STATE OF NEW JERSEY
PARTICIPATING ADDENDUM
Pursuant to
NASPO ValuePoint Contract for
Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services)
MINNESOTA CONTRACT 23018, Solicitation # 29720

This Participating Addendum is made by and between, Oracle America, Inc., whose address is 500 Oracle Parkway Redwood City, CA 94065 ("Contractor"), and the State of New Jersey, Department of the Treasury, Division of Purchase and Property ("State") whose address is 33 West State Street, 8th Floor, P.O. Box 039, Trenton, New Jersey 08625, on behalf of the State of New Jersey and all "Authorized Purchasers", as defined below. For clarification of references throughout this document, the term "State," in any form, refers to the State and any Authorized Purchaser, unless otherwise indicated. Capitalized terms used but not defined shall have the meaning ascribed to them in the Master Agreement.

WHEREAS, pursuant to N.J.S.A. 52:34-6.2, the Director of the Division of Purchase and Property ("Director"), within the New Jersey Department of the Treasury ("Division") "may enter into cooperative purchasing agreements with one or more states for the purchase of goods and services;" and

WHEREAS, the State of Minnesota ("Lead State") and Contractor have entered into Master Agreement # 23018 in accordance with the State of Minnesota's Solicitation for Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services); and

WHEREAS, the Director has determined that entering into a Participating Addendum with Contractor is the most cost effective method of procuring these products and services, and that it is in the best interest of the State to enter into a Participating Addendum with Contractor; and

WHEREAS, the parties seek to enter into this Participating Addendum to memorialize the terms of their contractual relationship;

NOW THEREFORE, for good and valuable consideration, receipt of which hereby acknowledged, the parties to this Participating Addendum hereby agree as follows:

1.0 Term and Extension Option; Order of Precedence; Entire Agreement:

A. The term of this New Jersey Participating Addendum shall be effective from the Effective Date which is the last date signed below and shall continue for a period ending on the Termination Date of the Master Agreement or when this Participating Addendum is terminated in accordance with the Master Agreement or this New Jersey Participating Addendum, whichever shall occur first.

B. The entire agreement, and all rights and obligations between the parties, shall consist of the following documents (which shall be collectively referred to as the "New Jersey Participating Addendum"):
   1. This Participating Addendum or Agreement,
   2. The State of New Jersey Standard Terms and Conditions ("State's Standard Terms and Conditions"), attached hereto as Exhibit A;
   3. The Master Agreement, including its attachments and exhibits, attached hereto as Exhibit B;
   4. The Solicitation, incorporated herein by reference as Exhibit C;
   5. The Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State, incorporated herein by reference as Exhibit D; and
   6. Future Ordering Documents signed by Contractor (or its authorized Distributor) and Authorized Purchaser.

Any term set forth in a purchase order, portal or other non-Contractor issued document which attempts to (i) impose additional obligations on either party or to change the wholly legal terms of the Agreement (including but not limited to terms related to warranties, indemnification, confidentiality, and limitation of liability); (ii) modify, conflict with or limit any provision of the Agreement shall be deemed unenforceable. Terms on a purchase order that are intended to be provided for reference purposes to describe the logistics of a particular transaction (including "ship to" addresses, pricing, quantities of goods purchased and such other similar information) shall be enforceable.

The documents comprising the New Jersey Participating Addendum shall be read to be consistent and complimentary. In the event of any conflict between the terms of the documents comprising the New Jersey Participating Addendum, the conflict shall be resolved by giving priority to the documents in the order listed above.

C. The New Jersey Participating Addendum sets forth the entire agreement between the parties and supersedes all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof.

D. Terms and conditions, including but not limited to any software license or service level agreement, applicable to the New Jersey Participating Addendum are those expressly accepted by the Lead State, attached to the Master Agreement as an Exhibit or an Attachment as of the Effective Date of this New Jersey Participating Addendum, as may be superseded, amended or rejected by this New Jersey Participating Addendum.

E. Amendments – This New Jersey Participating Addendum may not be amended except in a writing signed by both parties.

F. In the event the Lead State approves Contractor to offer new or additional Products and Services under the Master Agreement after the Effective Date of this New Jersey Participating Addendum and such Products or Services incorporate any different, inconsistent, or additional terms into the Master Agreement, including, but not limited to any software license agreement or service level agreement, such terms and conditions shall not be made part of the New Jersey Participating Addendum without a written amendment to the New Jersey Participating Addendum signed by both parties.

G. In the event that Contractor presents terms and conditions, including but not limited to software license agreement or service level agreement, in response to an order by an Authorized Purchaser, through any medium whatsoever, that have not been previously accepted by the Division as part of this New Jersey Participating Addendum, or as an amendment to this New Jersey Participating Addendum, such terms and conditions are expressly rejected and shall not become part of the New Jersey Participating Addendum.

H. References to external documentation

Any external information incorporated by reference within any of the documents comprising the New Jersey Participating Addendum, or any reference in Contractor's documents to website URLs that contain additional terms and conditions including, without limitation, click-through, shrink-wrap, software license agreements or service level agreements, are subject to the terms and conditions of this New Jersey Participating Addendum. In the event of a conflict, the terms of this New Jersey Participating Addendum shall prevail. Notwithstanding the foregoing, the following external documents ("External Documents") shall be enforceable between Oracle and the Purchasing Entity (and a copy of the current version of such External Documents in effect as of the effective date of this Participating Addendum are attached hereto collectively as Attachment 1):

Oracle Program Documentation
Oracle Corporate Security Practices
Oracle Privacy Policies
Hardware Warranty
Hardware and Systems Support Policies
Oracle Linux and Oracle VM Included Files
Oracle Linux and Oracle VM Sources
Integrated Software Options License Definitions, Rules and Metrics
Source Code for Open Source Software Components
Terms for Oracle Linux

Any changes in the information incorporated by reference by any of the documents that comprise the New Jersey Participating Addendum, or any reference in Contractor's documents to website URLs that contain additional terms and conditions including, without limitation, click-through, shrink-wrap, software license agreements or service level agreements, are subject to the terms and conditions of this New Jersey Participating Addendum. In the event of a conflict, the terms of this New Jersey Participating Addendum shall prevail. Notwithstanding the foregoing, the External Documents are subject to change, but such changes will not materially reduce the level of performance, functionality, security or availability of the goods and services for the duration of the time period in which the services

are being provided. No such changes will affect the wholly legal terms of the Agreement (ie; contractual terms unrelated to the technical, functional or operational aspects of the goods or services) nor override or supersede the allocation of risk between Contractor and Purchasing Entity nor be violative of applicable law. Any change must apply to all customers generally, shall not impose additional fees or costs during the applicable terms; shall not alter any of the Purchasing Entity's rights in a diminishing manner, or impose any additional material obligations on the Purchasing Entity except as may be required to meet obligations under applicable law and shall not apply retroactively.

2.0 Scope of Services

A. The scope of Products and Services that may be purchased by an Authorized Purchaser shall be those Products and Service offerings awarded under the Master Agreement, subject to restrictions, if any, set forth below:

1. Software
    a. Software is restricted to operating systems and is subject to equipment configuration limits.
    b. Any software purchased must be related to the procurement of equipment.
    c. 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.
    d. 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.
2. General Services
    a. Services must be related to the procurement of equipment.
    b. Wireless phone and internet service is not allowed.
    c. Managed Print Services are not allowed.
3. Cloud Services
    a. 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.
    b. Any Cloud Service purchased must be related to the procurement of equipment.
4. Third-Party Products
    a. 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.
    b. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.
5. Additional Product/Services
    a. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.
    b. Cellular Phone Equipment is not allowed.
    c. Desktop printers and related toner cartridges are only permitted when procured with hardware as a peripheral and are listed on the awarded Contractor's price sheet.

B. Scope of Work Restrictions
1. Pursuant to Master Agreement Section 17, Trade-in services are hereby explicitly prohibited.

C. Any restrictions or limitations regarding Executive Branch use of this New Jersey Participating Addendum will be set forth in the Method of Operation, as may be amended from time to time and posted on the State's website.

D. Financing, leasing, and renting is not permitted under this New Jersey Participating Addendum for State agencies. Authorized Purchasers may finance their purchase, if permitted under law. If financing is through a lease agreement, that agreement is separate from this New Jersey Participating Addendum and is between the Contractor and the respective Authorized Purchaser only.

E. Each Authorized Purchaser is responsible for the full cost of purchases made under this New Jersey Participating Addendum.

F. Configuration Limits –The limits of this New Jersey Participating Addendum are established by the NASPO Master Agreement. The configuration limits apply to all purchases made under this New Jersey Participating Addendum. The dollar limits are based on a SINGLE computer configuration. These limitations are NOT a restriction on the purchase of multiple configurations. Configuration limits may be waived on a case-by-case basis or adjusted via the State's contract Method of Operation in sole discretion of the Director of Services.
   1. The following services are permitted under this New Jersey Participating Addendum: installation/de-installation, maintenance, support, training, migration, optimization of products supplied under this New Jersey Participating Addendum, asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, and technical support services required for the effective operation of a product.
   2. Contractor may provide limited professional services associated with the equipment and configuration of the equipment purchased.
   3. Services purchased under this New Jersey Participating Addendum must be directly related to equipment purchased under this New Jersey Participating Addendum.

3.0 Definitions

A. "Authorized Purchasers" under this New Jersey Participating Addendum, including the term "Purchasing Entity" used in the Master Agreement, shall mean:
   1. Any State-Level government agency, department, office, instrumentality, division, unit or other entity in the Executive Branch ("State Purchasers");
   2. Any county, borough, city, municipality, town, township, special purpose district, or other political subdivision of the State;
   3. Quasi-state agencies as defined in N.J.S.A. 52:27B-56.1 as any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member;
   4. School districts per N.J.S.A. 52:25-16.1;
   5. Volunteer fire departments, volunteer first aid squads and rescue squads per N.J.S.A. 52:25-16.2; and
   6. Independent institutions of higher education per N.J.S.A. 52:25-16.5;
   7. County colleges per N.J.S.A. 18A:64A-25.9;
   8. State colleges per N.J.S.A. 18A:64-60; or
   9. Any legal successor in interest to any entity above.

4.0 Modifications to the Terms of the Master Agreement, and State of New Jersey Standard Terms and Conditions

A. **Master Agreement**
   1. Master Agreement Section 19 is hereby deleted in its entirety and replaced with the following:

      Section 19, Acceptance and Acceptance Testing

      A. Acceptance. Purchasing Entity (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) shall determine whether all Products delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and/or corresponding terms have been mutually agreed to by both parties in writing. Notwithstanding the foregoing, the parties acknowledge and agree that technical support services are not subject to acceptance periods or acceptance testing.

      B. Acceptance Testing. The Purchasing Entity (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) and the Contractor shall determine if Acceptance Testing is applicable and/or required for the purchase. The terms in regards to acceptance testing will be negotiated, in writing, as mutually agreed. If Acceptance Testing is NOT applicable, the terms regarding Acceptance in the Contract shall prevail. For clarity, there is no Acceptance Testing for technical support services.

2. Master Agreement Section 28, Insurance, is hereby deleted in its entirety and replaced with the following:

28. INSURANCE

The Contractor shall secure and maintain in force for the term of the Contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A- VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the Contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the Contractor to provide the same. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The Contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the Contract number or purchase order number and title of the Contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at:

ccau.certificate@treas.state.nj.us

The insurance to be provided by the Contractor shall be as follows:
a. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be $1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.

b. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than $1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property.

c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

$1,000,000 BODILY INJURY, EACH OCCURRENCE;
$1,000,000 DISEASE EACH EMPLOYEE; and
$1,000,000 DISEASE AGGREGATE LIMIT.

d. Professional Liability Insurance: The Contractor shall provide Errors and Omissions, Professional Liability Insurance and/or Professional Liability Malpractice Insurance to protect the Contractor from insured liability arising out of the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of $2,000,000 per claim and in the aggregate. If the Contractor has claims-made coverage and subsequently changes carriers during the term of the Contract, the new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice shall provide for retroactive coverage to the inception date of this Contract or earlier.

Notwithstanding anything to the contrary herein, Contractor may meet the above insurance requirements via commercial insurance, self-insurance, having the ability to pay claims, or a combination of these options at Contractor's sole discretion. In addition, any combination of Primary, Umbrella, or Excess Liability policies may be used to meet any coverage or limits requirements listed above.

This provision is not intended to, and does not, increase or decrease Oracle's liability under the Limitation of Liability section of Your Agreement.

3. Master Agreement Section 34, Indemnification is hereby deleted in its entirety and replaced with the following:

34. INDEMNIFICATION

A. CONTRACTOR RESPONSIBILITIES - The Contractor's liability to the State and its employees in third party suits shall be as follows:

1. The Contractor shall indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
   i. For or on account of the loss of life, tangible property (not including lost or damaged data) or injury or damage to the person, body or property (not including lost or damaged data) of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under the contract or the order; and
   ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the contract; and
   iii. The Contractor's indemnification and liability under the above Section 34(A)(1) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of the State of New Jersey's Standard Terms and Conditions.
2. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may: (a) procure for the State the legal right to continue the use of the product; (b) replace or modify the product to provide a non-infringing product that is the functional equivalent; or in the event that Contractor cannot do (a) or (b), (c) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.
3. In the event of a claim or suit involving third-party Intellectual Property Rights, the State will (a) promptly notify Contractor in writing of the claim or suit; and (b) Contractor shall have control of the defense and settlement of any claim that is subject to the above Section 34(A)(1); provided, however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at the State's expense. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement upon reasonable written notice to Contractor.
4. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from: (1) the State's unauthorized combination, operation, or use of a product supplied under this contract with any product, device, or software not supplied by Contractor; (2) the State's unauthorized alteration or modification of any product supplied under this contract; (3) the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or (4) the State's failure to promptly implement a required update, use a new version of the product, or to make a change or modification to the product if requested in writing by Contractor.
5. Contractor will be relieved of its responsibilities under the above Subsection 34(A)(1)(i), (ii), and (iii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
6. This section states the entire obligation of Contractor and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.

7. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity, except as otherwise provided in the above Section 34(A)(5).
8. The Contractor agrees that any approval by the State or Authorized Purchaser of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the contract.
9. The State of New Jersey will not indemnify, defend or hold harmless the Contractor. The State will not pay or reimburse for claims absent compliance with the below Section 34(B) and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

B. STATE RESPONSIBILITIES - Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under the above Section 34(A)(1)(i), (ii), and (iii) which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims.

4. Master Agreement Section 35, Limitations of Liability, are hereby deleted in their entirety and replaced with the following:

35. LIMITATION OF LIABILITY

Contractor's liability arising out of or in connection with this Participating Addendum is limited to the lesser of two times (2x) the amount paid by the State under this Participating Addendum over the prior twelve months or $5 million. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than $250,000. In no event shall Contractor be liable for any punitive, special, indirect, or consequential damages arising out of this Participating Addendum. This limitation on liability shall not apply to Contractor's obligation to indemnify, defend, and save harmless the State and its employees as described in this Participating Addendum.

Contractor shall be liable for damages arising from its breach of the confidentiality obligations of this Participating Addendum subject to the limitation of liability set forth herein.

5. Master Agreement Section 39, Governing Law, is hereby deleted in its entirety and replaced with Section 5.13, Applicable Law and Jurisdiction, of the State's Standard Terms and Conditions, attached hereto as Exhibit B;

6. Master Agreement Section 43, Force Majeure, is hereby deleted in its entirety and replaced with Section 5.2, Force Majeure, of the State's Standard Terms and Conditions, attached hereto as Exhibit B;

7. Master Agreement Section 44, Defaults and Remedies, is hereby deleted in its entirety and replaced with the defaults and remedies discussed in this New Jersey Participating Addendum and its exhibits.

8. Master Agreement Exhibit B, Minnesota Terms and Conditions, is hereby deleted in its entirety.

B. State of New Jersey Standard Terms and Conditions

1. Section 4.1 of the State of New Jersey's Standard Terms and Conditions is deleted in its entirety and replaced with the language provided for in PA Section 4.A.3.

2. Section 4.2 of the State of New Jersey's Standard Terms and Conditions is deleted and replaced with the language provided for in PA Section 4.A.2.

3. Section 6.1, entitled "Price Fluctuation During Contract" is hereby modified to include the following as the final paragraph:

Notwithstanding anything to the contrary, the State accepts any price changes approved by the Lead State in accordance with Master Agreement, Exhibit A, Section 13 Price and Rate Guaranteed Period.

4. The following are hereby added to the State of New Jersey's Standard Terms and Conditions:

a. Oracle will only use the Purchasing Entity's confidential information as necessary to perform the consulting or technical support services for the Purchasing Entity. For purposes of this provision only, the term "confidential information" is limited to data, text, images, audio, videos, and other content owned by the Purchasing Entity and to which Oracle needs access to provide the products and services purchased.

5. Section 2.4 of the State of New Jersey's Standard Terms and Conditions is hereby supplemented with the following language:

   Oracle is an equal opportunity employer and does not discriminate (nor make employment decisions) on the basis of race, color, gender, national origin, religion, age, sexual orientation, gender identity, gender expression, genetic information, physical or mental disability, pregnancy, marital status, status as a protected veteran, or any other status protected by applicable federal or State law (protected characteristics). New Jersey's statutory Equal Employment Opportunity and Affirmative Action Rules ("Rules") require vendors to make good faith efforts to meet specific targets but do not have required quotas. Oracle agrees to comply with the Rules. The parties agree that the State of New Jersey Department of Treasury (NJDOT) is not requesting or requiring Vendor to violate any applicable federal statutes, rules, decisional law, or other controlling authority in order to comply with this contract.

6. For purposes of this New Jersey Participating Addendum, the Parties agree that Section 3.7 of the State of New Jersey's Standard Terms and Conditions is not applicable as the contract is not primarily for services.

7. Section 5.22 of the State of New Jersey's Standard Terms and Conditions is hereby supplemented with the following language:

   Contractor's liability arising out of or in connection with this section is limited to the lesser of two times (2x) the amount paid by the State under this Participating Addendum over the prior twelve months or $5 million.

5.0 Miscellaneous

A. No Waiver – No term or provision of this New Jersey Participating Addendum shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or any subsequent breach, except as may be expressly provided in the waiver or consent.

B. Dispute Resolution – The State and Contractor will attempt to resolve any dispute through face-to-face negotiation (which may be virtually) with persons fully authorized to resolve the dispute or through non-binding mediation utilizing a mediator agreed to by the parties, rather than through litigation. No formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such persons conclude, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely.

C. Arbitration or Mediation – Any provision regarding arbitration or binding mediation within the Master Agreement is deleted in its entirety.

D. In accordance with N.J.A.C. 17:12-1B.2, notwithstanding anything to the contrary in the Master Agreement or any other documents comprising the New Jersey Participating Addendum, under no circumstances will the State indemnify Contractor and any such provision in the Master Agreement or such other documents shall be of no force and effect.

E. Notwithstanding anything to the contrary in the Master Agreement or any other documents comprising the New Jersey Participating Addendum, the State shall not be responsible for the Contractor's attorney fees and/or expenses.

F. Notwithstanding anything to the contrary in the Master Agreement or any other documents comprising the New Jersey Participating Addendum, the State does not agree to auto-renewal of maintenance, technical support, service fees, subscription fees or any other product or service requiring periodic renewal.

G. State Intellectual Property -The State retains ownership of all State Intellectual Property provided to the Contractor pursuant to the Agreement. State Intellectual Property includes any intellectual property owned by the State. The State grants the Contractor a non-exclusive, royalty-free, license to use, copy, display, distribute, transit and prepare derivative works of State Intellectual Property and State data and information only to fulfill the purposes of the Agreement. The State's license to the Contractor is limited by the term of the Agreement and the confidentiality obligations set forth in Section 5.Q Miscellaneous (Compliance – Data and Privacy Laws) of this New Jersey Participating Addendum.

H. Notwithstanding anything to the contrary in the Master Agreement, the Contractor's software agreement or services agreement, the State makes no warranties unless they are expressly stated in this New Jersey Participating Addendum.

I. A liquidated damages provision, if any, must be agreed to and signed by both parties and stated in the ordering document issued pursuant to this New Jersey Participating Addendum in order to be in effect.

J. The Contractor shall not have the right to terminate this New Jersey Participating Addendum. Any provisions in the Master Agreement regarding the Contractor's right to terminate or cancel this New Jersey Participating Addendum are superseded by and replaced in their entirety by this Section 5.J of this New Jersey Participating Addendum. However, in the event that an Authorized Purchaser violates its obligations under this New Jersey Participating Addendum, Contractor may refuse to accept or process orders from such Authorized Purchaser immediately upon written notice to the State and such Authorized Purchaser, until such time as Authorized Purchaser submits a plan to correct such violations satisfactory to Contractor, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary, Contractor shall continue to process orders submitted by other Authorized Purchasers.

K. Open Public Records Act – All documents and information submitted by Contractor to the State under this New Jersey Participating Addendum are considered public information, notwithstanding any disclaimers to the contrary submitted by Contractor, except as may be exempted from public disclosure by the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law.

