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Enterprise Alternate Contract Source (ACS)
No. 43230000-26-NASPO-ACS
For
Cloud and Software Solutions

This Enterprise Alternate Contract Source No. 43230000-26-NASPO-ACS Cloud and Software Solutions ("Term Contract"), is between the **Department of Management Services** ("Department"), an agency of the State of Florida, located at 4050 Esplanade Way, Tallahassee, FL 32399; and **xFact, LLC** ("Contractor"), located at 120 Water ST., Suite 214, North Andover, MA 01845; collectively referred to herein as the "Parties."

WHEREAS, section 287.042(16), Florida Statutes (F.S.) authorizes the Department to evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services;

WHEREAS, the Lead State of Utah, competitively procured Cloud and Software Solutions and executed contract No. LS5031, Cloud and Software Solutions ("Master Contract"), with the Contractor; and

WHEREAS, pursuant to section 287.042(16), F.S., the Secretary evaluated the Master Contract and determined that use of the Master Contract is cost-effective and the best value to the state.

NOW THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term and Effective Date.

The Master Contract became effective on September 16, 2026, and its term currently ends on September 15, 2036. The Master Contract has zero (0) years of renewals available. This Term Contract will become effective on September 16, 2026 or on the date signed by all Parties, whichever is later. This Term Contract will expire on September 15, 2036 unless terminated earlier or renewed in accordance with the Exhibit C, Enterprise Standard Terms and Conditions.

2. Order of Precedence.

This contract document and the attached exhibits constitute the Term Contract and the entire understanding of the Parties. This contract document, Exhibits A, B, C, and D constitute the Participating Addendum to the Master Contract and modify or supplement the terms and conditions of the Master Contract. All exhibits listed below are incorporated into this Term

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Contract by reference herein. In the event of a conflict, the following order of precedence shall apply:

a) This contract document
b) Exhibit A, Price Sheet
c) Exhibit B, Additional Terms and Conditions to the Enterprise Contract
d) Exhibit C, Enterprise Standard Terms and Conditions
e) Exhibit D, Master Contract (including any amendments to the Master Contract made prior to the effective date of this Term Contract and any subsequent amendments to the Master Contract that are added to this Term Contract in accordance with the Modifications Section listed below)

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Contract, such citation or reference shall be replaced by the comparable Florida law or regulation.

3. Purchases off this Contract.

Upon execution of this Term Contract, agencies, as defined in section 287.012, F.S., may purchase products and services under this Term Contract. Any entity making a purchase off of this Term Contract acknowledges and agrees to be bound by the terms and conditions of this Term Contract. The Contractor shall adhere to the terms included in any contract or purchase orders issued pursuant to this Term Contract.

4. Primary Contacts.

Department's Contract Manager:
Bradley Beech
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399
Telephone: (850) 487-4987
Email: Bradley.Beech@dms.fl.gov

Contractor's Contract Manager:
Sean Hughes
xFact, LLC
120 Water Street
North Andover, MA 01845
Telephone: (781) 520-0020
Email: sean.hughes@xfact.com

Either party may notify the other by email of a change to a designated Contract Manager providing the contact information for the newly designated contact, and such notice is

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sufficient to effectuate this change without requiring a written amendment to the Term Contract.

5. Modifications.

Unless otherwise stated in the Term Contract, any amendments to this Term Contract must be in accordance with Exhibit C, Enterprise Standard Terms and Conditions. If amendments are made to the Master Contract after the effective date of this Term Contract, the Contractor shall: 1) notify the Department of such amendments; and 2) provided the Department is amenable to incorporating the amendments into this Term Contract, enter into a written amendment with the Department in accordance with Exhibit C, Enterprise Standard Terms and Conditions.

IN WITNESS THEREOF, the Parties hereto have caused this Term Contract to be executed by the undersigned duly authorized undersigned officials.

State of Florida:
Department of Management Services

DocuSigned by:
By: Tom Berger
4810BB6123514E1...

