may enter into mutually agreeable written lease agreements for the products covered in this Master Price Agreement if they have the legal authority to enter into these types of agreements.

Oracle's financing policies are available online at http://oracle.com/contracts. A Participating State's Participating Addendum must be adhered to regarding the allowance of leasing/financing Oracle products.

Lease rates vary from time to time based on market conditions so providing rates at this time is not prudent. Any rates provided by Oracle Financing will be competitive to other market rates at the time of the transaction or purchase or end users will have an option to select a third-party financing organization where needed.

Exhibit D: Price Schedule

Prompt Payment Discount

Master Agreement: 23018
Contractor Name: Oracle America, Inc.

All Awarded Bands

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