L. Required Summary and Detailed Sales Reporting –reserved.

M. Reporting and Supplier Convenience Fee

1. Quarterly Sales Reporting – The Contractor shall submit a Sales Report documenting all sales made under the New Jersey Participating Addendum. The Sales Report shall be submitted directly to Periscope using the ***NJSTART*** system no later than thirty (30) calendar days after the end of each calendar quarter. The calendar quarters will end March 31, June 30, September 30, and December 31.

   The Sales Report must contain the following information:
   - Complete and accurate details of all invoiced sales, credits, returns, , and the like for the reporting quarter;
   - Purchasing entity;
   - Total of Supplier Convenience Fee amount due for the reporting quarter;
   - Such other information as the State may reasonably request provided such requests are mutually agreed to by both parties; and
   - If no sales were made to the State during the reporting quarter, then a report shall be submitted showing zero sales and zero Supplier Convenience Fee due.

   Quarterly Sales Reporting and remittance of the Supplier Convenience Fee shall begin on the first calendar quarter starting after the effective date of the New Jersey Participating Addendum.

2. Supplier Convenience Fee – For all purchases made and invoiced under the Contract, the Contractor shall remit the Supplier Convenience Fee in the amount of one percent (1%) of all Purchases to Periscope Holdings, Inc. (Periscope).

3. Remittance of the Supplier Convenience Fee – On a quarterly basis, the Contractor shall remit the Supplier Convenience Fee directly to Periscope Holdings, Inc. (Periscope) no later than thirty (30) days after the end of each calendar quarter. The calendar quarters will end March 31, June 30, September 30, and December 31. Failure to remit the Supplier Convenience Fee timely and accurately may result in Contractor's goods and/or services being made ineligible for purchase through the ***NJSTART*** Marketplace.

4. Retention and Inspection of Records and Audit – The Contractor shall keep records of all sales made to Authorized Purchasers in sufficient detail to enable the State to determine the Supplier Convenience Fee payable by the Contractor. The State may examine and audit, at its own expense, on an annual basis, Contractor's sales records and Sales Reports for completeness and accuracy but must provide reasonable advance notice of a request for such an audit. If such examination reveals underpayment of the Supplier Convenience Fee, the Contractor shall immediately pay to Periscope the amount of deficiency. If the examination reveals an underpayment of 5% or more, then the Contractor shall reimburse the State and/or Periscope the reasonable costs of the audit.

5. Catalog Enablement – The Contractor shall cooperate with the State and/or Periscope as requested to establish a presence in the ***NJSTART*** Marketplace by providing marketing materials and/or website URLs showcasing their awarded products and services. Any pricing displayed must align with the prices listed in the Participating Addendum award, ensuring consistency and transparency for potential buyers and must be completed within thirty days (30) of the Participating Addendum award.

N. Delivery Guarantees
1. Deliveries shall be made in accordance with the terms of the Master Agreement. Notwithstanding anything to the contrary in any Master Agreement, the State shall not pay shipping charges for failure to meet a minimum shipment amount.
2. In the event delivery of goods or services is not made within the number of days stipulated, the State shall be authorized to obtain the product or service from any available source.
3. The Contractor shall be responsible for the delivery of new or "like-new" products in accordance with good commercial practice. "Like-new" products will be identified as "like-new" and will be furnished at a price discounted from the price of the equivalent new product unless the "like-new" product is warranted as new, in which case it need only be identified as "like-new."
4. Contractor or its Distributor may make and invoice for partial deliveries. Authorized Purchaser understands that it may receive multiple invoices for the products and/or services ordered.

O. Authorized Resellers/Distributors and Subcontractors:
Contractor has the right to utilize Authorized Resellers/Distributors (hereinafter Distributors) for direct order taking, processing, fulfillment or provisioning. This New Jersey Participating Addendum may not be subcontracted or assigned by the Contractor, in whole or in part, without the prior written consent of the Director, which shall not be unreasonably withheld. Such consent, if granted, shall not relieve the Contractor of any responsibilities under this New Jersey Participating Addendum. For the avoidance of doubt, the Contractor shall be responsible for obtaining all required forms from each Distributor or subcontractor and submit the required forms to the State. The State will not accept forms directly from the Distributor and/or subcontractor. If the Contractor uses a Distributor, Contractor and the State agree to a minimum of 2 and a maximum of 17 Distributors.

Notwithstanding anything set forth in this Section O of this New Jersey Participating Addendum to the contrary, Contractor shall have the right to assign this New Jersey Participating Addendum to its qualified affiliates or successors in interest with a reasonable notice to the State. Any such assignee will comply with the terms and conditions of the Contractor under this New Jersey Participating Addendum and any such assignee must complete and provide the State with all registrations required by New Jersey Statutes, such as New Jersey Business Registration, N.J.S.A. 52:32-44, and, Ownership Disclosure, N.J.S.A. 52:25-24.2, Affirmative Action, N.J.S.A. 10:5-34 and N.J.A.C. 17:27-1.1, .et seq., as applicable, and be eligible to contract with the State pursuant to the State's pay to play limitations, N.J.S.A. 19:44A-20.13, et seq., Activities in Iran, 52:32-58, Prohibited Activities in Russia and Belarus, N.J.S.A. 52:60.1.

The Contractor agrees to provide a list of the Distributor(s) that will service the Contract, including the name, address and contact information for each Distributor. The Contractor will be required to submit the documents

set forth in Section 6 – The State of New Jersey Mandatory Certification Requirements, for each Distributor, prior to the Distributor being permitted to perform any work on the Contract.

Distributors may be removed and/or added upon ten (10) business days' prior written notice to the State during the term of the New Jersey Participating Addendum, but under no circumstance shall the total number of Distributors exceed the aforementioned maximum. Contractor and the State reserve the right to remove an authorized Distributor at its discretion for cause, not meeting established vendor criteria under the New Jersey Participating Addendum, or where the addition, or continued use, of the entity would violate any State or federal law or regulation. If an authorized Distributor is removed for any reason, Contractor will name the alternate Distributor responsible to fulfill each pending purchase order and is responsible for any delay to the expected delivery.

P. Performance Guarantee
Notwithstanding anything to the contrary in the Master Agreement Terms and Conditions or the Master Agreement, this Section 5.0(P) prevails over any inspection or acceptance language contained in an Order.

The Contractor hereby certifies that:

1. The equipment offered is standard, new or "like-new" equipment, with available parts regularly used for the type of equipment offered; that such parts are all in production; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice. In the event that a warranty claim occurs during the warranty period as set forth in the Master Agreement, warranty hardware replacement may consist of "like-new" parts.
2. All equipment supplied under the Agreement and operated by electrical current is UL listed or certified where applicable.
3. Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.
4. Trained and/or Contractor-certified technicians and/or engineers are regularly employed to make necessary repairs to equipment within the time accepted as industry practice.
5. Reserved.
6. Reserved.

Q. Compliance – Data and Privacy Laws -
The Contractor agrees to comply with all State and Federal data and privacy laws, rules and regulations applicable to Contractor under the Agreement.

R. In the event Authorized Purchaser is entering into an ordering document with Contractor or Distributor and is using federal funds, such ordering document must expressly state that Authorized Purchaser is using federal funds.

6.0 The State of New Jersey Mandatory Certification Requirements

The following are the State of New Jersey standard procurement forms and requirements that Contractor agrees to fulfill prior to the Effective Date. Some Authorized Purchasers may have additional requirements when placing an order and Contractor shall comply with same as necessary.

A. Ownership Disclosure (N.J.S.A. 52:25-24.2);
B. Disclosure of Investment Activities in Iran (N.J.S.A. 52:32-55 et. Seq.);
C. Disclosure of Investigations and Actions Involving Bidder Form;
D. MacBride Principles (N.J.S.A. 52:34-12.2);
E. Vendor Certification (P.L. 2005, c.271);
F. New Jersey Business Registration (N.J.S.A. 52:32-44);
G. Proof of insurance as specified herein;

H. Proof of compliance with New Jersey Affirmative Action requirements (N.J.A.C. 17:27-1.1 et. Seq.):
- New Jersey Form AA-302 Affirmative Action Employee Information Report; or
- New Jersey Affirmative Action Certificate; or
- Federal Affirmative Action Approval Letter.

I. Certification of Non-Involvement in Prohibited Activities in Russia or Belarus Form

7.0 Primary Contacts:

Any notice between the parties provided for in this New Jersey Participating Addendum, or elsewhere in the Master Agreement shall be in writing, and shall be sent both via regular certified mail return receipt requested and via email to the addresses provided. The Parties should give prompt notice to each other if the appropriate person or address changes. The primary contacts for this New Jersey Participating Addendum are as follows:

State of New Jersey – Department of the Treasury – Division of Purchase and Property	
Name	Michael Snyder
Title	Procurement Specialist
Address	33 West State Street, 8th Floor, PO Box 230 Trenton, New Jersey 08625-0230
Telephone	(609) 826 – 3532
Fax	N/A
Email	Michael.J.Snyder@treas.nj.gov

State of New Jersey – Office of Information Technology	
Name	Rita Foxwell
Title	State Contract Manager
Address	300 River View Plaza, Trenton, New Jersey 08611
Telephone	(609) 376 – 7102
Fax	N/A
Email	Rita.Foxwell@tech.nj.gov

Oracle America, Inc.	
Name	Deal Management
Title	Contracts Administration Team
Address	N/A
Telephone	(210) 536-9415
Fax	N/A
Email	st-local-agreements_us@oracle.com

IN WITNESS WHEREOF, the Contractor and the State have caused this New Jersey Participating Addendum to be executed by their authorized representatives and agree that this New Jersey Participating Addendum may be executed in counterparts, each original signed page to become part of the original document.

Oracle America, Inc.

DocuSigned by:
Rick Rivera

15-Jul-2026 | 8:36 AM PDT

Signature | Date

Rick Rivera | Contract Specialist, Americas SSC, DM

Print Name and Title

The State of New Jersey
Department of the Treasury - Division of Purchase and Property

Amy F. Davis | 8/4/26

Amy F. Davis, Acting Director | Date

Approved as to Form
Jennifer Davenport, Attorney General
State of New Jersey – Department of Law and Public Safety

Digitally signed by Davis M. Flowers
Date: 2026.08.03 15:42:25 -04'00'

8/3/2026

Signature | Date

Davis M. Flowers, Deputy Attorney General

Print Name and Title

EXHIBITS

EXHIBIT A - The State of New Jersey Standard Terms and Conditions

EXHIBIT B - The Master Agreement, including its attachments and exhibits

EXHIBIT C - The Solicitation

EXHIBIT D - The Contractor's response to the Solicitation

Attachment 1 – Contractor's External Documents

EXHIBIT A
The State of New Jersey Standard Terms and Conditions

State of New Jersey Standard Terms and Conditions

(Revised June 21, 2023)

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

1.0 STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

The following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. The State's terms and conditions shall prevail over any conflicts set forth in a Contractor's Quote or Proposal.

2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws, regulations or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the Contractor and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the Contractor who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director of the Division of Purchase and Property (Director) during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of $25 for each day of violation, not to exceed $50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the Use Tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at http://www.state.nj.us/treasury/revenue/busregcert.shtml.

2.2 OWNERSHIP DISCLOSURE

Pursuant to N.J.S.A. 52:25-24.2, in the event the Contractor is a corporation, partnership or limited liability company, the Contractor must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Contractor's failure to submit the completed and signed form prior to or with its Quote will result in the Contractor being ineligible for a Contract award, unless the Division of Purchase and Property (Division) has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, a Contractor with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Pursuant to N.J.S.A. 52:32-58, the Contractor must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Contractor, nor one (1) of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Contractor, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities as directed on the form. A Contractor's failure to submit the completed and signed form will preclude the award of a Contract to said Contractor.

2.4 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions

Contracts (Exhibit B and Exhibit C - Executive Order 151 Requirements) as appropriate.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.5 AFFIRMATIVE ACTION

In accordance with N.J.A.C. 17:27-1.1, prior to award, the Contractor and subcontractor must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Contractors or subcontractors not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at https://www.state.nj.us/treasury/contract_compliance/.

2.6 AMERICANS WITH DISABILITIES ACT

The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.7 MACBRIDE PRINCIPLES

The Contractor must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.8 PAY TO PLAY PROHIBITIONS

New Jersey law insulates the negotiation and award of State contracts from political contributions that pose a risk of improper influence, purchase of access or the appearance thereof. P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51") and Executive Order 333 (2023).

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), a "fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. A contract awarded under a process that includes public bidding or competitive contracting pursuant to State contracts law shall constitute a fair and open process. N.J.S.A. 19:44A-20.23. The agency conducting the procurement will need to determine whether the procurement meets the Election Transparency Act definition of a "fair and open process" and instruct vendors on the applicability of Chapter 51.

A. For Contracts Awarded Pursuant to a Fair and Open Process

Pursuant to P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51"), and Executive Order No. 333 (2023), contracts awarded pursuant to a fair and open process do not require a certification or disclosure of any solicitation or contribution of money, or pledge of contribution, including in-kind contributions.

B. For Contracts Awarded Pursuant to a Non-Fair and Open Process

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), and Executive Order 333 (2023), the State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds $17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a Continuing Political Committee or to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor during certain specified time periods. It shall be a breach of the terms of the contract for the Business Entity to:

(1) Make or solicit a contribution in violation of the statute;
(2) Knowingly conceal or misrepresent a contribution given or received;
(3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
(4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor;
(5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
(6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
(7) Engage in any exchange of contributions to circumvent the intent of the Legislation; or
(8) Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the Contract, and any extension(s) thereof, at the time any such contribution is made.

A "Continuing Political Committee" means any political organization (a) organized under section 527 of the Internal Revenue Code; and (b) consisting of any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least $5,500 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a Continuing Political Committee by the New Jersey Election Law Enforcement Commission under N.J.S.A.19:44A-8. A Continuing Political Committee does not include a "political party committee," a "legislative leadership committee," or an "independent expenditure committee," as defined in N.J.S.A. 19:44A-3.

Prior to awarding any Contract or agreement to any Business Entity pursuant to a non-fair and open process, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51 /Executive Order 333 Vendor Certification and Disclosure of Political Contributions for Non-Fair and Open Contracts, certifying either that no contributions to a Continuing Political Committee or to a candidate committee or election fund of a gubernatorial candidate have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division's website at http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf.

2.9 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L.2005, c.271, rev. P.L.2023, c.30) if in a calendar year the contractor receives one or more contracts valued at $50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at http://www.elec.state.nj.us/.

2.10 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

A. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;

B. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;

C. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

D. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

E. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

F. The provisions cited above in paragraphs 2.8A through 2.8E shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards, now known

as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.11 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

The Treasurer has established a business ethics guide to be followed by a Contractor in dealings with the State. The guide can be found at: https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf.

2.12 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.13 COMPLIANCE - LAWS

The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.14 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.15 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

2.16 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS

The Contractor should submit the Disclosure of Investigations and Other Actions Form which provides a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Contractor does not submit the form with the Quote, the Contractor must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

2.17 DISCLOSURE OF PROHIBITED ACTIVITIES WITH RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1 (P.L. 2022, c.3), a person or entity seeking to enter into or renew a contract for the provision of goods or services shall certify that it is not identified on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Activities in Russia or Belarus. If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities. A Contractor's failure to submit a certification will preclude the award or renewal of a Contract to said Contractor.

3.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with New Jersey Uniform Construction Code and the latest National Electrical Code 70®, B.O.C.A. Basic Building code, Occupational Safety and Health Administration and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The Contractor 's signature on [the proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [the proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the Contractor's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [the proposal] shall comply with

the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

3.3 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance.

3.4 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of $50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.5 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor

or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.6 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.7 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.8 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States, whenever available, and the contractor shall be required to so certify.

3.9 DOMESTIC MATERIALS

Pursuant to N.J.S.A. 52:33-2 et seq., if the contract is for the construction, alteration or repair of any public work, the contractor and all subcontractors shall use only domestic materials in the performance of the work unless otherwise noted in the specifications.

3.10 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14 and N.J.A.C. 12:10-1.1 et seq., a contractor performing "qualifying services" or "public work" to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see https://nj.gov/labor/equalpay/equalpay.html.

3.11 EMPLOYEE MISCLASSIFICATION

In accordance with Governor Murphy's Executive Order #25 and the Task Force's July 2019 Report, employers are required to properly classify their employees. Workers are presumed to be employees and not independent contractors, unless the employer can demonstrate all three factors of the "ABC Test" below:

A. Such individual has been and will continue to be free from control or direction of the performance of such service, but under his or her contract of service and in fact; and
B. Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all places of business of the enterprise for which such service is performed; and
C. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

This test has been adopted by New Jersey under its Wage & Hour, Wage Payment and Unemployment Insurance Laws to determine whether a worker is properly classified. Under N.J.S.A. 34:1A-1.17-1.19, the Department of Labor and Workforce Development has the authority to investigate potential violations of these laws and issue penalties and stop work order to employers found to be in violation of the laws.

3.12 CYBERSECURITY INCIDENT REPORTING REQUIREMENT

Pursuant to N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19), Contractors that have access to, or host the State's network(s), system(s), application(s), or information shall report Cybersecurity Incidents to the New Jersey Office of Homeland Security and Preparedness (NJ OHSP) at https://www.cyber.nj.gov/report/ within 72 hours of when the Contractor reasonably believes that a Cybersecurity Incident has occurred.

Consistent with N.J.S.A. 52:17B-193.2, "Cybersecurity Incident" means a malicious or suspicious event occurring on or conducted through a computer network that jeopardizes the integrity, confidentiality, or availability of an information system or the information the system processes, stores, or transmits.

Consistent with N.J.S.A. 52:17B-193.3(f), any Cybersecurity Incident notification submitted to the NJ OHSP shall be deemed confidential, non-public, and not subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the New Jersey Open Public Records Act, as amended and supplemented, and may not be discoverable in any civil or criminal action or subject to subpoena, unless the subpoena is issued by the New Jersey State Legislature and deemed necessary for the purposes of legislative oversight.

This reporting required by N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19) to NJ OHSP is in addition to the Contractor's responsibility to report Security Incidents as may be set forth in Contract Scope of Work or the Waivered Contracts Supplement to the State of New Jersey Terms and

Conditions. If the Waivered Contracts Supplement is not made part of the contract and a notification period is not specified in the Contract Scope of Work, the Contractor shall give notice of the Cybersecurity Incident to the Using Agency as soon as practicable, but no less than one business day, after the Contractor reasonably believes that a Cyber Security Incident has occurred.

4.0 INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor's liability to the State and its employees in third party suits shall be as follows:

A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;

B. The contractor's indemnification and liability under subsection (A) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and

C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at: ccau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be $1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;

B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than $1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;

C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

1. $1,000,000 BODILY INJURY, EACH OCCURRENCE;
2. $1,000,000 DISEASE EACH EMPLOYEE; and
3. $1,000,000 DISEASE AGGREGATE LIMIT.

This $1,000,000 amount may be raised when deemed necessary by the Director;

In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections A, B, and B. above may be amended for certain commodities when deemed in the best interests of the State by the Director.

5.0 TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 FORCE MAJEURE

Neither party will be liable to the other for any delay or inability to perform its obligations if such delay or inability arises from any act of God, fire,

natural disaster, act of war (declared or undeclared), act of terrorism (domestic or international), riot, civil disturbance, pandemic or other public health crisis (arising during the term of the contract) In the event of such a delay or inability to perform, the time for performance will be extended by an amount reasonable under the specific circumstances and mutually agreed-upon date sufficient to allow Vendor to perform the work delayed by the force majeure.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and

B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

Any changes or modifications to the terms of this Contract shall be valid only when they have been reduced to writing and signed by the Contractor and the Director.

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, whether including new work required by the change in law or to eliminate work no longer required by the change in law along with a commensurate price change. The parties shall negotiate the terms of the change in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision taking all relevant information into account, and shall notify the Contractor of the final adjusted scope of work and contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance.

5.7 TERMINATION OF CONTRACT

A. For Convenience:
Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;

B. For Cause:
   1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and
   2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.

C. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and

D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING

The Contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such

consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws. Nothing contained in any of the contract documents, shall be construed as creating any contractual relationship between any subcontractor and the State.

5.9 RESERVED

5.10 MERGERS, ACQUISITIONS AND ASSIGNMENTS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

A. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;
B. All equipment supplied to the State and operated by electrical current is UL listed where applicable;
C. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
D. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
E. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
F. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
G. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
C. Items delivered must be strictly in accordance with the contract; and
D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS AND AUDITS

A. Pursuant to N.J.A.C. 17:44-2.2, the contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.
B. The State may request, receive, review, and audit copies of any and all records and documents related to a State contract at any time. The Contractor shall make a good faith effort to cooperate with the request and upon receipt of the request, the Contractor shall promptly provide

the requested records and documents free of charge in the time, place, and manner specified. Failure of the contractor to comply with the request or the audit may be used by the State to establish contract non-compliance, to take any action, or seek any remedy available under the contract, at law, or in equity.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

In connection with this assignment, the following are the express obligations of the contractor:

A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
B. It shall advise the Attorney General of New Jersey:
    1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
    2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey; and
D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

5.17 NEWS RELEASES

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this Contract without the prior written consent of the Director.