Name: Tom Berger
Title: Secretary
Date: 7/29/2026 | 2:24 PM EDT

Contractor:
xFact, LLC

Signed by:
By: Jeffrey Valentine
61F328D1FA314DB...

Name: Jeffrey Valentine
Title: Chief Executive Officer
Date: 7/22/2026 | 10:38 AM EDT

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Exhibit A
xFact, LLC
Pricing Discounts and Schedule

The discount percentages that shall apply to the Contractor's catalog are outlined below.
The Contractor's detailed and summary catalogs, as described in Attachment B: Scope of Work, will be available on the NASPO ValuePoint website. Attachment C of the Master Agreement incorporates by reference catalogs approved by the Lead State and posted on the Contractor's landing page on NASPO ValuePoint's website.

Minimum Discount % Off MSRP	Software (Saas)	Infrastructure (Iaas)	Platform (Paas)	On-Premises	Value Added Services*
Direct Service Providers: Minimum Discount % off MRSP * (also applies to all Third-party solutions or services offered within this Value Added Services category)	5%	5%	5%	5%	5%

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EXHIBIT B

ADDITIONAL TERMS AND CONDITIONS TO THE ENTERPRISE CONTRACT

The following subsections are added to the Enterprise Standard Terms and Conditions:

SECTION 18: PUNCHOUT CATALOG AND ELECTRONIC INVOICING.

The Contractor is encouraged to provide a MFMP punchout catalog. The punchout catalog provides an alternative mechanism for suppliers to offer the State access to Products awarded under the Term Contract. The punchout catalog also allows for direct communication between the MFMP eProcurement System and a supplier's Enterprise Resource Planning (ERP) system, which can reflect real-time Product inventory/availability information.

The punchout catalog enables Florida buyers to "punch out" to a supplier's website. Using the search tools on the supplier's Florida punchout catalog site, the user selects the desired Products. When complete, the user exits the supplier's punchout catalog site and the shopping cart (full of Products) is "brought back" to MFMP. No orders are sent to a supplier when the user exits the supplier's punchout catalog site. Instead, the chosen Products are "brought back" to MFMP as line items in a purchase order. The user can then proceed through the normal workflow steps, which may include adding/editing the Products (i.e., line items) in the purchase order. An order is not submitted to a supplier until the user approves and submits the purchase order, at which point the supplier receives an email with the order details.

The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through MFMP. Electronic invoices may be submitted to the Customer through one of the mechanisms as listed below:

1) EDI (Electronic Data Interchange)
   This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the Ariba Network (AN) for catalog and non-catalog goods and services.

2) PO Flip via AN
   This online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider of MFMP, a state Contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider

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the right and license to reproduce and display within MFMP the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the Products made available by the Contractor under the Term Contract.

SECTION 19: FINANCIAL CONSEQUENCES

Failure to comply with the requirements of the Term Contract will result in the imposition of financial consequences. The following financial consequences will apply for the Contractor's failure to meet the performance metric standard and due date corresponding with the deliverables under the Term Contract. The Customer may impose additional Financial Consequences beyond those stated herein to apply to that Customer's purchase. The State of Florida reserves the right to withhold payment or implement other appropriate remedies, such as Term Contract termination, or nonrenewal, when the Contractor has failed to comply with the provisions of the Term Contract.

The financial consequences below will be paid and received by the Department of Management Services within 30 calendar days from the due date specified by the Department. These financial consequences below are individually assessed for failures over each target period beginning with the first full month or quarter of the Term Contract performance and every month or quarter, respectively, thereafter.