5.18 ADVERTISING

The Contractor shall not use the State's name, seal, or logos as a part of any commercial advertising without first obtaining the prior written consent of the New Jersey Secretary of State. The Contractor shall not use a Department or Using Agency's name, seal, logos, images, or any data or results arising from this Contract as a part of any commercial advertising without first obtaining the prior written consent of the Department.

5.19 ORGAN DONATION

As required by N.J.S.A. 52:32-33.1, the State encourages the contractor to disseminate information relative to organ donation and to notify its employees, through information and materials or through an organ and tissue awareness program, of organ donation options. The information provided to employees should be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C. 1320b-8 to serve in this State.

5.20 LICENSES AND PERMITS

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. Notwithstanding the requirements of the Bid Solicitation, the Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Contract award. All costs associated with any such licenses, permits, and authorizations must be considered by the Contractor in its Quote.

5.21 CLAIMS AND REMEDIES

A. All claims asserted against the State by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.
B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
C. In the event that the Contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the SSTC, authorize the delivery of Contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due the defaulting Contractor or being an obligation owed the State by the defaulting Contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

5.22 ACCESSIBILITY COMPLIANCE

The Contractor acknowledges that the State may be required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. The Contractor agrees that any information that it provides to the State in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State with technical information available to support such VPAT documentation in the event that the State relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. In addition, Contractor shall defend any claims

against the State that the Software does not meet the accessibility standards set forth in the VPAT provided by Provider in order to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794 and will indemnify the State with regard to any claim made against the State with regard to any judgment or settlement resulting from those claims to the extent the Provider's Software provided under this Contract was not accessible in the same manner as or to the degree set forth in the Contractor's statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

5.23 CONFIDENTIALITY

A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;

B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. Contractor's Confidential Information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure Vendor Intellectual Property ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;

C. The State's Confidential Information shall consist of all information or data contained in documents supplied by the State, any information or data gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not);

D. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party;

E. The State agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;

F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;

G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and

H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
   (i) if directed to do so by a court or arbitrator of competent jurisdiction; or
   (ii) pursuant to a lawfully issued subpoena or other lawful document request:
      (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.23(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.23(F); or
      (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.23(G), or if the State is unsuccessful in defending its rights as described in Section 5.23(G).

6.0 TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract

resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;

B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the Bill of Lading, and/or other documentation to confirm shipment and receipt of contracted goods must be received by the using agency prior to payment. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work and must be in strict accordance with the firm, fixed prices submitted for each task or subtask. When applicable, invoices should reference the appropriate task or subtask or price line number from the contractor's proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;

C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and

D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Office of Diversity and Inclusion.

E. The Contractor shall have sole responsibility for all payments due any Subcontractor

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds $5.00 per properly executed invoice. Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7.0 TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the Contractor shall:

(1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;
(2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
(3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
(4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7.2 DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7.3 PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
   1. Competitively within a timeframe providing for compliance with the contract performance schedule;
   2. Meeting contract performance requirements; or
   3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7.4 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." See, 2 CFR Part 200, Appendix II, para. C.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,

regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.5 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of $ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

7.6 COPELAND ANTI-KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.

b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7.7 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of $ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.8 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.9 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of $150,000, must comply with the following:

Clean Air Act

7.9.1.1 The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

7.9.1.2 The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

7.9.1.3 The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.10 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.11 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee

of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

7.12 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in *Public Law 115–232*, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

EXHIBIT A - GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.A.C. 17:27 et seq.

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval;
- Certificate of Employee Information Report; or
- Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase an Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase an Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

EXHIBIT B - CONSTRUCTION CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)
N.J.A.C. 17:27-1.1 et seq.

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of $250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
   (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non- discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
    (i) The contactor or subcontractor shall interview the referred minority or women worker.
    (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
    (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
    (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT C - EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at https://newjersey.usnlx.com/;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Signature	Date
Print Name and Title	
Print Name of Contractor	

EXHIBIT B
The Master Agreement, including its attachments and exhibits

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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.

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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.

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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 E trada

Signature: DocuSigned by: Michael Estrada B08D81052A88411...

Title: NAMER Senior M r - 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 Do an

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

Title: IT Acquisition s Supervisor Date: 2/22/2024

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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).

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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.

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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

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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

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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.

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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.

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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.

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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.

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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

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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**

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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

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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

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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.

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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

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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

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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

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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.

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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

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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

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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.

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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.

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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

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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

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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

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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.

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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.

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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.

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Exhibit D: Pricing Schedule

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

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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%

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Exhibit D: Price Schedule

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%

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Exhibit D: Price Schedule

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

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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%

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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.

DocuSign Envelope ID: 67BF2349-C673-4ECA-BBAD-923C6C81A7E5

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):	

EXHIBIT C
The Solicitation

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

SOLICITATION ADDENDUM

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

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

SCOPE OF ADDENDUM

The purpose of this Addendum 05 is to:

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

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

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

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

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

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

   J. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BANDS 1 AND 2

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

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

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

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

K. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BAND 3

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

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

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

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

   a. Section 6, Attachment H for Band 1, and
   b. Section 6, Attachment H for Band 2.

Attachments:

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

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

This addendum is hereby incorporated into the RFP.

COMPANY NAME:_____ SIGNATURE:_____

DATE: _____ PRINTED NAME:_____

TITLE:_____

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

SOLICITATION ADDENDUM

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

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

SCOPE OF ADDENDUM

The purpose of this Addendum 04 is to:

1. Revise the Due Date and Time to be March 18, 2021, 3:00 PM CT.

2. Respond to the remainder of questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. The Lead State believes that is has answered all questions submitted to the date of this Addendum.

3. Revise the Solicitation document. Revisions to the document are as follows:

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

6.B	Remove reference to a Contract Savings Report

4. Revise the following documents attached to the solicitation:

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

Attachments:

- Addendum 04 Questions and Answers
  http://www.mmd.admin.state.mn.us/xls/29720Addendum4.QandA.xlsx

- 2020 NVP MN Computer Equipment RFP – Addendum 04
  http://www.mmd.admin.state.mn.us/pdf/29720.pdf

- Section 6, Attachment H for Band 1 – Addendum 04
  http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band1PriceWorkbook.xlsx

- Section 6, Attachment H for Band 2 – Addendum 04
  http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band2PriceWorkbook.xlsx

- Section 6, Attachment H for Band 3 – Addendum 04
  http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band3PriceWorkbook.xlsx

- Section 6, Attachment J for Bands 1 and 2 – Addendum 04
  http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentJ_MNITMinimumAcceptableStandardsBands1&2.xlsx

- Section 6, Attachment K for Band 3 – Addendum 04
- http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentK_MNITMinimumAcceptableStandardsBand3.xlsx

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

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____ SIGNATURE: _____

DATE: _____ PRINTED NAME: _____

TITLE:_____

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

SOLICITATION ADDENDUM

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

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

SCOPE OF ADDENDUM

The purpose of this Addendum 03 is to:

1. Revise the Due Date and Time to be February 26, 2021, 3:00 PM CT; and

2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachment: Addendum 03 Questions and Answers
http://www.mmd.admin.state.mn.us/xls/29720Addendum3.QandA.xlsx

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

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____ SIGNATURE: _____

DATE: _____ PRINTED NAME: _____

TITLE: _____

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

SOLICITATION ADDENDUM

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

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

SCOPE OF ADDENDUM

The purpose of this Addendum 02 is to:

1. Revise the Due Date and Time to be January 31, 2021, 3:00 PM CT; and

2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachment: Addendum 02 Questions and Answers
http://www.mmd.admin.state.mn.us/xls/29720Addendum2.QandA.xlsx

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

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____ SIGNATURE: _____

DATE: _____ PRINTED NAME: _____

TITLE: _____

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

SOLICITATION ADDENDUM

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

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

SCOPE OF ADDENDUM

The purpose of this Addendum 1 is to:

1. Provide access to the optional Pre-Proposal Webinar held on November 20, 2020, and a list of the attendees at the webinar. The list of people who registered for the Webinar, the Microsoft Teams attendee list, and the recording of the Pre-Proposal Webinar are all attached to this Addendum; and

2. Respond to some of the questions submitted by the due date and time as stated in the solicitation. The questions and answers are attached to this Addendum. All other questions will be responded to at a later date.

Attachments:
Pre-Proposal Webinar Registration List and Attendee List:
http://www.mmd.admin.state.mn.us/pdf/29720Pre-ProposalMeetingRegistration&Attendance.pdf

Pre-Proposal Recording:
http://www.mmd.admin.state.mn.us/videos/PreProposalWebinarRecording.mp4
For best results, use Internet Explorer or Firefox (may not launch in Edge or Chrome)

Questions and Answers:
http://www.mmd.admin.state.mn.us/pdf/29720Addendum1.Q&A.pdf

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

This addendum is hereby incorporated into the RFP.

COMPANY NAME: _____ SIGNATURE: _____

DATE: _____ PRINTED NAME: _____

TITLE: _____

The State of Minnesota





REQUEST FOR PROPOSAL

MINNESOTA NASPO VALUEPOINT

Master Agreement for:
Computer Equipment

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

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

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

STATE OF MINNESOTA

REQUEST FOR PROPOSAL (RFP)

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

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

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

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

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

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

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SECTION 1: SCOPE OF WORK

A. INTRODUCTION

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

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

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

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

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

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

The Master Agreement(s) resulting from this RFP will replace the current Minnesota WSCA/NASPO Computer Equipment Contracts awarded in 2015. Information on these contracts is available at: http://www.mmd.admin.state.mn.us/wsca/wsca.htm.

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

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

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

B. OBJECTIVE

The objectives of this RFP are to:

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

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

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

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

C. NASPO VALUEPOINT BACKGROUND INFORMATION

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

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

D. PARTICIPATING STATES

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

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

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

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

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

E. PRODUCT BANDS

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

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

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

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

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

F. CONFIGURATION LIMITS

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

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

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

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

G. PRODUCT RESTRICTIONS

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

a. Software

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

b. General Services

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

c. Cloud Services

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

d. Third Party Products

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

e. Additional Product/Services

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

SECTION 2: MASTER AGREEMENT TERMS AND CONDITIONS

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

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

A. SOLICITATION TERMS, CONDITIONS, AND INSTRUCTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each digital copy of the Narrative Response should include:

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

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

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

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

The Cost Proposal should be submitted in the following formats:

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

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

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

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

a. Responders must not submit as part of their response trade secret material, as defined by Minn. Stat. § 13.37.

b. In the event trade secret data are submitted, Responder must defend any action seeking release of data it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the Lead State in favor of the party requesting the data, and any and all costs connected with that defense.

c. The Lead State does not consider cost or prices to be trade secret material, as defined by Minn. Stat. § 13.37.

d. A responder may present and discuss trade secret information during an interview or demonstration with the Lead State, if applicable.

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

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

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

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

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

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

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

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

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

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

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

a. clearly mark all trade secret materials in its response at the time the response is submitted;

b. include a statement with its response justifying the trade secret designation for each item; and

c. defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the Lead State, its agents and employees, from any judgments awarded against the Lead State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the Lead State's award of a Master Agreement. In submitting a response to the RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in

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

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

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

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

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

B. NASPO VALUEPOINT TERMS AND CONDITIONS

1. Conflict of Terms/Order of Precedence.

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

1. A Participating Entity's Participating Addendum ("PA");
2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;
3. A Purchase Order issued against a PA (terms and conditions set forth in a Purchase Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).

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

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

d. A written Master Agreement (which may include the contents of this RFP and selected portions of Contractor's response incorporated therein by reference) will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement, in the Contractor quotation/sales order, or in similar documents subsequently provided by the Contractor.

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

2. Definitions.

a. **Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

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

c. **_____ as a Service** (_aaS) refers to any good provided in a subscription-based model that is defined in the industry as "_____ as a Service". Examples are "Software as a Service", "Infrastructure as a Service", and "Storage as a Service", and shall follow the NIST definitions of those services. ____ as a Service are permitted only when they meet the restrictions found in Section 1.G.c.

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

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

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

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

h. **Customer** (see Purchasing Entity).

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

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

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

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

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

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

o. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

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

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

r. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

kk. **Software** means, for the purposes of this RFP, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified in Section 1.G.a. "Software" applies to all parts of software and documentation, including new releases, updates, and modifications of software.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. **Participants and Scope.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. **Ordering.**

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

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

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies or services contemplated by this Master Agreement.

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

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

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

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

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

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

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

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

18. **Shipping and Delivery.**

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

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

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

19. **Inspection and Acceptance.**

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

b. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and quality assurance requirements under this Master Agreement. Upon delivery, the Purchasing Entity shall have 30 days to inspect. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

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

d. The warranty period shall begin upon Acceptance. The Purchasing Entity will make every effort to notify the Contractor, within thirty (30) calendar days following delivery, of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.

e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s)

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

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

a. To the extent that the Software sold under the Master Agreement is Commercial Off-the-Shelf Software, such Software is licensed, not sold, to the Purchasing Entity. The Contractor and its licensors reserve and retain all rights not expressly granted to the Purchasing Entity. No right, title or interest to any trademark, service mark, logo or trade name of Contractor or its licensors is granted to the Purchasing Entity. Licenses to such Software is provided in accordance with the terms of the manufacturer's written End User License Agreement tied to the product at the time of purchase.

b. Contractor will perform services for the Purchasing Entity, subject to the following section pursuant to a fully executed Statement of Work entered into between the Purchasing Entity and the Contractor.

c. The Contractor grants the Purchasing Entity a perpetual, non-exclusive, royalty free the license in Contractor's pre-existing intellectual property that is contained in the products, materials, equipment or services, excluding software, that are purchased through this Master Agreement.

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

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

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

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

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

"Purchasing Card" with no additional charge.

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

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

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

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

27. **Assignment/Subcontracts.**

a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

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

28. **Insurance.**

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

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

    1. Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than $1 million per occurrence/$2 million general aggregate;

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

c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

d. Prior to commencement of performance, Contractor shall provide to the Purchasing Entity with a certificate of insurance showing the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

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

29. **Administrative Fees.**

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

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

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

30. **NASPO ValuePoint Summary and Detailed Usage Reports.**
In addition to other reports that may be required by this RFP, the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at http://calculator.naspovaluepoint.org. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the RFP. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive, ftp site, or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data

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

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the RFP and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report.

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

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

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

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

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

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

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

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to Section 2.B.42, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to Section 2.B.42 or to terminate for default pursuant to Section 2.B.44.

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

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

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

33. **Records Administration and Audit.**

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

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

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

34. **Indemnification**

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

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

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

b. **Intellectual Property Indemnification.** Notwithstanding Section 2.B.34.a., the Contractor shall indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the Purchasing Entity, at the Contractor's expense, from any action or claim brought against the Purchasing Entity to the extent that it is based on a claim that all or part of the works or documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees.

1. If such a claim or action arises, or in the Contractor's or the Purchasing Entity's opinion is likely to arise, the Contractor must, at the Purchasing Entity's discretion, either procure for the Purchasing Entity the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the Purchasing Entity will be in addition to and not exclusive of other remedies provided by law.

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

35. **Limitations of Liability**

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

b. Contractor's liability is limited to the aggregate annual value of all purchases made by the Purchasing Entity during the contract year the cause of action arose. This limit on liability does not apply to claims for bodily injury or death or for intellectual property infringement.

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

1. provided by the Contractor or the Contractor's subsidiaries or affiliates;

2. specified by the Contractor to work with the Product; or

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

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

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

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

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

39. **Governing Law and Venue.**

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

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

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

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

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

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

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

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

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or

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

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

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

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

44. **Defaults and Remedies.**

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

   1. Nonperformance of contractual requirements; or
   2. A material breach of this Master Agreement; or
   3. Any certification, representation or warranty by Contractor in response to the RFP or in this Master Agreement that proves to be untrue or materially misleading; or
   4. Institution of proceedings under any bankruptcy, insolvency, court-ordered reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
   5. Any default specified in another section of this Master Agreement.

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

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

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

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

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

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

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

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

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

C. MINNESOTA TERMS AND CONDITIONS

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

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

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

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

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

b. **Maintaining the PSS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Minn. Stat. § 363A.36, subd. 1 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of the Department of Human Rights (commissioner) as indicated by a certificate of compliance. Minn. Stat. § 363A.36 addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

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

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

AFFIRMATIVE ACTION FOR DISABLED WORKERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. **Organizational Conflicts of Interest.**
An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

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

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

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

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

1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal

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

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding $25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3: RESPONSE REQUIREMENTS

A Word version of the Section 3, Response Requirements is available at:
http://www.mmd.admin.state.mn.us/doc/Section3_ResponseRequirements.docx

A. Product Deployment

B. Ability to Perform

C. Environmental

D. Business Capabilities

E. Customer Support

A. RESPONSE REQUIREMENTS: PRODUCT DEPLOYMENT

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

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

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

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

   ☐ Band 3: Servers and Storage

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

   a. State and local government;

   b. K-12 Education;

   c. Higher Education; and

   d. Federal government.

B. RESPONSE REQUIREMENTS: ABILITY TO PERFORM

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

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

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

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

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

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

   a. Facilities. Responder must indicate which facilities have been ISO 14001 certified.

   b. Manufacturing Process. Responder must describe, at a high level, their manufacturing process.

   c. Personnel. Responder must include documentation that indicates the number and type of sales, support personnel, or other resources that are employed to service purchase orders or equipment for non-federal governmental customers.

d. Organization. Responder must include a brief overview describing how the Master Agreement will be supported from senior management down to field technicians, including the use of any wholly owned subsidiaries or subcontractors.

e. Production Viability. The average sales per Contractor under the Contracts in calendar year 2019 was approximately $78,000,000. Briefly describe your company's capacity to meet this level of sales volume, including any previous publicly-available sales numbers and publicly-announced future plans. A responder without sufficient capacity should describe the extent of their current capacity and describe their plans of increasing that capacity over the life of the contract.

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

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

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

   a. Describe in detail how Responder will secure warranties for all products and services.

   b. Describe proposed warranty service and maintenance.

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

   Mandatory Requirements:

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

Desirable Requirements:

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

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

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

b. Describe your commitment to maintaining a website in adherence to the website requirements. Responses to this section should be no more than one page.

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

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

6. **Baseline Price List Verification.** Describe how the designated Baseline Price List(s) will be accessed and verified by potential end users, contract administrators, etc.

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

C. RESPONSE REQUIREMENTS: ENVIRONMENTAL

1. **Environmentally Preferable Purchasing Commitment.** Explain your commitment to environmentally preferable purchases specifically in the areas below.

   a. **End of life management.** Include detailed information regarding takeback, recycling and trade in programs available. Any available programs for cords and chargers should be included in this information. Responses should be no more than two pages.

   b. **Environmental solutions.** Provide detail on how additional value is provided regarding environmental solutions such as selling refurbished/remanufactured toner and equipment. Outline how your company is willing to work with the Lead State and the manufacturers to minimize impact on the environment. Specifically address the following areas in one page or less total:

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

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

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

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

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

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

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

   a. A letter from the Green Electronics Council (GEC) on GEC's letterhead confirming that the verification process is underway; or

   b. A copy of Contractor's GEC contract, Conformity Assurance Board (CAB) contract, and a letter from Contractor's CAB stating that the relevant product has been registered with the CAB and that verification is underway.

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

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

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

   a. A letter from the GEC confirming that the verification process is underway. This letter must be on the GEC letterhead and be dated after January 1, 2020; or

   b. The Responder's GEC contract, CAB contract, and a letter from their CAB stating that the relevant products have been registered with the CAB and that verification is underway.

3. **Total Cost of Ownership.** Describe in no more than one page any tools your company provides users to assist in evaluating the Total Cost of Ownership of products offered during the purchasing process (i.e., Contractor tools to assist buyers in identifying equipment that runs more efficiently or that utilizes fewer supplies, etc.).

4. **ENERGY STAR® Compliant Products.** Describe Responder's commitment to the ENERGY STAR Program in one page or less.

5. **TCO Certified.** Describe whether any of Responder's proposed products are TCO Certified and any other engagement with the TCO Development organization in one page or less.

6. **Environmental Improvement Program.** Describe in one page or less any product environmental improvement program for products that have not yet received the applicable standards or certification. In addition, describe environmental efforts in each of the following areas: (1) reduction/minimization/avoidance of the use of toxic and hazardous constituents (cadmium, chromium, mercury, and/or lead); and (2) compliance with international directives such as the European Union's WEEE Directive on reduction of chlorinated plastics (PVC) and brominated flame retardants. Contactor must provide this information for specific products to Participating Entities upon request.

D. RESPONSE REQUIREMENTS: BUSINESS CAPABILITIES

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

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

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

2. **Auditing**. Responder must describe the following in no more than two pages total:

   - How Responder regularly self audits the Master Agreement to ensure compliance per Section 2.B.26.
   - How a Purchasing Entity will be able to self-audit to ensure quotes provided are at the discount off list price.
   - How often the web pricing and invoicing is audited to ensure contractual compliance.
   - Reporting mechanisms available such as Invoice Reports which will assist in Participating Entity's or NASPO ValuePoint's ability to audit the Master Agreement through vendor supplied reporting tools.
   - How Responder ensures that Purchasing Entities with multiple Participating Addenda with Responder are monitored to ensure purchases are correctly booked with the correct Master Agreement.

3. **Economic Development Programs.** Describe how your company, if awarded a contract, will further the Lead State's goal of fostering economic development and reducing economic disparities through diversity and inclusion. Points may be awarded to companies articulating strong policies supporting small, diverse, and veteran-owned businesses in areas such as hiring practices, supply chain management, subcontracting, etc. Detail your company's demographic breakdown and any other information pertinent to efforts in this area.

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

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

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

   If partners are proposed, Responder must describe:

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

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

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

    - Is the purchase of any product proposed under your response to this solicitation prohibited under law, regulation, or policy by the United State federal government, a US State or territory, or a local governmental entity? If so, you must identify the prohibition and provide an explanation.

    - Is Responder owned in part or whole by a foreign government or foreign government entity? If so, please provide a narrative explaining Responder's ownership.

    - Is Responder subject to Chinese law, including the China Internet Security Law, effective June 2017 (or later), as passed by the Chinese Communist Party, through the Standing Committee of the National People's Congress? If so, please provide a narrative explaining Responder's obligations under Chinese law.

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

E. RESPONSE REQUIREMENTS: CUSTOMER SUPPORT

1. **Sales Support Training.** Detail how Responder will train sales staff to ensure they are well versed in the terms and conditions of the Master Agreement. Restrict your response to a half page.

2. **Primary Account Representative.** Responder must provide a Primary Account Representative to work with the Master Agreement Administrator on all aspects of the Master Agreement. This account representative is responsible for the performance of the Master Agreement and must provide timely response to all requests from Master Agreement Administrator and Participating Entity.

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

NAME:	
TELEPHONE #:	
EMAIL ADDRESS:	

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

SECTION 4: COST PROPOSAL

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

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

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

2. **Price Structure.**

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

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

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

   b. Minimum Discount by Band. Responder must provide a discount schedule off the Baseline Price List for each proposed Band for a quantity of one unit. Responder is to base its proposed discounts on the collective volume of potential purchases by the Participating Entities. The Minimum Discount will apply to all products within the Band, unless a product falls under a Category discount or Third-Party Product discount.

   c. Minimum Discount by Category. Responder may define additional categories within a Band. The category discounts may be higher or lower than the minimum discount by Band. For example, if a responder proposes a minimum discount of 50% for Band 1, the responder may also create additional categories "Laptop Brand X" and "Laptop Brand Y," and offer a minimum discount of 45% and 60%, respectively for these additional categories

   d. Third-Party Product Discounts. Responder may offer third-party products. If Responder offers third-party products, Responder should provide a discount schedule off the Baseline Price List for third-party products in the applicable Cost Workbook.

   e. Volume-Based Pricing. Responder may provide additional volume-based pricing discounts for per transaction and cumulative volume purchases. Examples of bulk pricing models are included in Section 6.I. Responders may propose how they will provide deeper discounts including, but not limited to:

      1. Per Transaction Multiple Unit Discount. Responder may propose a contractual volume discount program or plan based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase. Include in the applicable Price Workbook a table indicating the additional discount percentage to be earned by volume purchased by transaction.

      2. Cumulative. Responder may propose a cumulative volume discount based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement. Include in the applicable Price Workbook a table indicating the additional discount percentage to be earned by cumulative volume purchased.

      3. Other Discounts. Describe in the applicable Price Workbook any additional discounts available to Participating Entities.

   f. Services. Responder must describe all available options for pricing services in the Price Workbooks such as discount off list, hourly fees, per unit fees, etc.

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

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

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

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

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

   INSTRUCTIONS:

   1. Each Price Workbook contains five worksheets. Responder is to fill in the blue shaded fields on each worksheet.

   2. The Price Workbooks are locked, however, there is not a password and Responder may revise a worksheet as needed to provide the information requested in the blue shaded fields.

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

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

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

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

SECTION 5: EVALUATION PROCESS

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

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

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

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

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

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

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

PHASES.

Phase 1 – Responsiveness and Pass/Fail Requirements

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

Phase 2 – Evaluate Responses

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

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

Product Deployment and Ability to Perform

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

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

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

References, Work Plan, and Cost Proposal

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

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

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

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

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

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

Phase 4. Sign Master Agreement with Awarded Vendor.

CHECKLIST

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

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

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

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

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

☐ **Solicitation Response Forms.**

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

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

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

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

Do not include the Cost Proposal with the Narrative Response.

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

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

The Cost Proposal should be submitted in the following formats:

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

SECTION 6: ATTACHMENTS

A. Solicitation Question Form

B. Solicitation Response Forms

C. Sample NASPO ValuePoint Contract

D. Participating States' Sample Terms & Conditions

E. Action Request Form Sample

F. Product and Service Schedule Sample

G. Detail Sales Report Template

H. Price Workbooks

I. Bulk/Volume Pricing Examples

J. MNIT Minimum Acceptable Standards for Bands 1 and 2

K. MNIT Minimum Acceptable Standards for Band 3

A. **SOLICITATION QUESTION FORM**

NASPO ValuePoint COMPUTER EQUIPMENT

DUE: DECEMBER 14, 2020

RESPONDER NAME:_____

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

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

SECTION REFERENCE	QUESTION:

B. SOLICITATION RESPONSE FORMS

1. The following forms must be completed and returned with your response or the response may be rejected:

   - Responder Declarations;
   - State of Minnesota Workforce Certificate Information Form;
   - State of Minnesota Equal Pay Certificate Form;
   - Contact Information Form;
   - State of Minnesota Resident Vendor Form; and
   - Terms, Conditions, and Response Requirements Exception Form.

2. Voluntary Product Accessibility Template (VPAT). Responders should complete and submit a VPAT (see Sections 2.A.14 and 2.C.13) with their response.

RESPONDER DECLARATIONS

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

A. **Acceptance of Terms and Conditions.** The Responder accepts terms and conditions of the Solicitation, including the Sample Master Agreement, except for any term or condition that the Responder takes a specific exception to through the Terms, Conditions, and Response Requirements Exception Form (see Section 6.B).

B. **Response Contents.** The information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the Responder to suspension or debarment proceedings as well as other remedies available by law

C. **Authorized Signature.** This Declaration is signed by the appropriate person(s), with the authority to contractually bind the Responder, as required by applicable articles, bylaws, resolutions, minutes, and ordinances.

D. **Non-Collusion Certification.**

1. The Proposal has been arrived at by the Responder independently and has been submitted without collusion and without any agreement, understanding or planned common course of action with any other vendor designed to limit fair or open competition; and

2. The contents of the Response have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any other individual prior to the due date and time of this Solicitation. Any evidence of collusion among Responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.

E. **Organizational Conflicts of Interest.** To the best of Responder's knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons,

1. a vendor is unable or potentially unable to render impartial assistance or advice to the State;
2. the vendor's objectivity in performing the contract work is or might be otherwise impaired; or
3. the vendor has an unfair competitive advantage.

If after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Lead State's Chief Procurement Officer which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict, the Lead State may terminate the contract for default. Organizational conflicts of interest terms apply to any subcontractors for this work.

F. **Copyrighted Material Waiver.** By signing its Response, the Responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response.

SIGNATURE PAGE TO FOLLOW

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

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone Number: _____

Email Address: _____

STATE OF MINNESOTA – WORKFORCE CERTIFICATE INFORMATION

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

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

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

☐ Attached is our current Workforce Certificate issued by the Minnesota Department of Human Rights (MDHR).

☐ Attached is confirmation that MDHR received our application for a Minnesota Workforce Certificate on _____ (date).

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

☐ Attached is our current Workforce Certificate issued by MDHR.

☐ We certify we are in compliance with federal affirmative action requirements.

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

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

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

Name of Company: _____ Date _____

Authorized Signature: _____ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services

Web: http://mn.gov/mdhr/ TC Metro: 651-539-1095 Toll Free: 800-657-3704

Email: compliance.mdhr@state.mn.us TTY: 651-296-1283

STATE OF MINNESOTA – EQUAL PAY CERTIFICATE

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

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

☐ Attached is our current MDHR Equal Pay Certificate.

☐ Attached is MDHR's confirmation of our Equal Pay Certificate application.

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

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

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

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

Authorized Signature:	Date:
Printed Name:	Title:
Organization:	MN/Fed Tax ID:
Issuing Entity:	Project # or Lease Address:

CONTACT INFORMATION FORM

PRIMARY CONTACT PERSON FOR MASTER AGREEMENT

NAME: _____ TITLE: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

TOLL FREE NUMBER: _____ E-MAIL: _____

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

NAME: _____ TITLE: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

TOLL FREE NUMBER: _____ E-MAIL: _____

ORDER ADDRESS

STREET/PO BOX: _____

CITY/STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

TOLL FREE NUMBER: _____ E-MAIL: _____

REMIT-TO ADDRESS

STREET/PO BOX: _____

CITY/STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

TOLL FREE NUMBER: _____ E-MAIL: _____

STATE OF MINNESOTA – RESIDENT VENDOR FORM

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

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

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

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

I hereby certify that the company listed below:

1. Is authorized to conduct business in the State of Minnesota on the date a solicitation for a contract is first advertised or announced. (This includes a foreign corporation duly authorized to engage in business in Minnesota.)
   Yes ☐ No ☐ (must check yes or no)

2. Has paid unemployment taxes or income taxes in the State of Minnesota during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought.
   Yes ☐ No ☐ (must check yes or no)

3. Has a business address in the State of Minnesota.
   Yes ☐ No ☐ (must check yes or no)

4. Agrees to submit documentation, if requested, as part of the bid or proposal process, to verify compliance with the above statutory requirements.
   Yes ☐ No ☐ (must check yes or no)

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

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone: _____

Printed Name: _____ Title: _____

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

TERMS, CONDITIONS, AND RESPONSE REQUIREMENTS EXCEPTION FORM

NASPO ValuePoint COMPUTER EQUIPMENT RFP

RESPONDER: _____

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

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

Section Reference	Original Term	Alternate Language Suggestion

Prepared by: _____ _____

Printed Name Signed

Date: _____

C. SAMPLE NASPO ValuePoint MASTER AGREEMENT

The Sample NASPO ValuePoint Master Agreement is attached as a PDF to this RFP, and available at:
http://www.mmd.admin.state.mn.us/pdf/Section6AttachmentC_SampleMasterAgreement.pdf

D. PARTICIPATING STATES' SAMPLE TERMS & CONDITIONS

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

The following States have provided samples:

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

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

E. ACTION REQUEST FORM SAMPLE

DATE: _____

ATTN: Andy Doran
IT Acquisitions Supervisor
Master Agreement Administrator

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

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

Contact person for questions on this request:

Name: _____
Email: _____
Phone: _____

SELECT ACTION BELOW AND PROVIDE REQUIRED INFORMATION:

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

☐ Product & Service Schedule Change.

☐ Product Addition:

Band:
Proposed Discount (must meet or exceed):

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

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

☐ Marketing Approval. Attach materials.

☐ Website Change Review. Describe and attach.

☐ Miscellaneous Inquiry. Provide detail:

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

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

By: _____

Name: _____
Title: _____
Date: _____

ACTION REQUEST LOG

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

DATE SUBMITTED	ACTION REQUESTED:	DATE APPROVED

THIRD-PARTY PRODUCT LOG

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

DATE SUBMITTED	THIRD-PARTY MANUFACTURER	DATE APPROVED

F. PRODUCT AND SERVICE SCHEDULE

See the attached Sample Product and Service Schedule in Excel format.
http://www.mmd.admin.state.mn.us/xls/Section.6.Attachment.F_Sample.PSS.xlsx

G. DETAILED REPORTING SAMPLE

See the attached Detail Sales Report Template in Excel format.
http://www.mmd.admin.state.mn.us/xls/Section.6.Attachment.G_Detail.Report.Template.xlsx

H. PRICE WORKBOOKS

Band 1: Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, and Tablets
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band1PriceWorkbook.xlsx

Band 2: Personal Computing Devices – Non-Windows Operating System: Desktops, Laptops, and Tablets
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band2PriceWorkbook.xlsx

Band 3: Servers and Storage
http://www.mmd.admin.state.mn.us/xls/29720Section6AttachmentH_Band3PriceWorkbook.xlsx

I. BULK/VOLUME PRICING EXAMPLES

Cumulative

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

Per Transaction Multi Unit

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

Additional .5% for online orders

Cumulative

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

Per Transaction Multi Unit

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

Cumulative

$ Threshold	Frequency	Discount
$5,000,001-$10,000,000	Duration of Master Agreement	additional 1%
$10,000,001-$20,000,000	Duration of Master Agreement	additional 1%
$3,000,000-$4,000,000	Duration of Master Agreement	additional 1%
$20,000,001-$40,000,000	Duration of Master Agreement	additional 1%
$40,000,001-$80,000,000	Duration of Master Agreement	additional 1%
$80,000,001-160,000000	Duration of Master Agreement	additional 1.5%
106,000,001-220,000,000	Duration of Master Agreement	additional 2%
+ $220,000,000	Duration of Master Agreement	additional 2.5%

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

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

J. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BANDS 1 AND 2

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

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

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

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

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

K. MNIT MINIMUM ACCEPTABLE STANDARDS FOR BAND 3

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

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

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

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

REFERENCE NUMBER: 29720

PURCHASING AGENCY: Admin/Office of State Procurement

TITLE: Computer Equipment (Desktops, Laptops, Servers, and Storage including related Peripherals & Services)
CONTRACT AVAILABLE TO: NASPO ValuePoint Participating States

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

SOLICITATION MEETING DATE: 11/20/20 at 3:00 PM ,
MEETING DETAILS: A pre-proposal meeting will be held remotely via Microsoft Teams for all interested responders to review any concerns regarding this RFP. Attendance at this meeting is NOT MANDATORY, but is recommended. See the Schedule of Events for date and time (Section 2.A.4). Interested responders will register to attend the webinar by sending an email to the Master Agreement Administrator. The registration email should include the interested responder's name, and the name and email address of the person(s) attending the Pre-Proposal Webinar Meeting. The Master Agreement Administrator will send an invitation to the Pre-Proposal Webinar Meeting to all registered attendees by 10:00 AM CT on November 20, 2020.

SHIP TO ADDRESS:
See Solicitation Document

A PDF copy of this solicitation is available. Click the button(s) below.
Acrobat Reader is required.
Important! Addenda to this solicitation will appear below the button for retrieving the original solicitation. Be sure to check for addenda prior to submitting your response.

Solicitation 29720.pdf

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

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

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

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

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

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

Band 3: Servers and Storage

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

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

EXHIBIT D
The Contractor's response to the Solicitation

Oracle America, Inc. Response to The State of Minnesota

Master Agreement for Computer Equipment

Narrative Response

March 18, 2021

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ORACLE

Oracle America, Inc.

Worldwide Headquarters
2300 Oracle Way
Austin, TX 78741

Phone: 737.867.1000

March 18, 2021

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

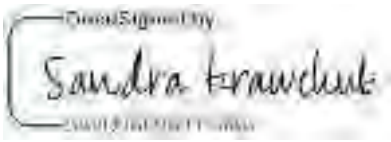
Dear Mr. Doran:

Thank you for the opportunity to respond to The State of Minnesota NASPO ValuePoint Master Agreement for Computer Equipment Request for Proposal (RFP).

My position and signature below meet your requirements that an authorized signatory with the ability to bind the vendor sign the response to the RFP.

Oracle is proud of its industry-leading technologies and services. The Oracle team looks forward to discussing how we might assist you with this project.

Sincerely,



Sandra Krawchuk
Group Vice President, Public Sector Sales – Hardware

Response Guidelines

Corporate Entity

This Response is being made by Oracle America, Inc., a wholly owned subsidiary of Oracle Corporation. All responses reflect information concerning Oracle Corporation (hereinafter referred to as Oracle) except where otherwise indicated as being information of Oracle America, Inc. (hereinafter Oracle America, Inc.).

Definition

Throughout this Response, the term solution refers to and is interchangeable with approach or system. Solution is not intended to contractually bind Oracle to solve any issues or problems. It is intended to express the concept that an approach to your project has been well thought out and is the result of the use of our products, methods, and experience.

Throughout this Response, the term partner refers to and is interchangeable with ally or collaborator. Partner is not intended to contractually or legally bind Oracle to any third party.

Response Validity

This Response shall remain valid for 180 days, unless otherwise mutually agreed, in writing, by Oracle and The State of Minnesota.

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Executive Summary

State of Minnesota NASPO users will dramatically reduce costs, improve efficiency and decrease IT total cost of ownership by using Oracle's servers, storage and engineered systems via this Master Agreement to enable operational efficiencies across its government enterprises.

Agility and the ability to generate real insights are key to a government's performance, making it more adaptable to change and improving the chances that it will satisfy constituent needs. Oracle can help State of Minnesota NASPO users achieve its goals by simplifying its portfolio, unifying its enterprise, and tapping into the continual competitive advantage that comes from Oracle products and services.

Oracle is the only vendor that has products addressing every single layer in the technology stack, from applications to middleware and databases and all the way down to servers and storage.

Oracle is pleased to submit this proposal to State of Minnesota NASPO for server and storage technology offerings. Oracle's objectives of this RFP response are to:

- Provide greater volume-based price discounts for quantity one purchases of Oracle Server and Storage products and services by leveraging the purchasing power of multiple states and their political subdivisions.
- Reduce contracting costs for each participating state and Oracle through a cooperative competitive procurement process afforded by State of Minnesota NASPO.
- Leverage the work that Oracle and State of Minnesota NASPO have done in the last 12 months to enter into a new Master Agreement as smoothly as possible.

Understanding State of Minnesota NASPO's Objectives

Based upon our understanding of State of Minnesota NASPO's requirements, we can present a strong business case for the implementation of **Oracle's servers, storage and engineered systems**. Oracle provides the following advantages to State of Minnesota NASPO:

- Complete, open, and integrated products
- Accelerated government efficiency
- Lower total cost of ownership
- Extensive portfolio of Enterprise class systems for State of Minnesota NASPO users

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Complete, Open, and Integrated Products

Oracle products provide flexibility and choice to customers across their IT infrastructure. Oracle offers the industry's most complete, open and integrated full-scale infrastructure solutions.



- **Complete –** Oracle's complete industry solutions offer more value with less complexity, because Oracle has assembled best-in-class industry portfolios and it is Oracle's job to make them work together on an open platform. Oracle's acquisition of market leaders such as Siebel, PeopleSoft, Hyperion, BEA, and Sun, coupled with major investments in research and development, offer State of Minnesota NASPO best-of-breed products, services, and skills from a single vendor.
- **Open** – It is not enough to just deliver complete solutions. Those solutions must be delivered on open and standards-based architecture. They need to be flexible to change and enable customers to differentiate themselves. Standards-based architecture offers more choice at less risk, allowing easier interactions within and across enterprises. Oracle's commitment to open standards provides State of Minnesota NASPO with flexibility and options.
- **Integrated Products** – Integration is one of the most important aspects of Oracle's strategy. In the past, a large portion of an IT budget was spent on integrating and maintaining disparate systems and components from multiple vendors. Oracle wants to relieve customers of the burden of integration, providing flexible integration (so it fits your business) at a dramatically lower cost, so that you can focus instead on making your business unique, more compliant, secure, and more efficient. This enterprise-wide approach enables State of Minnesota NASPO users the ability to collaborate and align more effectively while lowering risk.

Accelerated Government Efficiency

Oracle is equipped to provide a highly scalable and flexible technology to accelerate State of Minnesota NASPO's user efficiency and expansion of service offerings to their customers, without disruption to operations.

State of Minnesota NASPO users will benefit from proven best-in-class functionality with better business operations, lower administrative costs, high scalability, and the backing of an industry leader.

Oracle's approach represents not only best business practices but also open standards built upon a modern architecture. This enables State of Minnesota NASPO's entire organization or users to adapt to changes, and flexibly configure and reconfigure its systems to meet those changes. This capability is a critical success factor to State of Minnesota NASPO users.

Oracle Leadership

- UNIX Servers
- Database
- Database on Oracle Solaris and Linux
- Database on SAP
- Embedded Database
- Identity and Access Management
- Development Language—Java
- Data Warehousing
- Middleware
- Application Server
- Business Analytics
- Customer Relationship Management
- Enterprise Performance Management

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Lower Total Cost of Ownership

Your total cost of ownership is reduced as Oracle's products drive efficiency within user organizations and take up fewer human and financial resources to maintain, update, and support.

- Oracle customers have leveraged their integrated suites of products to drive value and efficiency from their businesses.
- More than 90 percent of Oracle customers are using the current releases of Oracle products compared with significantly lower percentages for most of Oracle's major competitors. This speaks to the ability of Oracle customers to upgrade to current releases – and the value those current releases deliver.
- Oracle provides a single, logical view of all enterprise data and a centralized access point to manage user security and visibility. This lowers total cost of ownership and facilitates a single source of truth.

Conclusion

State of Minnesota NASPO will gain business efficiency from Oracle's complete, open, and integrated solutions combined with award-winning support services. Oracle's commitment to a superior ownership experience can maximize the value of State of Minnesota NASPO enterprise systems investment.



This proposal reflects the objectives identified by State of Minnesota NASPO's RFP, and we are fully committed to providing State of Minnesota NASPO with a total approach to addressing your business objectives while reducing risk. Should your requirements change, we welcome the opportunity to discuss how Oracle products and services align to those requirements. We look forward to demonstrating the reliable strengths and innovative technology of Oracle's servers, storage, and engineered systems upon submission of the proposal.

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Response to Section 3 Response Requirements

A. Product Deployment

The Narrative Response must fully describe and provide detail about how the proposal satisfies each requirement.

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

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

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

☐ Band 3: Servers and Storage

Band 3: Servers and Storage.

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

a. State and local government;

b. K-12 Education;

c. Higher Education; and

d. Federal government.

A LEGACY OF GOVERNMENT SERVICES

For more than 40 years, Oracle has helped public sector organizations around the world securely manage data, solve business challenges, and connect citizens and employees. Oracle Cloud services enable agencies to redefine innovation with enterprise-ready technology solutions—integrated services that allow organizations to build, deploy, and manage their business seamlessly, in the cloud or on premises. Public Sector is one of Oracle's largest market segments, with successful growth and expansion in all sub-segments listed (state and local government, K-12 education, higher education, and federal). Dedicated sales and support personnel are deployed throughout the US and worldwide to deliver the highest quality products and services to our Public Sector customers.

MAKING GOVERNMENT PERSONAL

For many citizens, their relationship with state or local government organizations starts at birth and continues throughout their lives. Depending on the interaction, experiences can be highly personal or simply transactional. Today, thoughtful government leaders recognize that citizens demand experiences on par with the best consumer engagements: personalized digital encounters available 24/7, on any platform. Oracle Cloud enables this vision.

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STATE AND LOCAL GOVERNMENT, K-12, AND HIGHER EDUCATION

All NASPO participating states are currently Oracle infrastructure customers, from servers to storage to engineered systems. Oracle is an active participant with NASCIO, with its events, members, and other aspects for all member states. Special educational pricing is available, together with other special programs to assist K-12 and higher education accounts with Oracle technology deployments throughout the nation. Numerous Oracle user groups thrive within these Public Sector segments, adding to the technical success and proliferation of best practices.

FEDERAL

Within all federal segments of civilian and DOD, Oracle infrastructure products are successfully deployed and growing. Historically, the federal government was one of the first and largest customers for Oracle.

B. Ability to Perform

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

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

1. Contractor Verification.

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

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

Oracle is the manufacturer of Band 3. Oracle's name appears on the primary server or storage systems being proposed in this RFP but may not appear on every component of the systems (for example, power cables will not).

The Oracle server and storage manufacturing process primarily consists of assembly, integration and test of the servers and storage products provided as a part of this RFP response. Oracle maintains relations with third-party contract manufacturers to deliver component products to customers in an on-demand fashion.

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

ORACLE X86 SERVERS

Oracle Server X8 systems allow customers to run Oracle Database, middleware, and application workloads on industry-standard x86 servers with high security and performance. End-to-end Oracle

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engineering and trusted boot capabilities increase system security for customers' x86 workloads using the same systems proven in Oracle Cloud Infrastructure and Oracle engineered systems. Oracle operating systems and virtualization software are included at no extra charge reducing total cost of ownership (TCO). There are 3 models available.

ORACLE SPARC SERVERS

Oracle SPARC servers deliver high performance, security, and uptime for customers' database and Java workloads. Organizations lower the cost of modernizing UNIX infrastructure with scale-up and scale-out designs that include the Oracle Solaris operating system and virtualization software at no additional cost. Customers' workloads run faster using built-in acceleration of Oracle Database and Java, resulting in lower TCO. There are 6 models available.

ORACLE NETRA SERVERS

Ruggedized, carrier-grade Oracle Netra server provides high-performance and security in telecommunications, embedded industrial, and public sector environments. There is 1 model available.

ORACLE EXADATA

Oracle Exadata X8M is the best place to run Oracle Database workloads in customer data centers. A persistent-memory (PMEM) enhanced scalable architecture with smart system software eliminates performance bottlenecks in crucial customer transaction processing and analytics workloads. Organizations eliminate data center complexity by consolidating Oracle databases on less infrastructure, reducing DBA workloads and lowering TCO. There are 2 models available.

ORACLE DATABASE APPLIANCE

Oracle Database Appliance is the easiest and most affordable way for organizations to run Oracle databases and applications in remote and edge computing environments. Customers reduce Oracle Database deployment times and management workloads using a prebuilt integrated system with management automation as demonstrated in IDC's business value study (PDF), There are 3 models available.

ORACLE ZERO DATA LOSS RECOVERY APPLIANCE

Oracle's Zero Data Loss Recovery Appliance X8M is a pre-built data-protection solution that eliminates Oracle Database data-loss exposure throughout the enterprise. The Recovery Appliance continually protects customer databases by logging and validating all changes as they occur to ensure recoverability. This approach reduces backup time by eliminating the need for full backups and frees database server resources to focus on operational work. There is 1 model available.

ORACLE PRIVATE CLOUD APPLIANCE

Oracle Private Cloud Appliance is a highly scalable integrated system that makes it easy for customers to deploy and manage diverse workloads. Full-stack performance optimizations allow customers to optimize the performance of containerized, cloud-native applications and enterprise applications running on multiple operating systems. Private Cloud Appliance's trusted partition licensing reduces Oracle Database and applications software costs by up to 85%, as described in ESG's analysis (PDF). There is 1 model available.

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ORACLE ZFS STORAGE APPLIANCE

Oracle ZFS Storage Appliance is a unified storage system that allows customers to consolidate file, block, and object storage on a single platform. It combines high all-flash performance with petabytes of storage capacity, allowing customers to run all workloads at peak speed. Built-in Oracle Database integrations, including automated prioritization of database IOs, enable IT departments to optimize workload performance and reduce administration to achieve low total TCO. There are 2 models available.

ORACLE STORAGETEK TAPE LIBRARIES

Oracle's StorageTek tape libraries allow customers to use offline storage to protect crucial data from cyberattacks and archive petabytes of data with low TCO. Highly scalable, automated designs enable IT teams to protect data in demanding enterprise, high-performance computing (HPC), and cloud environments. There are 2 models available.

2. Company Capacity and Capabilities.

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

COMPANY OVERVIEW

Oracle America, Inc. is a wholly owned subsidiary of Oracle Corporation (Oracle). Founded in June 1977, Oracle provides products and services that address all aspects of corporate information technology (IT) environments. Since 2004, Oracle has invested more than $64 billion in research and development. Products offered include database and middleware software, application software, cloud infrastructure software and hardware systems along with support and related services.

Oracle Corporation provides products and services that address all aspects of corporate information technology (IT) environments—applications, platform and infrastructure. Our products are delivered to over 400,000 worldwide customers through a variety of flexible and interoperable IT deployment models, including on-premise, cloud-based or hybrid, that enable customer choice and best meet customer IT needs.

Company Size

As of May 31, 2020, Oracle reported 135,000 employees. Of these employees, approximately 47,000 were employed in the United States and approximately 88,000 were employed internationally.

Business and Corporate Structure

We have three businesses—cloud and license, hardware and services—each of which is comprised of a single operating segment. All three of our businesses market and sell our offerings globally to businesses of many sizes, government agencies, educational institutions and resellers with a worldwide sales force positioned to offer the combinations that best meet customer needs.

- Our **cloud and license business** engages in the sale, marketing and delivery of our applications and infrastructure technologies through cloud and on-premise deployment models including our cloud services and license support offerings; and our cloud license and on-premise license offerings. Cloud services and license support revenues are generated from offerings that are typically contracted with customers directly, billed to customers in advance, delivered to customers over time with our revenue recognition occurring over the contractual terms, and renewed by customers upon completion of the contractual terms. Cloud services and license support contracts provide customers with access to the latest updates to the applications and infrastructure technologies as they become available and for which the customer contracted and also include related technical support services over the contractual

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term. Cloud license and on-premise license revenues represent fees earned from granting customers licenses, generally on a perpetual basis, to use our database and middleware and our applications software products within cloud and on-premise IT environments. We generally recognize revenues at the point in time the software is made available to the customer to download and use, which typically is immediate upon signature of the license contract. In each fiscal year, our cloud and license business' contractual activities are typically highest in our fourth fiscal quarter and the related cash flows are typically highest in the following quarter (for example, in the first fiscal quarter of the next fiscal year) as we receive payments from these contracts.

- Our **hardware business** provides Oracle engineered systems, servers, storage, industry-specific hardware, operating systems, virtualization, management and other hardware-related software to support diverse IT environments. Our hardware business also offers hardware support, which provides customers with software updates for the software components that are essential to the functionality of their hardware products, such as Oracle Solaris and certain other software, and can also include product repairs, maintenance services and technical support services.
- Our **services business** provides services to customers and partners to help maximize the performance of their investments in Oracle applications and infrastructure technologies.

Industry-leading Products and Services

Our Oracle Cloud offerings provide a comprehensive and fully integrated stack of application, platform, compute, storage and networking services in all three primary layers of the cloud: Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS).

Our on-premise IT offerings include: Oracle Applications, Oracle Database and Oracle Fusion Middleware software, among others; hardware products including Oracle engineered systems, servers, storage and industry-specific products, among others; and related support and services.

We provide our cloud and on-premise offerings worldwide to businesses of many sizes, government agencies, educational institutions and resellers with a sales force positioned to offer the combinations that best suit customer needs.

Flexibility and Choice to Customers

Oracle provides the world's most complete, open, and integrated business software and hardware systems with a product strategy that provides flexibility and choice to customers across their IT infrastructure. Oracle is the only vendor able to offer a complete technology stack in which all layers are optimized and designed to work together as a single system—Integrated Cloud Applications and Platform Services. In addition, Oracle's open architecture and multiple operating-system options give customers complete deployment flexibility and unmatched benefits from industry-leading products and on-premises and cloud-based solutions that provide advanced security, high availability, scalability, energy efficiency, powerful performance, and low total cost of ownership.

The Oracle Cloud delivers hundreds of SaaS applications and enterprise-class PaaS and IaaS services to customers in more than 175 countries and territories while processing 55 billion transactions a day. For more information about Oracle (NYSE:ORCL), please visit us at oracle.com.

Financial Highlights

Oracle has been in business for 43 years.

Oracle has been a profitable company enabling the reinvestment of more than $64 billion in product development since 2004. For fiscal year ended May 31, 2020, total revenues were at $39 billion. Provided below is a 5-year history of Oracle's financial highlights. Visit https://investor.oracle.com/overview/highlights/default.aspx to view all Oracle public financial data.

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TABLE 1: ORACLE FINANCIAL HIGHLIGHTS

Year Ended May 31 US dollars in millions, except per-share amount and Percentage	2020	2019	2018*	2017*	2016
Total revenues	$39,068	$39,506	$39,383	$37,728	$37,047
Operating income	$13,896	$13,535	$13,264	$12,710	$12,604
Net income	$10,135	$11,083	$3,587	$9,335	$8,901
Earnings per share—basic	$3.16	$3.05	$0.87	$2.27	$2.11
Earnings per share—diluted	$3.08	$2.97	$0.85	$2.21	$2.07
Working capital	$34,940	$27,756	$57,035	$50,337	$47,105
Total assets	$115,438	$108,709	$137,851	$134,991	$112,180
Total non-current liabilities	$85,521	$67,716	$71,854	$56,567	$47,182
Total research and development expenditure	$6,067	$6,026	$6,084	$6,159	$5,787
Percentage of total revenues invested in research and development	15%	15%	15%	15.6%	16%

* FOLLOWING THE PUBLICATION OF THE 10K 2019 REPORT ON JUNE 21ST 2019, FINANCIAL INFORMATION FOR 2018 AND 2017 HAS UNDERGONE NORMAL RECURRING ADJUSTMENTS WHEREBY THE ORIGINAL PUBLISHED FINANCIALS HAVE BEEN UPDATED, THE PUBLISHED UPDATES FOR 2018 ARE REFLECTED IN THE TABLE ABOVE AND MAY VARY FROM EARLIER PUBLISHED ANNUAL DATA, SINCE NOT ALL RECALCULATED DATA FOR 2017 HAS BEEN PUBLISHED NO ADJUSTMENTS HAVE BEEN MADE IN THE ABOVE TABLE.

Most Recent and Historical Form 10-K (Annual Report)

Oracle's most recent and Historical Form 10-K (Annual Report) are provided at: http://investor.oracle.com/financial-reporting/quarterly-reports/default.aspx.

Available Resources

Oracle is dedicated to maximizing collaboration and information exchange between Oracle and our customers. Oracle also promotes the building of relationships between Oracle customers and their peers. Available customer forums and user communities open the lines of communication and encourage input and the sharing of ideas. These include the methods listed below.

- **Oracle Technology Network (OTN) –** A network of Oracle developers, administrators, and architects. Members can download free software and shared programming code, read technical articles and documentation, share with peers, and get up to speed on Oracle Technology.
- **Oracle Communities –** Oracle's communities provide access to experts, peers and practitioners that inspire innovation, celebrate successes and empower collaboration. More information is provided at https://community.oracle.com/hub/.
- **Oracle Blogs –** From Java programming tactics to the newest trends in customer experience, follow this page to discover real-world advice and ideas that will help you work better and stay ahead. You will also gain business insights on the tremendous depth and breadth of Oracle products and services, as well as on Oracle's commitment to the communities we serve. https://blogs.oracle.com/.

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- **Oracle Customer Connect –** Enabling customers to get the most out of their Oracle investment, Oracle regularly collects and analyzes customer feedback, helps foster collaborative executive relationships, and facilitates resolutions to customer issues. User Groups, Global Customer Programs, and the publication of success stories from customer and Oracle System Integrators (SIs) are some of the methods used. More information is provided at: http://www.oracle.com/us/corporate/customers/overview/index.html.
- **Java Champions –** An exclusive group of passionate Java technology and community leaders who are community-nominated and selected under a project sponsored by Oracle. Java Champions get the opportunity to provide feedback, ideas, and direction that will help Oracle grow the Java Platform. This interchange may be in the form of technical discussions and/or community-building activities with Oracle's Java Development and Developer Program teams. More information is provided at https://developer.oracle.com/javachampions/.
- **My Oracle Support –** A dedicated place for Oracle Support customers and alliances to address product related questions and share commercially reasonable efforts ranging from setup to ongoing maintenance. Join the only Oracle community staffed and moderated by Oracle Support staff. More information is provided at https://support.oracle.com/portal/.
- **Oracle Corporate Social Channels –** Catch Oracle tweets, posts, and updates. Oracle's Social Media Directory is available at https://twitter.com/oracle.
- **Oracle Publications –** Publications include, Oracle Magazine, Profit Magazine, and Java Magazine. For more information visit http://www.oracle.com/us/corporate/publishing/index.html.
- **Oracle User Group Community –** Oracle has a large and rich User Group Community dedicated and invested in communicating about Oracle products. This includes topics such as how to improve products, and learning from other customers about their Oracle investment. More information is provided at https://www.oracle.com/corporate/customers/user-groups.html.
- **Oracle PartnerNetwork Cloud Connection –** Oracle PartnerNetwork allows Oracle alliances to participate at the level that matches their business model. Alliances can select their level and type of engagement with Oracle. They can elect to become deep experts in one area or offer a range of solutions. All options are recognized—and rewarded—in OPN.

More information on Oracle communities is provided at https://www.oracle.com/communities/index.html.

Oracle Offices

Oracle is a worldwide organization with offices and resources on nearly every continent. Each office provides specific services to Oracle customers, from sales and consulting to education and support. There are currently 234 offices throughout the United States and 406 international offices, which are present in 86 countries. A listing of global offices is provided at http://www.oracle.com/us/corporate/contact/index.htm.

Oracle's corporate headquarters and contact information are:

2300 Oracle Way
Austin, TX 78741
Telephone: 737.867.1000 or 800.392.2999
Website: oracle.com

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a. Facilities. Responder must indicate which facilities have been ISO 14001 certified.

ENVIRONMENTAL ISO 14001:2015 CERTIFICATIONS

The Oracle server and storage manufacturing and distribution process primarily consists of assembly, integration and test of all systems provided as a part of this RFP response. Oracle maintains relations with third-party contract manufacturers to deliver component products to customers in an on-demand fashion. Oracle's primary manufacturing facilities are in Newark, California and Houston, Texas. They have been ISO 14001 certified. The manufacturing process involves final assembly and test on Oracle products including high end systems, high and complex power requirements, and complex, low volume products that require a highly skilled, stable workforce. In addition, we specialize in combining and integrating finished good products from multiple suppliers into a tested solution where the Oracle content is extensive for our customers. This often includes significant software load, including third-party or customer software.

Additional information about Oracle's Environmental Management System is available at: https://www.oracle.com/corporate/citizenship/sustainability/ehsms.html#iso.

b. Manufacturing Process. Responder must describe, at a high level, their manufacturing process.

The Oracle server and storage manufacturing process primarily consists of assembly, integration, and test of all servers and storage products provided as a part of this RFP response. Oracle maintains relations with third-party contract manufacturers to deliver component products to customers in an on-demand fashion.

c. Personnel. Responder must include documentation that indicates the number and type of sales, support personnel, or other resources that are employed to service purchase orders or equipment for non-federal governmental customers.

Oracle's State and Local Government Server and Storage team consists of 68 sales, sales consulting and operations support personnel dedicated to state government, local government and primary education customers across the United States. This team resides across 17 of the 38 states that have provided Intent to Participate Notices. In addition, this team is on average in most states that participate in NASPO at least once per quarter to service customer needs, provide product updates and roadmaps, and to assist with architectural designs and concepts. In addition, Oracle's Customer Support organization employees over 600 field engineers across North America to support purchase orders and equipment that would be acquired via this contract. Field engineering resources support all Oracle Hardware customers in the geographies in which they reside, so these support personnel would have some responsibility for Federal Government customers in addition to commercial, state, local and education customers.

d. Organization. Responder must include a brief overview describing how the Master Agreement will be supported from senior management down to field technicians, including the use of any wholly owned subsidiaries or subcontractors.

The Executive Sponsor for the NASPO Master Agreement is Sandy Krawchuk, Group Vice President, for Oracle's US Public Sector Infrastructure business unit. In addition to the sales, sales consulting, and field engineering resources outlined above ,Oracle's State and Local Government team consists of a program manager, operations, contract management, contract administration, reporting, order creation and order processing teams to support the Master Agreement.

- The Program Manager is responsible for regular communications with the NASPO team, coordinating quarterly and/or annual reviews and for managing Oracle's website to support the Master agreement.
- The Operations Team is responsible for management of the Price List on a monthly and quarterly basis to ensure accurate products, pricing and discounts are available to end users.

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- The Contract Management Team ensures that all orders are in compliance with the Master Agreement.
- The Contract Administration Team ensures that all contract terms are met throughout the term of the agreement.
- The Reporting Team ensures that quarterly and annual sales reporting is done accurately and delivered on time.
- Order creation is delivered by the Quoting team who generates quotes and proposals for end users in compliance with contract terms and pricing.
- The Order Management Team processes purchase orders, again, in compliance with contact terms and conditions in order for Oracle's manufacturing and distribution team to deliver the right products in a timely fashion.

In addition to the Oracle teams outlined above, Oracle also has the Oracle Partner Network (OPN) that is leveraged in many parts of the US to support the Master Agreement. Oracle's Partner Network consists of thousands of partners worldwide. These partners include both Independent Software Vendors (ISVs) that build software products that run on Oracle's servers and storage products as well as Value Added Resellers (VARs) that provide local presence in various states along with various certifications such as Minority Owned Business, Small Business, Veteran Owned Business, and others. Oracle will employ these partners in areas of the US where the most value can be added for end users and where these partners provide other products and services to NASPO states to make the implementations of IT projects more effective. Selection of partners will be made on a state by state basis once a Master Agreement has been established.

e. Production Viability. The average sales per Contractor under the Contracts in calendar year 2019 was approximately $78,000,000. Briefly describe your company's capacity to meet this level of sales volume, including any previous publicly-available sales numbers and publicly-announced future plans.

Oracle has been in business for 43 years and is a Fortune 100 company.

Oracle has been a profitable company enabling the reinvestment of more than $64 billion in product development since 2004. For fiscal year ended May 31, 2020, total revenues were at $39 billion. Provided below is a 5-year history of Oracle's financial highlights. Visit https://investor.oracle.com/overview/highlights/default.aspx to view all Oracle public financial data.

TABLE 2: ORACLE 5-YEAR REVENUE HIGHLIGHTS

Year Ended May 31 US dollars in millions, except per-share amount and Percentage	2020	2019	2018*	2017*	2016
Total revenues	$39,068	$39,506	$39,383	$37,728	$37,047
Operating income	$13,896	$13,535	$13,264	$12,710	$12,604
Net income	$10,135	$11,083	$3,587	$9,335	$8,901
Earnings per share—basic	$3.16	$3.05	$0.87	$2.27	$2.11
Earnings per share—diluted	$3.08	$2.97	$0.85	$2.21	$2.07
Working capital	$34,940	$27,756	$57,035	$50,337	$47,105
Total assets	$115,438	$108,709	$137,851	$134,991	$112,180
Total non-current liabilities	$85,521	$67,716	$71,854	$56,567	$47,182

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Year Ended May 31 US dollars in millions, except per-share amount and Percentage	2020	2019	2018*	2017*	2016
Total research and development expenditure	$6,067	$6,026	$6,084	$6,159	$5,787
Percentage of total revenues invested in research and development	15%	15%	15%	15.6%	16%

* FOLLOWING THE PUBLICATION OF THE 10K 2019 REPORT ON JUNE 21ST 2019, FINANCIAL INFORMATION FOR 2018 AND 2017 HAS UNDERGONE NORMAL RECURRING ADJUSTMENTS WHEREBY THE ORIGINAL PUBLISHED FINANCIALS HAVE BEEN UPDATED, THE PUBLISHED UPDATES FOR 2018 ARE REFLECTED IN THE TABLE ABOVE AND MAY VARY FROM EARLIER PUBLISHED ANNUAL DATA, SINCE NOT ALL RECALCULATED DATA FOR 2017 HAS BEEN PUBLISHED NO ADJUSTMENTS HAVE BEEN MADE IN THE ABOVE TABLE.

Most Recent and Historical Form 10-K (Annual Report)

Oracle's most recent and Historical Form 10-K (Annual Report) are provided at: http://investor.oracle.com/financial-reporting/quarterly-reports/default.aspx.

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

Oracle is a large corporation. In fiscal 2020, we invested $6.1 billion in research and development to enhance our existing portfolio of offerings and products and to develop new technologies and services. We have a deep understanding as to how applications and infrastructure technologies interact and function with one another. We focus our development efforts on improving the performance, security, operation, integration and cost-effectiveness of our offerings relative to our competitors; making it easier for organizations to deploy, use, manage and maintain our offerings; and incorporating emerging technologies within our offerings to enable leaner business processes, automation and innovation.

We deliver high quality, high performance, and reliable computer equipment to NASPO customers. Oracle has field engineers across the US to support the equipment as required through its life in service. Oracle University offers a variety of training and certification courses to ensure end users have the knowledge and expertise to leverage the investments they make in Oracle server and storage equipment. Furthermore, Oracle's Advanced Customer Services (ACS) organization can deliver a variety of services such as:

- System Installation and Configuration Services to accelerate your return on investment and reduce risk.
- System optimization, including configuration and performance reviews, to continuously maximize availability and improve performance.
- Advanced Monitoring and Resolution Services across the entire IT stack to maximize availability.
- Advanced Support Engineers with unparalleled support and operational experience for Oracle server and storage technology.

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a. Warranty – Break Fix – Non-Warranty

WARRANTY

Oracle warrants that the hardware will be free from, and using the operating system and integrated software will not cause in the hardware, material defects in materials and workmanship for one year from the date the hardware is delivered.

Oracle warrants that the operating system media, the integrated software media, and the integrated software options media, collectively referred to as, "Software Media", will be free from material defects in materials and workmanship for a period of ninety days from the date the Software Media is delivered to you.

PREMIER SUPPORT FOR SYSTEMS

By investing in Oracle servers and storage systems, you've placed your trust on a rock-solid partnership built on over 40 years of award-winning innovation across a broad range of products and services. Warranty, break fix, and post warranty systems support is provided through Oracle's Premier Support and the field engineering organization. Oracle Premier Support for Systems provides:

Complete System Coverage – Oracle Premier Support for Systems includes support coverage for system hardware, integrated software (such as firmware), and software.

- For servers, you get support and updates for the following system software: Oracle Solaris, Oracle Linux, and Oracle VM—all included.
- For storage systems, your coverage includes support for embedded system software. Support of additional licensed software is priced separately but is delivered together with your system support as a single service solution.

Unlimited 24/7 Access to Oracle System Specialists – You have immediate access to assistance from Oracle's system specialists in our support centers. We provide fast answers and proven solutions based on our experience in supporting more than a million systems across a variety of industries and countless application environments.

Rapid-response Hardware Service – Local service engineers are ready to respond 24 hours a day, 365 days a year. Oracle Premier Support for Systems provides hardware service for your Oracle server or storage system within two hours (when the system is within an Oracle two-hour service coverage area). Highly trained technicians leverage their experience, Oracle diagnostic tools, and parts to quickly troubleshoot and resolve system issues. Resolution of issues is expedited with Oracle Auto Service Request, a proactive service and feature of your support offering that automatically submits a service request on your behalf when certain hardware faults are detected.

Access to a Powerful Collection of Tools and Technical Resources – Within the My Oracle Support portal, the Oracle knowledgebase contains over 1 million best practices and technical solutions. This collective knowledge enables problem resolution and supplements Oracle's powerful proactive support tools, such as Oracle Sun System Analysis, which compares a snapshot of your system configuration against a database of known risks and best practices, yielding invaluable system management recommendations. In addition to providing online self-help, access to support communities, and easy online service request submission and tracking, My Oracle Support's exclusive resources enable priority service, automated service request integration, and automated alerts and patch recommendations.

b. Standard non-customized training

Oracle University offers a vast array of standard (non-customized) training courses. Oracle Systems Training and Certification gives systems administrators the option to develop technical expertise in

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more than one area. Expert Oracle University instructors teach students how to manage users, configure resources, debug common problems, and make simple business process changes. Explore Oracle Systems Categories and learning paths at: https://education.oracle.com/learn/systems/pPillar_7.

In addition, Oracle University has certified a number of OPN partners to deliver training across the US for cost effectiveness and convenience.

c. Installation/de-installation

Oracle's ACS organization delivers installation and de-installation services as required by end users. Some product lines may be user installable to save time and money.

Oracle Standard Software Installation and Configuration – Oracle installs new system software using Oracle best practices and tracks configuration changes. Provides complete testing, validation, and documentation. Some activities may include but not limited to:

- Solaris installation and configuration activities
- Solaris Cluster installation and configuration
- Security Hardening activities
- Virtualization installation and configuration

Oracle Standard System Installation – Comprehensive, standard system hardware Installation including site audit, installation and configuration planning documentation, and hardware, network and operating system functionality validation and testing.

d. Support

Oracle Premier Support for Systems gives end users the complete server and storage support needed to help prevent problems from happening and resolve them quickly if they do.

Oracle Premier Support for Systems provides:

Complete System Coverage – Oracle Premier Support for Systems includes support coverage for system hardware, integrated software (such as firmware), and software.

- For servers, you get support and updates for the following system software: Oracle Solaris, Oracle Linux, and Oracle VM—all included.
- For storage systems, your coverage includes support for embedded system software. Support of additional licensed software is priced separately but is delivered together with your system support as a single service solution.

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Learn more about Oracle Premier Support at:
http://www.oracle.com/us/support/premier/overview/index.html.

e. Migration

Between Oracle's ACS, or Oracle Consulting Service (OCS) or OPN Partner organizations, Oracle has the resources to deliver server and/or storage migration in addition to any other technology or application migration required by end users. While terms of these migration services may need to fall outside this agreement, when an end user needs a solution, Oracle and its partners are capable of delivering.

f. Asset tagging

While Oracle's ACS and/or OCS service organization can provide this service at an additional cost to the purchase of equipment, this service has traditionally been performed by an Oracle OPN partner or a systems integrator. Oracle will review requests on a case by case basis and offer proposals are needed.

g. Staging/deployment

Where a participating state is interested in staging and/or deployment services, Oracle's ACS or OCS service organization can provide a custom solution as required. Oracle understands that resource use is a high priority for our end users and can deliver services to specifications as required on a case by case basis. Terms, conditions and pricing will be outside the scope of the Master Agreement.

h. Image loading

There are at least two definitions of the word "Image"—unstructured data (photos, document images, etc.) or a "software image or instance" like an operating system or virtualization software. In either case, Oracle's ACS or OCS or an OPN Partner can provide whatever Image Loading services are required by an end user. Loading of operating system, virtualization software, drivers and other "software images" are typically included in Installation or Configuration services proposed with Systems purchase orders.

i. Image consulting

There are at least two definitions of the word "Image"—unstructured data (such as, photos, document images) or a "software image or instance" like an operating system or virtualization software. In either case, Oracle's Consulting Services (OCS) organization or an OPN Partner can provide whatever Image Consulting services are required by an end user. Consulting related to Images of an operating system, virtualization software, drivers and other "software images" would be provided by Oracle's ACS organization. While Image Consulting can mean many things, Oracle will have the resources to provide services required by end users to meet requirements. Terms, conditions and pricing will be outside the scope of the Master Agreement.

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j. System and server configuration

Oracle's ACS organization delivers configuration services as required by end users. In addition to comprehensive hardware installation, configuration and planning of system and server configurations are optional for end users but come in standard packages that can be leveraged by end users as needed. Hardware, network and operating system functionality validation and testing can also be included with these configuration services.

k. Rack and stack configuration

Oracle's ACS organization delivers configuration services as required by end users. In addition to comprehensive hardware installation, configuration and planning of system and server configurations are optional for end users but come in standard packages that can be leveraged by end users as needed. Hardware, network and operating system functionality validation and testing can also be included with these configuration services.

l. Maintenance

Oracle Premier Support for Systems gives end users the complete server and storage support needed to help prevent problems from happening and resolve them quickly if they do.

Oracle Premier Support for Systems provides:

Complete System Coverage – Oracle Premier Support for Systems includes support coverage for system hardware, integrated software (such as firmware), and software.

- For servers, you get support and updates for the following system software: Oracle Solaris, Oracle Linux, and Oracle VM—all included.
- For storage systems, your coverage includes support for embedded system software. Support of additional licensed software is priced separately but is delivered together with your system support as a single service solution.

Unlimited 24/7 Access to Oracle System Specialists – You have immediate access to assistance from Oracle's system specialists in our support centers. We provide fast answers and proven solutions based on our experience in supporting more than a million systems across a variety of industries and countless application environments.

Rapid-response Hardware Service – Local service engineers are ready to respond 24 hours a day, 365 days a year. Oracle Premier Support for Systems provides hardware service for your Oracle server or storage system within two hours (when the system is within an Oracle two-hour service coverage area). Highly trained technicians leverage their experience, Oracle diagnostic tools, and parts to quickly troubleshoot and resolve system issues. Resolution of issues is expedited with Oracle Auto Service Request, a proactive service and feature of your support offering that automatically submits a service request on your behalf when certain hardware faults are detected.

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Learn more about Oracle Premier Support at:
http://www.oracle.com/us/support/premier/overview/index.html.

m. Custom service solutions

Between Oracle's ACS, or Oracle Consulting Service (OCS) or OPN Partner organizations, Oracle has the resources to deliver just about any custom service solution desired by The State of Minnesota NASPO organization. While terms of these custom solution offer may need to fall outside this agreement, when an end user needs a solution, Oracle and its partners are capable of delivering no matter the subject matter or complexity.

n. Asset management

Between Oracle's ACS, or Oracle Consulting Service (OCS) or OPN Partner organizations, Oracle has the resources to deliver Asset Management services desired by The State of Minnesota NASPO organization. This is not a service typically performed by Oracle for server and storage products but is one that can be fulfilled as needed by end users.

o. Recycling/disposal

DISPOSE OF YOUR RETIRED HARDWARE SAFELY AND ECONOMICALLY

As a responsible producer of hardware products, Oracle offers a take back program to our customers and suppliers to return excess used products or materials. The program helps protect the environment and provides valuable services to our customers.

Features

- Oracle programs follow industry best practices and are compliant with local law.
- Oracle directly audits its recyclers to better ensure compliance, and actively drives continuous improvement since laws continue to change.
- Oracle tracks and reports our reuse, recycling, and landfill results, as well as the details of our recycling program.

Benefits

- There is no charge to the customer for pick up, transport, or recycling.
- Financial credit may be available if there is reuse potential.
- For select systems we offer de-installation support at no charge.

For more information Oracle's Take Back Program data sheet is provided as an attachment.

p. Training and certification

Oracle University offers a vast array of training courses. Oracle Systems Training and Certification gives systems administrators the option to develop technical expertise in more than one area. Expert Oracle University instructors teach students how to manage users, configure resources, debug common problems, and make simple business process changes. Explore Oracle Systems Categories and learning paths at: https://education.oracle.com/learn/systems/pPillar_7.

In addition, Oracle University has certified a number of OPN partners to deliver training across the US for cost effectiveness and convenience.

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CERTIFICATION

Oracle offers a vast array of certifications for its end users. Becoming Oracle Certified will make you a better technologist. For a complete and comprehensive list of certifications, visit https://education.oracle.com/certification for all the details.

For example, enhance your knowledge and secure your professional future with an Oracle Systems Certification. Oracle systems are trusted around the world, in a wide range of industries and markets. With multiple systems solutions, Oracle technology supports industry leading software for Oracle applications. Companies depend on experts in these Oracle systems to help implement and leverage their technological investment. Systems certification paths include:

- **Oracle Server Certification Paths –** https://education.oracle.com/oracle-certification-path/pFamily_54.
- **Oracle Storage Certification Paths –** https://education.oracle.com/oracle-certification-path/pFamily_357.
- **Oracle Engineered Systems Certification Paths –** https://education.oracle.com/oracle-certification-path/pFamily_38.

Join 2.2 million Oracle-certified professionals.

q. Other services available as allowed in the RFP – provide list with your response.

Oracle Advanced Customer Support Services helps accelerate return on investment with production readiness and production optimization services. With Oracle Fixed Scope Services that span the entire solution lifecycle, end users choose from a set of fixed price, advanced support packaged services according to unique needs.

- Standard System Installation
- Standard Software Installation and Configuration
- Performance Review and Recommendations
- Configuration Review and Recommendations
- Production Diagnostic Review and Recommendations
- Patch Review and Installation

In addition, these annual services help maximize availability for mission and business critical environments.

- **Advanced Monitoring and Resolution –** Mission critical environments demand 24/7 monitoring and support. Oracle Advanced Monitoring and Resolution provides remote monitoring and resolution across the entire IT stack. These annual services help end users quickly identify and resolve issues as well as reduce risk.
- **Solution Support Center –** Oracle Solution Support Center is the most comprehensive ACS support offering. A Technical Account Manager and a dedicated team of Advanced Support Engineers work closely with end users, to provide 24/7 personalized support across the entire Oracle IT stack. Proactive advice, regular patch and performance reviews as well as preventative services with diagnostic tools are delivered to ensure the end user Oracle environment is continually optimized.
- **Business Critical Service for Systems –** This service delivers mission critical support through a combination of 24/7 fault monitoring, priority handling of IT service requests, quarterly reviews, and patch installation. Drive higher availability and reduce risk for all mission critical server and storage technologies.

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

a. Describe in detail how Responder will secure warranties for all products and services.

Oracle warrants that the hardware will be free from, and using the operating system and integrated software will not cause in the hardware, material defects in materials and workmanship for one year from the date the hardware is delivered.

Oracle warrants that the operating system media, the integrated software media, and the integrated software options media, collectively referred to as, "Software Media", will be free from material defects in materials and workmanship for a period of ninety days from the date the Software Media is delivered to you.

b. Describe proposed warranty service and maintenance.

As the manufacturer of server and storage products in an awarded Master Agreement, Oracle assures that warranty and maintenance services as agreed to in the master agreement will be delivered.

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

Mandatory Requirements:

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

Desirable Requirements:

- **Purchase order tracking**
- **Links to environmental certification, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.**
- **Information on accessibility and accessible products**
- **Signed Master Agreement**

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- **Online ordering capability with the ability to remember multiple ship to locations (if applicable to product)**

Oracle will maintain a URL specific to the awarded Master Agreement that will contain a majority of the items listed above. Information that is available to all Oracle customers and not specific to this agreement will not be included on this URL. Oracle will also not be providing online ordering or purchase order tracking on this URL as it is not Oracle's intent to provide a password protected URL given the nature of the end users the company interacts with across the Minnesota NASPO ValuePoint participating states.

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

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

Here is a description of the proposed website:

HEADER

Welcome to the Oracle NASPO ValuePoint Site

About NASPO ValuePoint – Description about NASPO ValuePoint.

LINKS

Links allow website users to get from one web page to the next. They are blue highlighted text links to make the words stand out from static copy. The highlighted text links are clickable. Example links include:

- **Visit the NASPO ValuePoint Site –** This link takes you to the https://www.naspovaluepoint.org contracts website.
- **Server and Storage Product Information –** This link provides product descriptions and specifications for major product categories.
- **NASPO ValuePoint Resources**
  - **Download a copy of the signed Master Agreement –** This link displays a copy of the signed Master Agreement.
  - **Designated Baseline Price List(s) –** The links display the Oracle NASPO ValuePoint baseline pricelist(s).
  - **Technical/Warranty Support Policies –** This link provides information on Oracle service and support.
  - **Oracle's VPAT Program –** This link provides information on accessibility and accessible products.
  - **NASPO ValuePoint eMarket Center –**This link takes you to https://www.naspovaluepoint.org eMarket Center where you can explore NASPO ValuePoint contracts by category.

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- **NASPO ValuePoint Resellers –** Provides links to NASPO ValuePoint Resellers by state.
- **Take Back and Recycling Programs**
  - **Upgrade Advantage Program and eWaste Program –** The links take you to Oracle take back programs that allow our customers and suppliers to return excess used products or materials. These programs help protect the environment and provide valuable services to our customers.

SUB-HEADER

Oracle Contacts – Contact information for general problem resolution, service concerns (warranty and maintenance), problem reporting, and billing concerns.

WEBSITE SCREENSHOTS

Website screenshots are provided below.

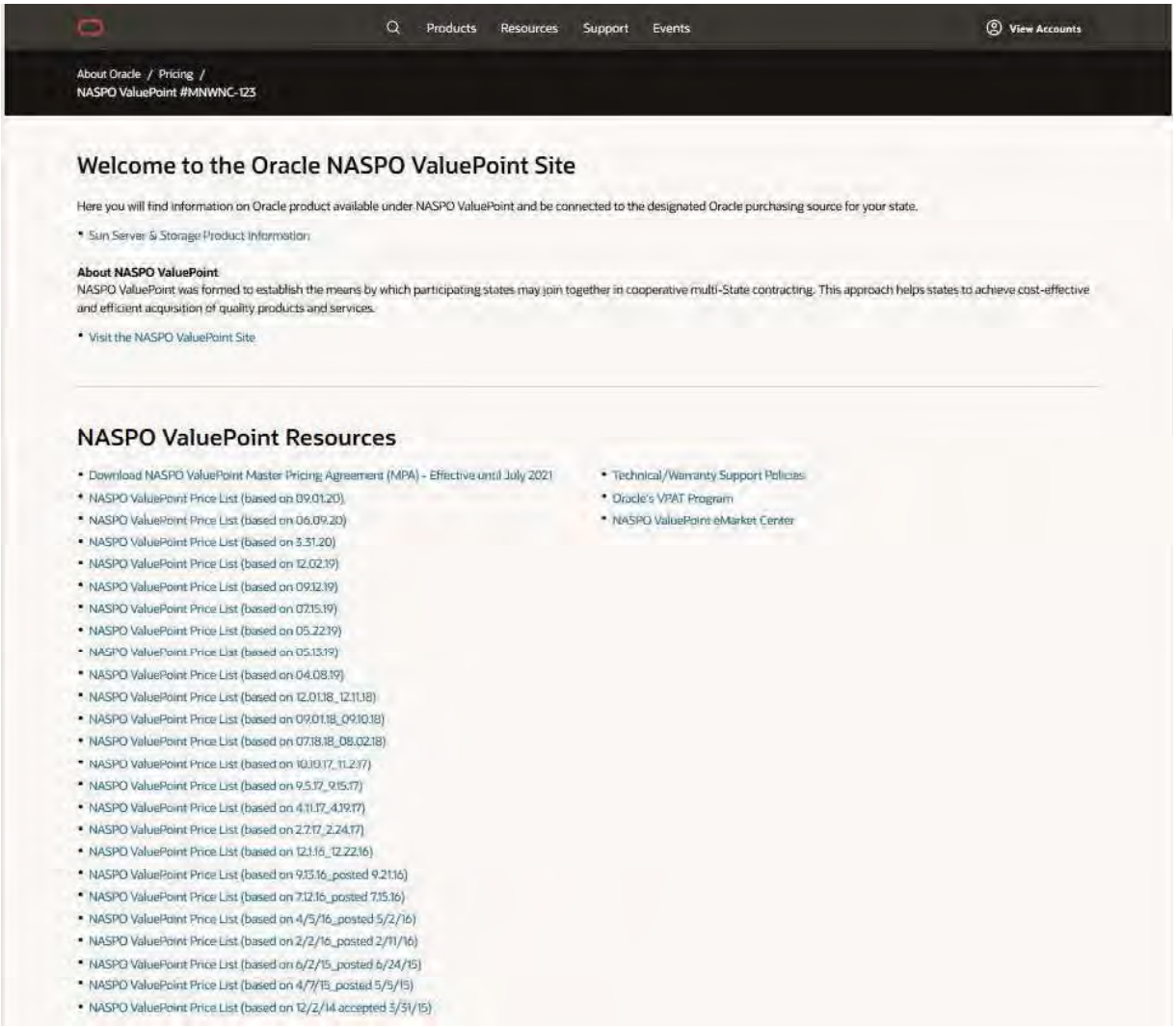


FIGURE 1: PROPOSED ORACLE NASPO WEBSITE – SCREENSHOT 1 OF 2

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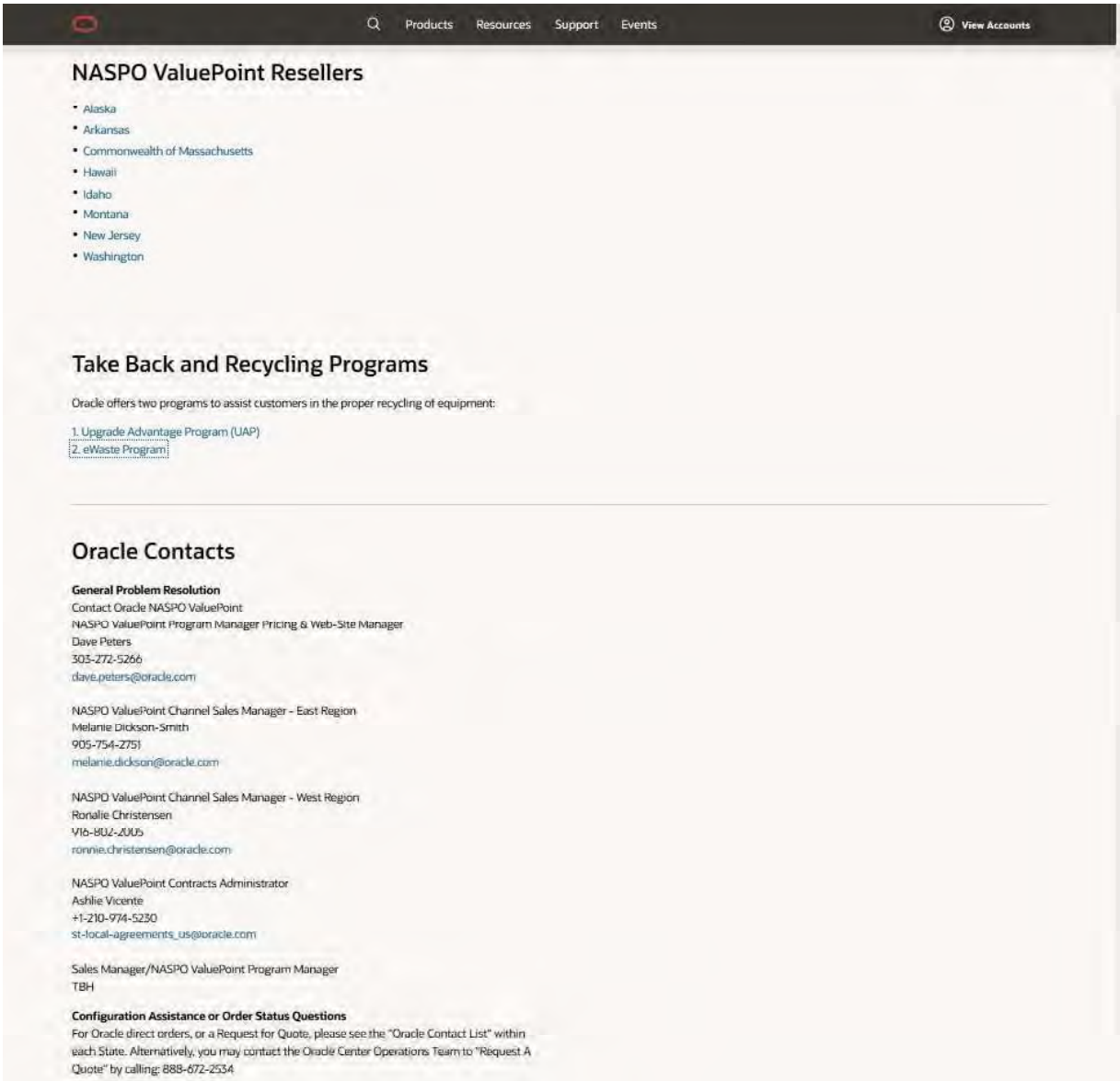


FIGURE 2: PROPOSED ORACLE NASPO WEBSITE – SCREENSHOT 2 OF 2

b. Describe your commitment to maintaining a website in adherence to the website requirements. Responses to this section should be no more than one page.

With the content exceptions noted above, Oracle is committed to delivering a website that meets the intended requirements for Minnesota NASPO ValuePoint and Participating States. Oracle has managed a NASPO site on the current Master Agreement that is materially the same as the future site the company is committed to supporting.

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

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

An example of the current website is at: https://www.oracle.com/corporate/pricing/wsca.html.

Oracle will not be providing a username and password protected URL as a part of this agreement. The number of transactions that will leverage this contract do not warrant such an offering while at the same time, the number of end users needing access to the data provided by Oracle within participating states is very large and therefore broader access to the information provided is in the best interest of all parties.

6. Baseline Price List Verification. Describe how the designated Baseline Price List(s) will be accessed and verified by potential end users, contract administrators, etc.

Oracle has complied with this requirement by providing a Base Line Price in our pricing strategy. Base line pricing is archived for immediate access upon request by end users. In addition, Price List updates incorporate both the Base Price (List Price or MSRP) as well as discounted price and are posted to Oracle's Minnesota NASPO ValuePoint website for easy access by the end user community to verify both the Base Price and Discounted price available via the Master Agreement.

7. Implementation Plan and Marketing Methodology. In two pages or less, describe a thorough implementation rollout plan for the first year as part of the proposal. At a minimum, the response should include a description of the methodology (mailings, meetings, seminars, press releases, personal contacts) proposed, estimated dates and location of activities, including tasks to be performed and the timeframe for the completion of each task.

Oracle understands the importance of an effective marketing and implementation plan for the use of the NASPO contract. Core to the mission of this plan are two key functions that include the Oracle team getting the required NASPO contract knowledge and our customers having a good understanding of the products, services and ultimate benefits of the contract.

The Oracle implementation methodology and strategy has three components:

1. Internal education – Sales and Support Teams
2. External education – Customers and NASPO administrators
3. Technology platforms – Tools to facilitate effective communications

Oracle has a large presence across the country in state government, local government, and education. We plan to leverage our substantial sales force and partner community to provide education and information to customers. This effort will result in the adoption of the Minnesota NASPO ValuePoint contract and yield product and service sales that benefit all parties. The Oracle sales team overviewed earlier in this requirement narrative is the Oracle team directly responsible for Systems and Storage Sales to NASPO states. As part of this team, Oracle has a dedicated Inside Sales team based in Burlington, Massachusetts, who will play a large role in outbound customer communication and Oracle also has sales teams serving the Public Sector in other lines of business, like Core Technology, Applications, Advanced Customer Services, Global Business Units and others. These extended sales teams will also be aware of the NASPO contract and will be able to educate NASPO administrators and customers to an even greater extent than the core Systems and Storage teams resulting in broader adoption, education, and use of the Agreement.

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INTERNAL EDUCATION -SALES INFORMATION AND MARKETING

- **Website –** Within 30 days of Agreement Launch Oracle will maintain an internal NASPO website that includes current product and pricing information that enables our sales personnel to find useful details about the products available under the Agreement. This website will be the central repository for NASPO Agreement information. Availability of the website will be almost immediate upon contract award.
- **Sales Support Resources –** Within 30 days of Agreement Launch Oracle has developed various sales support resources for use by Sales Representatives, as well as Sales Consultants and support personnel. These resources will contain product information and implementation methods to help our sales people quote NASPO Agreement products and services to customers wishing to purchase via the Agreement. These resources are posted on the Internal Oracle State and Local Government Systems website.
- **Quarterly Reviews –** Within the first 90 days of Agreement Launch and on-going the Oracle plan includes a series of workshops with our sales teams to assure appropriate understanding of our products and prices and to answer questions specific to a given Participating States agreement. These reviews occur quarterly by region and will include important contract information to ensure the Sales and Support teams are well educated to position the Agreement. As indicated, Oracle performs quarterly review sessions on a regular basis to ensure updates to the Agreement are constantly provided to the Sales teams with our inside sales staff to assure a complete understanding of the pricing and reporting requirements as delineated in our existing contracts.

EXTERNAL EDUCATION – CUSTOMERS AND NASPO ADMIN TRAINING

An effective program for customer awareness and training will play a key role in the success of the Oracle NASPO Agreement. During the first months after contract award, Oracle will engage our team across the country to provide an introduction and information about the new Agreement for customers located across the country. At the same time, we will conduct focused sessions aimed at particular clients with special needs and requirements. These programs will play a key role in advancing the wide customer acceptance of the Agreement. After our initial introductory engagement, we will continue to conduct NASPO Agreement seminars/webinars to assure that our customers have the latest information.

Oracle will deliver a program designed to provide orientation, training, and education on Oracle NASPO products and services to a broad range of customers and end users as well as NASPO administrators as needed. We will provide orientation on Oracle's NASPO Agreement to customers and partners (where appropriate) across the country. Oracle will provide training to support the administrative functions of the order management and the sales/order functions of the Oracle extending team.

Website – Within 30 days of launch, Oracle will update the Oracle NASPO website that will detail the product offerings and will be created upon contract execution. Other information required in the agreement will be posted to this site. Once the updated website is in place, the sales teams will communicate with the broad base of Oracle customers leveraging the NASPO agreement to inform them of the new agreement and the updated website.

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Trade Shows – Ongoing starting in the first 90 days of launch, Oracle participates in a wide variety of trade shows and conferences across the country. These venues allow the Oracle team to communicate with both existing customers that leverage the NASPO agreement and also with customers that may not currently leverage the agreement. Oracle typically develops a flyer that contains contract information for a given states and provides this flyer to attendees at these events. A few examples of trade shows and conferences attended by the Oracle team include:

- **Center for Digital Government –** Digital Summits (Oracle attends numerous events per year in key NASPO states) such as National Association of State CIOs (NASCIO) and National Association of Counties (NACO) Medicaid Enterprise Systems Conference among many others.
- **Tech Days –** Oracle also hosts a number of "Tech Days" across the country on a quarterly basis. These Tech days are sponsored by the customer organization and tend to involve anywhere from 10 to 100 attendees. The sales team would leverage these venues to communicate the value of the agreement to as many customers as possible. These events occur on an ongoing basis over the course of a given fiscal year.

TECHNOLOGY PLATFORMS –TOOLS TO FACILITATE EFFECTIVE COMMUNICATIONS

Oracle will use a variety of different approaches for our implementation plan on the new agreement, including:

Seminars/Webinars – Conferences, trade shows, tech days are just examples. Email communication will be broadly used as soon as a new agreement is in place to communicate with Oracle customers. Information on the Oracle NASPO website will be used to educate all constituents.

C. Environmental

1. Environmentally Preferable Purchasing Commitment. Explain your commitment to environmentally preferable purchases specifically in the areas below.

a. End of life management. Include detailed information regarding takeback, recycling and trade in programs available. Any available programs for cords and chargers should be included in this information. Responses should be no more than two pages.

DISPOSE OF YOUR RETIRED HARDWARE SAFELY AND ECONOMICALLY

As a responsible producer of hardware products, Oracle offers a take back program to our customers and suppliers to return excess used products or materials. The program helps protect the environment and provides valuable services to our customers.

Features

- Oracle programs follow industry best practices and are compliant with local law.
- Oracle directly audits its recyclers to better ensure compliance, and actively drives continuous improvement since laws continue to change.
- Oracle tracks and reports our reuse, recycling, and landfill results, as well as the details of our recycling program.

Benefits

- There is no charge to the customer for pick up, transport, or recycling.
- Financial credit may be available if there is reuse potential.
- For select systems we offer de-installation support at no charge.

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For more information Oracle's Take Back Program data sheet is provided as an attachment.

b. Environmental solutions. Provide detail on how additional value is provided regarding environmental solutions such as selling refurbished/remanufactured toner and equipment. Outline how your company is willing to work with the Lead State and the manufacturers to minimize impact on the environment. Specifically address the following areas in one page or less total:

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

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

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

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

Sustainability is inherent in the way we think about and approach nearly every aspect of our business, from operational efficiency to product development to employee engagement as outlined in our Corporate Sustainability website at https://www.oracle.com/corporate/citizenship/sustainability/.

Oracle's Sustainability Report is provided as an attachment. Throughout the report you will read about the incredible collaboration among our many stakeholders—including our employees, customers, and partners—to identify and address sustainability. You will also read about the phenomenal progress we have made toward achieving our ambitious 2020 goals and the ways we continue to raise the bar for ourselves.

There is always more work to be done and Oracle remains committed to building a resilient future for our planet, for humanity, and for future generations. Together, we are changing lives around the world, and with the growth in new disruptive technologies, including the cloud, we are more hopeful now than ever before that we can achieve the Sustainable Development Goals necessary to benefit our planet and the life it sustains.

ORACLE'S SUSTAINABILITY LEADERSHIP AWARDS



FIGURE 3: ORACLE'S SUSTAINABILITY LEADERSHIP AWARDS

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ENVIRONMENTAL ISO 14001 CERTIFICATIONS

Oracle's primary manufacturing facilities are in Newark, California and Houston, Texas. They have been ISO 14001 certified. Additional information about Oracle's Environmental Management System is available at: https://www.oracle.com/corporate/citizenship/sustainability/ehsms.html#iso.

SUPPLIERS AND ENVIRONMENTAL RESPONSIBILITY

Oracle employs a supplier qualification program that requires suppliers to demonstrate environmentally responsible business practices. Responsible sourcing highlights include:



FIGURE 4: ORACLE'S RESPONSIBLE SOURCING HIGHLIGHTS

More information on Oracle's sustainable operations is provided at: https://www.oracle.com/corporate/citizenship/sustainability/operations.html.

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

Product specific environmental specifications and certifications are provided in the Oracle product data sheets, respectively. Data sheets are available at product specific pages. Go to https://www.oracle.com/it-infrastructure/.

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

Per the RFP, this requirement does not apply to Band 3.

3. Total Cost of Ownership. Describe in no more than one page any tools your company provides users to assist in evaluating the Total Cost of Ownership of products offered during the purchasing process (i.e., Contractor tools to assist buyers in identifying equipment that runs more efficiently or that utilizes fewer supplies, etc.).

Oracle offers several tools that our sales organization leverages to assist users in calculating total cost of ownership of their purchases. For major programs that involve complex configurations and a variety of different products, Budgetary Architecture Recommendation (BAR) provides capacity planning solutions for customer's IT landscape. The centralized self-service tool helps qualify, scope, and budget customer opportunities. BAR addresses greenfield and existing/consolidation deployments of applications, technology, and systems for on-premise and cloud implementations.

BAR Service runs a sophisticated sizing engine which captures complex customer workloads and generates deployment scenarios for use case analyses to enable sales deals. BAR Service sizing recommendations are based on benchmarks at Oracle and best practices gained from customer GoLive scenarios. Output reports from BAR can be shared with customers.

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Oracle also has Value Navigator which is leveraged to compare and contrast costs of operating existing technology and the costs of elements such as maintenance and power versus migration and/or consolidation to new technology. These are just two examples of programs Oracle and our customers leverage to maximize return and assist users with total cost of ownership.

4. ENERGY STAR® Compliant Products. Describe Responder's commitment to the ENERGY STAR Program in one page or less.

PRODUCTS

Oracle is committed to design and manufacture energy efficient products. Oracle Server X8-2 and X8-2L systems are Energy Star certified (ENERGY STAR Unique ID #2335706 and #2335707). These server systems are also used as the compute nodes in many of the Oracle engineered systems such as, Oracle Exadata Database Machine, Oracle Database Appliance, and Oracle Private Cloud Appliance.

FACILITIES

As a global company with more than 25 million square feet in our operational control, we recognize that how we manage our use of natural resources can have a huge impact. We are always looking for ways to maximize energy efficiency, reduce our greenhouse gas emissions, and minimize water consumption and waste generation across our operations.

We manage our facilities to the highest industry standards and are proud to have been recognized for our highly efficient, environmentally friendly buildings and operations. In 2018, Oracle owned 29 buildings globally that were awarded ENERGY STAR certifications, 26 that received BOMA certifications, and 5 that were LEED-certified. Additional operational sustainability achievements are below:

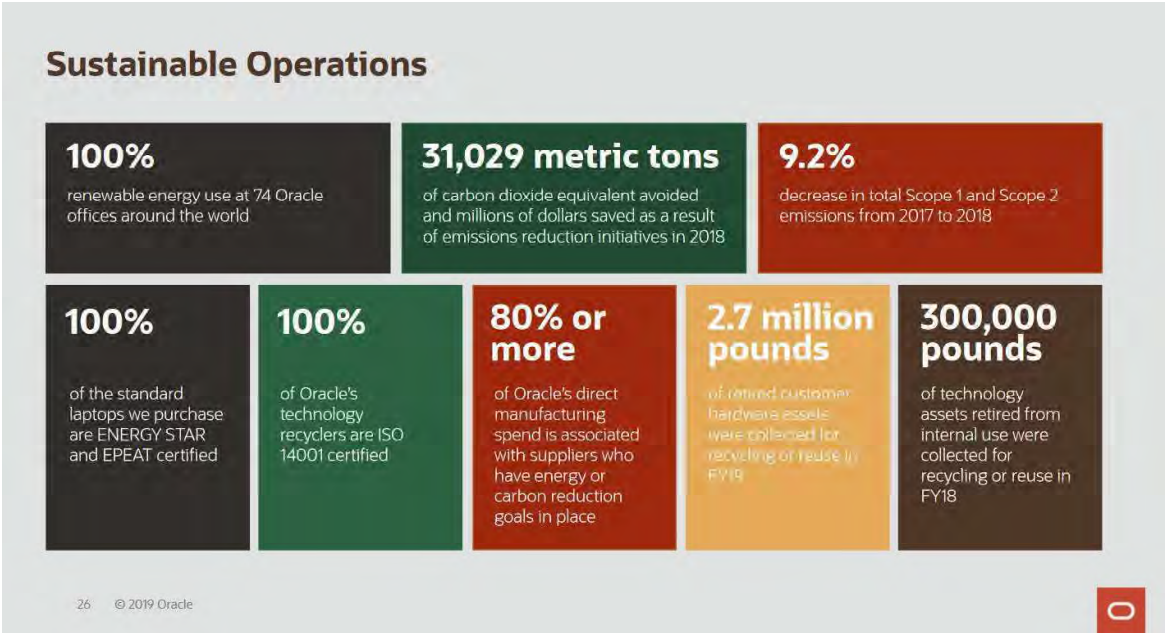


FIGURE 5: ORACLE'S SUSTAINABILITY METRICS

The breadth of Oracle's sustainability is illustrated in Oracle's Sustainability Report provided as an attachment and online at:
https://www.oracle.com/a/ocom/docs/sustainability-at-oracle.pdf.

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5. TCO Certified. Describe whether any of Responder's proposed products are TCO Certified and any other engagement with the TCO Development organization in one page or less.

Band 3 related products were first included in generation 8 TCO Certification programs in December 2019. Oracle is familiar with the certifications. Currently the proposed products do not have TCO certifications. Oracle is not aware of any products from any vendor being registered in the categories of servers, data storage, or network equipment.

6. Environmental Improvement Program. Describe in one page or less any product environmental improvement program for products that have not yet received the applicable standards or certification. In addition, describe environmental efforts in each of the following areas: (1) reduction/minimization/avoidance of the use of toxic and hazardous constituents (cadmium, chromium, mercury, and/or lead); and (2) compliance with international directives such as the European Union's WEEE Directive on reduction of chlorinated plastics (PVC) and brominated flame retardants. Contactor must provide this information for specific products to Participating Entities upon request.

ENVIRONMENTAL IMPROVEMENT PROGRAM

Oracle is in the unique position of providing solutions that cover all aspects of the nexus of IT and sustainable business practices, hardware, technology and applications, from cloud data centers to business intelligence to smart utility grids. We use many of these same technologies and business practices within our own operations to reuse, recycle and reduce. We also recognize that there is always more to be done and look forward to contributing to building a new circular economy that promotes greater resource productivity.

Oracle Sustainability in Action

At Oracle, we know that sustainability is good business. So we continually invest in initiatives that help us run our business more sustainably and develop products and services that help our customers do the same.



FIGURE 6: ORACLE'S SUSTAINABILITY IN DESIGN, MANUFACTURING, AND LOGISTICS

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As a global company with more than 25 million square feet in our operational control, we recognize that how we manage our use of natural resources can have a huge impact. We are always looking for ways to maximize energy efficiency, reduce our greenhouse gas emissions, and minimize water consumption and waste generation across our operations.

We manage our facilities to the highest industry standards and are proud to have been recognized for our highly efficient, environmentally friendly buildings and operations. In 2018, Oracle owned 29 buildings globally that were awarded ENERGY STAR certifications, 26 that received BOMA certifications, and 5 that were LEED-certified. Additional operational sustainability achievements are below:

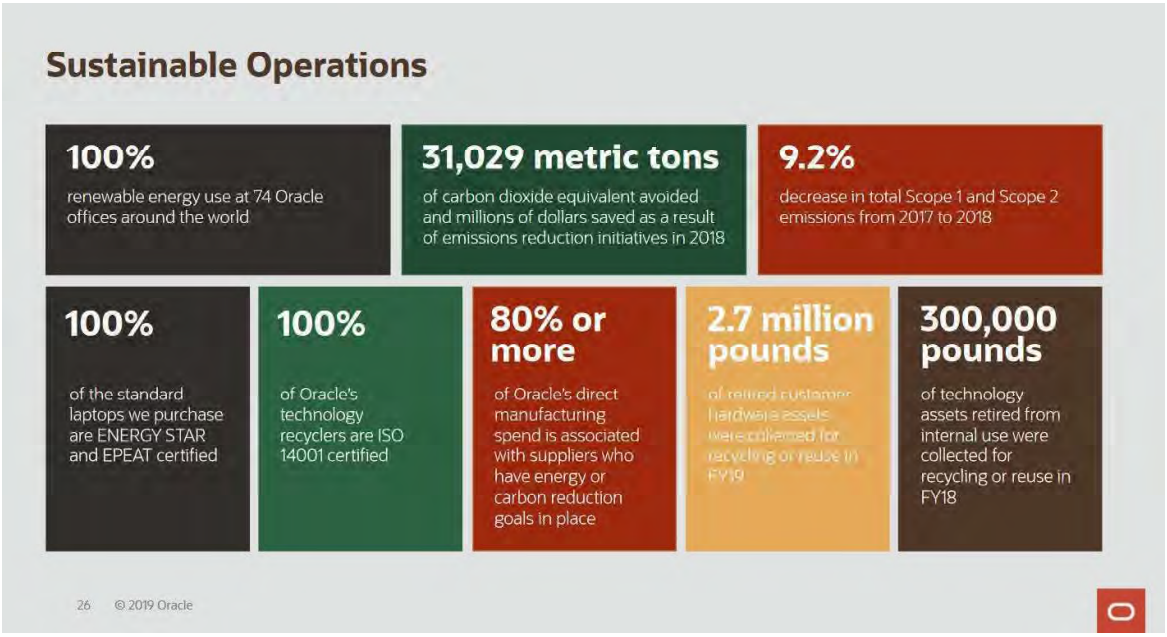


FIGURE 7: ORACLE'S SUSTAINABILITY METRICS

The breadth of Oracle's sustainability is illustrated in Oracle's Sustainability Report provided as an attachment. It is also online at: https://www.oracle.com/a/ocom/docs/sustainability-at-oracle.pdf.

REDUCTION OF HAZARDOUS CONSTITUENTS AND COMPLIANCE WITH DIRECTIVES

Oracle offers EPA ENERGY STAR–qualified products. Visit https://www.oracle.com/solutions/green/ to learn more. Furthermore, we are committed to reducing or altogether removing potentially hazardous substances from our products. For example, most of our hardware products use lead-free solder on their printed circuit boards, and our monitors and displays use less mercury than the amount allowed by the European Union's Restriction of Hazardous Substances Directive 2002/95/EC. Oracle is committed to minimizing the potentially harmful substances used in developing and manufacturing our products. In addition to complying with all applicable substance legislation worldwide, Oracle has initiated efforts to remove and/or reduce other potentially hazardous substances from the design and manufacture of our products. Among legislation Oracle complies with are:

- Oracle complies with EU RoHS Directive 2011/65/EU which became effective January 2, 2013 and delegated Directive 2015/853 which restricts the use of four phthalates (DEHP, BBP, DBP, and DIBP) from July 22, 2019.
- Oracle complies with RoHS type substance restrictions worldwide, including but not limited to, Korea, Japan, Ukraine, Serbia, Turkey, Vietnam, Georgia, India, Jordan, Republic of Srpska, China, Taiwan, Kosovo, Norway, Switzerland, United Arab Emirates (UAE), Eurasian Economic Union (EAEU)and United States (for example, California).

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Oracle is adhering to the highest standards for all of our products, regardless of where they are made or sold. All newly designed products released by Oracle should conform to those global substance restrictions and bans in force at the time of their release.

Oracle is also tracking closely the developments around the European Union's Regulation No 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH). Oracle's current position on EU REACH is provided as an attachment along with Oracle's WEEE compliance statement.

D. Business Capabilities

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

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

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

Oracle offers select third-party Band 3 products to complement the Oracle manufactured products.

Third party products are offered with warranty and support services by Oracle (for example, Oracle Premium Support) similarly to what is offered with Oracle manufactured products. Examples of the third-party products include Fujitsu SPARC servers and IBM LTO tape storage products. The ratio of third-party products of the total sales is estimated to be 10-15% or less.

2. Auditing. Responder must describe the following in no more than two pages total:

- **How Responder regularly self audits the Master Agreement to ensure compliance per Section 2.B.26.**

Oracle has an internal contract compliance and audit process. All contractual documents are compartmentalized and stored with specific access provided to the cognizant sales groups, contract administration groups, legal and compliance groups. Periodic reviews are conducted by all the participating groups under the leadership of sales. In addition, quarterly self-audits are performed and the findings will be reported to the Lead State as outlined in the contract. Specific transactional elements are reviewed and approved by these groups. This process ensures a seamless compliance process to ensure that Oracle performs as per the requirements of the contract.

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- **How a Purchasing Entity will be able to self-audit to ensure quotes provided are at the discount off list price.**

End users are able to self-audit all quotes and proposals to ensure discounts are minimum discount off list price as Oracle will make the Price List available on an accessible website/URL to compare what is quoted to the end user and what is on the Minnesota NASPO ValuePoint then current price list.

- **How often the web pricing and invoicing is audited to ensure contractual compliance.**

Quarterly. Please see above response to self-audits. Audits occur as a result of self-audits of the Master Agreement as outlined above. Best efforts to update the price list on the website occurs monthly. Oracle has quoting and booking policies in place to make sure contractual obligations are adhered to.

- **Reporting mechanisms available such as Invoice Reports which will assist in Participating Entity's or NASPO ValuePoint's ability to audit the Master Agreement through vendor supplied reporting tools.**

Monthly utilization reports are provided to Minnesota NASPO ValuePoint by Oracle's reporting team along with other reporting requirements outlined in this RFP. At Minnesota NASPO ValuePoint's request, Oracle can provide additional reports should that information be required to assist in the audit process.

- **How Responder ensures that Purchasing Entities with multiple Participating Addenda with Responder are monitored to ensure purchases are correctly booked with the correct Master Agreement.**

Oracle has quoting and booking policies and processes in place to ensure contractual obligations are adhered to. Each generated quote and resulting order document is reviewed by sales, contracts, legal, and the booking teams to ensure that each ordering entity has appropriate purchasing rights under an existing Participating Addendum or agreement. Any issues related to purchasing rights or agreements are promptly conveyed to the Participating Entity and prompt remedial action is taken prior to fulfilling an order.

3. Economic Development Programs. Describe how your company, if awarded a contract, will further the Lead State's goal of fostering economic development and reducing economic disparities through diversity and inclusion. Points may be awarded to companies articulating strong policies supporting small, diverse, and veteran-owned businesses in areas such as hiring practices, supply chain management, subcontracting, etc. Detail your company's demographic breakdown and any other information pertinent to efforts in this area.

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

Achieving true diversity is a continuous journey, not a one-off destination. We are constantly working on more inclusive hiring strategies, tracking our progress, and holding leaders accountable. Every day we are making these numbers more representative of the world around us.

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FIGURE 8: ORACLE'S DIVERSITY DATA 2019

For additional demographic information, please view our EEO-1 Statement (PDF). More information on Oracle diversity and partnerships is available at: https://www.oracle.com/corporate/careers/culture/diversity.html.

SUPPLIER DIVERSITY

Oracle strives to create a diverse supplier base by identifying and encouraging diverse suppliers to compete for the products and services we purchase for the organization. Oracle endeavors, on a good faith effort basis, to award contracts to suppliers that are small, HUBZone small, small disadvantaged, woman-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns (collectively, "small business concerns"). Oracle seeks diverse suppliers that can deliver creative, high quality product and service solutions at competitive prices. Oracle is currently a corporate member of the following national organizations:

- National Minority Supplier Development Council (NMSDC)
- Women's Business Enterprise National Council (WBENC)
- National Veteran Owned Business Association (NaVOBA)

4. If utilizing partners, the Contractor is responsible for the partners providing products and services, as well as warranty service and maintenance for equipment the partner provides. The Lead State must approve a Contractor's plan for partner utilization. Once a Contractor's plan is approved, Participating Entities must approve specific Partners as outlined within the relevant Participating Addendum. If the Contractor has been approved to use partners, each Participating Entity represented by NASPO ValuePoint that chooses to participate in this Master Agreement independently has the option of utilizing partners. Only partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove partners in their Participating Addendum.

If partners are proposed, Responder must describe:

- **The process to qualify partners and sales personnel to represent the product, including any certifications.**

If a customer chooses to purchase through a partner, Oracle does not take responsibility for the partner, is not liable for, not bound by any acts of Oracle's business partners.

Partners must be authorized members of the Oracle PartnerNetwork (OPN). Companies seeking OPN enrollment are required to complete a short company questionnaire and are asked to provide information to identify their company structure, the potential existence of conflicts of interest, and/or compliance with US and other applicable local laws. This information is then evaluated by Oracle's Alliances and Channels organization. Partners interested in distributing Oracle on-premise software

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and/or hardware to public sector end users are subject to additional evaluation, including Code of Conduct and compliance due diligence reviews.

Partners interested in distributing our software license and/or hardware business may select the License and Hardware Track. Each track provides targeted Enablers for partners to grow their skills and succeed in building, implementing, and/or selling Oracle products plus cloud services. Along with access to program Enablers, partners within each track may qualify to achieve Expertise.

Expertise may be achieved for License and Hardware products and use case deployment scenario by completing a series of qualifiers. Qualifiers include Oracle Specialists, certified professionals, customer successes, and showcasing external commitment to Oracle, amongst others. Expertise Qualifiers are track-specific and may include attainment within a specific regional market.

Partners that achieve Expertise are perceived as elite Oracle solution providers by the market. Expertise allows partners to demonstrate and showcase their skills around certain products and services, to earn incremental access to go-to-market benefits, and to differentiate from the competition.

Warranty claims are made through a partner but are serviced by Oracle. Maintenance services ordered from a partner are performed exclusively by Oracle.

- **The business relationship between partners and the manufacturer and services to be performed; for example, if partners will only be used for assistance in locating products/services, or if partners will be used to accept orders and payments (with the agreement of the Participating Entity).**

Oracle partners are trusted advisors and experts in building, selling, and providing value-added services for Oracle technology for the enrolled Track and Expertise they achieve. For the contemplated contract, the relationship between partners and Oracle on a state by state basis will largely be driven by what Participating Agreements will allow. Oracle's partners have the ability to resell Oracle products and as such typically perform all aspects of solution development, proposal development, and quoting. These partners also accept orders and payments from end users. Where a participating state does not allow partners to directly accept orders, Oracle will be directly engaged and partners will not currently be allowed to participate in that State off this agreement.

- **How partners are contractually bound to the Master Agreement terms and conditions.**

Once an Oracle partner has enrolled in OPN Membership and selected a Track, they will then execute a distribution agreement and applicable distribution addenda to govern how the partner can distribute Oracle programs and services.

- **Master Distribution Agreement** (MDA) is a "one stop shop" for partner distribution activities. In order to distribute, a partner needs the MDA and the addenda that govern what you would like to distribute.
- **Full Use Distribution Addendum** (FUDA) to the MDA to distribute Full Use Licenses of Oracle Software (Technology, Middleware and Applications) and Hardware.
- **Public Sector Addendum** (PSA) to the MDA to distribute Full Use Licenses of Oracle Software (Technology, Middleware and Applications) and Hardware to public sector end users.

When Oracle and a Participating Entity agree to authorize a partner under a Participating Addendum (PA), an additional Public Sector Terms Addendum will be drafted and signed by Oracle and the partner, which grants the partner conditional permission to use the PA (and the associated MPA) as their end user agreement for sales of Products and Services included in the MPA. As a condition to that use, the partner will be required to perform in accordance with all of the terms and conditions of the PA and MPA, and otherwise comply with, and assist Oracle in its compliance with, the PA and

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MPA, including, without limitation, the required reporting of each order and administrative fee remittance.

- **How partner sales will be accurately tracked and reported.**

All purchase orders received by Oracle that reference the Master Agreement are tagged accordingly at the time of booking by the Oracle Order Management team. Orders are not booked that do not comply with contract terms and conditions whether through a partner or direct. When booked purchase orders are tagged accordingly that reference the Master Agreement the reporting team is able to consolidate all sales (direct and partner) on a monthly, quarterly, and annual basis to properly track and report on to meet both internal Oracle reporting requirements and those requirements of the Master Agreement. All data is housed in Oracle Order Management system.

In addition, all Oracle partners are obligated to accurately document all transactions related to their contracts with Oracle including relevant order forms in their financial books, records, statements, and reports and other documents.

Each partner authorized under a Participating Addendum will be required to acknowledge, in writing, the sections of the Master Agreement and Participating Addendum, which require Oracle to provide detailed sales reports of all products and services purchased under the MPA (and PA) and payment of an administrative fee to NASPO (and the Participating Entity).

Authorized partners will be contractually bound to assist Oracle in its reporting obligations by providing a monthly report, regardless of the quantity sold under the MPA and PA.

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

Depending on the nature of the issue, remedies can include changes to the processes used to conduct business but could also include termination of participation in the Master Agreement and/or termination of OPN agreements as appropriate.

For direct orders placed under the Master Agreement, Oracle has very strict policies on legal compliance and has developed multiple control and review processes to ensure compliance with all contractual obligations.

Partners that are believed to have breached their OPN Agreements or Oracle's Code of Conduct will be immediately escalated to Alliances and Channels Management and local Legal counsel so that appropriate action can be taken.

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

- **Is the purchase of any product proposed under your response to this solicitation prohibited under law, regulation, or policy by the United State federal government, a US State or territory, or a local governmental entity? If so, you must identify the prohibition and provide an explanation.**

Oracle will comply with all laws to the extent that such laws, by their terms, are expressly applicable to Oracle's delivery of products and services and impose obligations directly upon Oracle in its role as an information technology services provider with respect to the delivery of products and services.

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- **Is Responder owned in part or whole by a foreign government or foreign government entity? If so, please provide a narrative explaining Responder's ownership.**

No.

- **Is Responder subject to Chinese law, including the China Internet Security Law, effective June 2017 (or later), as passed by the Chinese Communist Party, through the Standing Committee of the National People's Congress? If so, please provide a narrative explaining Responder's obligations under Chinese law.**

This question does not appear to be applicable as Oracle would not be subject to the cited law in the context of providing hardware, license, technical support, or installation services to U.S. end users.

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

E. Customer Support

1. Sales Support Training. Detail how Responder will train sales staff to ensure they are well versed in the terms and conditions of the Master Agreement. Restrict your response to a half page.

The Oracle State and Local Government sales and partner organizations will participate in an online webinar providing valuable information about the Master Agreement and processes to follow to ensure compliance with the contract. This webinar will be posted on the State and Local Government intranet website for future reference by existing or new employees. In addition, the Contracts Administration group maintains a site that is accessible by all sales employees should there be any questions about the agreement. Furthermore, Oracle's contract management team is engaged in most transactions that will involve this Master Agreement and this team will have answers to any questions that the sales staff and partners have regarding the agreement. Any out of compliance activities by sales personnel trigger a "hold" on all future activity with that sales group to investigate the out of compliance activity and to develop a remediation plan. Depending on the compliance issue, remedies can include changes to the processes used to conduct business but could also include termination of employment. Oracle has very strict policies on legal compliance and has developed multiple control and review processes to ensure compliance with all contractual obligations. There is a zero-tolerance policy on out of compliance activities.

2. Primary Account Representative. Responder must provide a Primary Account Representative to work with the Master Agreement Administrator on all aspects of the Master Agreement. This account representative is responsible for the performance of the Master Agreement and must provide timely response to all requests from Master Agreement Administrator and Participating Entity.

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

Primary Account Representative	
Name	Ricky Wall
Telephone	1-210-536-9420
Email Address	ricky.wall@oracle.com

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Oracle's contract administrator will serve as the primary interface with the Minnesota NASPO ValuePoint administrator; however, there are several members of the Oracle team that will support the Oracle contract administrator for operational details like price list updates, contract amendments, and other items that arise from time to time during the course of the agreement timeline. Oracle's contract administrator has been selected based on past experience administering cooperative contracts and specifically Minnesota NASPO ValuePoint. In addition, training is provided regarding Oracle policies and procedures and various laws and regulations that ensure Oracle maintains compliance with the agreement.

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

1. **Issue Complaint Procedures –** In the event of a complaint or issue, Oracle customers' first point of contact is their My Oracle Support portal (https://support.oracle.com), where many resources are available to service the issue, including the submittal of a Support Request ticket.

2. **Oracle Support Escalation Process –** My Oracle Support Reference Guide for customer support and problem escalation is provided as an attachment and can also be found at: http://www.oracle.com/us/support/myo-support-quick-reference-1957377.pdf.

3. **Oracle Billing and Complaints –** Oracle customers may go directly to the Oracle Collections Department via collections_us@oracle.com and/or they may reach out directly to the Support Center for assistance at: https://supportrenewalhelp.oracle.com/app/tickets/tickets.

4. **Order and Equipment Compliant Issues –** Oracle customers may reach out to the following number 1.800.833.3536 for general sales support.

5. **For any problems, issues or complaints that cannot be resolved via the information provided above –** If an executive escalation is necessary, they can contact the Technical Account Manager, if one is assigned, or Joe Lynch, Sales Vice President for State and Local Government. Timelines for problem resolution are hard to predict as time-to-resolve is largely driven by the complexity and history of the problem. Oracle will do whatever it can to resolve issues as quickly and productively as possible.

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Attachments

Please find these files included with our response as separate documents.

Oracle's Terms and Conditions

- Oracle General Terms NASPO RFP GT FINAL 03.02.21
- Oracle Master Agreement License Public Sector
- Oracle Master Agreement License Public Sector Schedule P – Program
- Oracle Master Agreement Public Sector Schedule H - Hardware
- Oracle Master Agreement Public Sector Schedule S – Services

Additional Response Files

- Oracle Take Back Program Data Sheet
- Oracle WEEE Environmental Compliance
- Oracle REACH Letter
- Sustainability Report at Oracle
- My Oracle Support Quick Reference Guide

SIGNED ADDENDA

- Signed Addendum 1
- Signed Addendum 2
- Signed Addendum 3
- Signed Addendum 4
- Signed Addendum 5

FORMS

- State of Minnesota Responder Declarations Form_FINAL_03.04.21 (PDF)
- State of Minnesota Workforce Certificate Information Form_FINAL_03.04.21 (PDF)
  - 2019 Oracle Workforce Certificate (PDF)
- State of Minnesota Equal Pay Certificate_FINAL_03.04.21 (PDF)
  - Oracle America EP Certificate 2019 (PDF)
- State of Minnesota Contact Information Form_FINAL_122320 (PDF)
- State of Minnesota Resident Vendor Form_FINAL_03.04.21 (PDF)
- State of Minnesota Solicitation Terms, Conditions and Response Requirements Exception Form FINAL 03.08.21 (PDF)
- Oracle Response to VPAT Request_030121 (PDF)

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- 29720 Section 6 Attachment K MNIT Minimum Acceptable Standards for Band 3_FINAL_030221.xlsx
- ORACLE AMERICA, INC.-MN Certificate of Good Standing (PDF)

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Attachment 1 – Contractor's External Documents (Incorporated by reference and available on NJSTART)