Financial Consequences Chart

Deliverable	Performance Metric	Performance Due Date	Financial Consequence for Non-Performance
Contractor will timely submit complete Term Contract Quarterly Sales Reports	All Term Contract Quarterly Sales Reports will be submitted timely with the required information	Completed reports are due on or before the 30th calendar day after the close of each State fiscal quarter	$250 per day late
Contractor will timely submit complete MFMP Transaction Fee Reports	All MFMP Transaction Fee Reports will be submitted timely with the required information	Completed reports are due on or before the 15th calendar day after the close of each month	$100 per day late

No favorable action will be considered when Contractor has outstanding Term Contract Quarterly Sales Reports, MFMP Transaction Fee Reports, or any other documentation owed to the Department or Customer, to include fees / monies, that are required under this Term Contract.

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Exhibit C

Department of
MANAGEMENT
SERVICES
We serve those who serve Florida

ENTERPRISE STANDARD TERMS AND CONDITIONS

These Enterprise Standard Terms and Conditions set forth the terms and conditions regarding the administration of the Term Contract, including the provision of Products to Customers. Customer specific terms for purchases off this Term Contract shall be set forth in the Customer specific agreement.

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SECTION 1. DEFINITIONS

Capitalized terms used herein are defined as follows:

"Attachments" means the attachments, addenda, schedules, exhibits, and other documents, however so titled, attached hereto or incorporated by reference herein.

"Business Days" means Monday through Friday, inclusive, excluding State holidays specified in section 110.117, Florida Statutes ("F.S.").

"Contractor" means the person or entity that is a party to the Term Contract and is offering Products for purchase.

"Customer" means the agency, as defined in section 287.012, F.S., or eligible user, as defined in Rule 60A-1.001, Florida Administrative Code ("F.A.C."), that makes a purchase off the Term Contract. For the avoidance of doubt, this also includes the Department when it purchases off the Term Contract.

"Department" means the Department of Management Services, an agency as defined in section 287.012, F.S., responsible for the administration of this Term Contract.

"Enterprise Alternate Contract Source" means a contract authorized pursuant to section 287.042(16), F.S., or approved pursuant to section 287.057(3)(b), F.S., for statewide use.

"Product" means any deliverable under the Term Contract, which may include commodities and contractual services, as each is defined in section 287.012, F.S. "Product" does not include, and no State funding under the Term Contract is being provided for, promoting, advocating for, or providing training or education on "Diversity, Equity, and Inclusion" ("DEI"). DEI is any program, activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification, or promotes the position that a group or an individual's action is inherently, unconsciously, or implicitly biased on the basis of such classification.

"State" means the State of Florida

"State Term Contract" means a term contract that is competitively procured by the department pursuant to section 287.057, F.S. and that is used by agencies and eligible users pursuant to section 287.056, F.S.

"Term Contract" means the legally enforceable term contract, as defined in section 287.012, F.S., between the Department and Contractor to which these Enterprise Standard Terms and Conditions apply, including all Attachments thereto**.** The Term Contract is either a State Term Contract or an Enterprise Alternate Contract Source.

SECTION 2. CONTRACT AMENDMENT

2.1 Amendment. The Term Contract contains all the terms and conditions agreed upon by the parties. Unless otherwise stated in Term Contract, the Term Contract may only be amended upon mutual written agreement signed by the parties. No oral agreements or representations will be valid or binding upon the Department or the Contractor. Unless explicitly agreed to by the Department in the Term Contract, no unilateral alteration or modification of the Term

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Contract terms, including substitution of Product, will be valid or binding against the Customer.

The Department and Contractor may modify the Term Contract to alter, add to, or deduct from the Term Contract specifications, provided that such changes are within the general scope of the Term Contract. The parties may make an equitable adjustment in the Term Contract price or delivery date if the change affects the cost or time of performance.

SECTION 3. CONTRACT CONSTRUCTION AND ADMINISTRATION

3.1 Construction. Unless the context requires otherwise, (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to the Term Contract as a whole, inclusive of all Attachments. Unless the context requires otherwise, references herein to (i) sections or Attachments mean the sections of, or Attachments to, the Term Contract; (ii) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (iii) a statute, rule, or other law or regulation means such statute, rule, or other law or regulation as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

Unless the context requires otherwise, whenever the masculine is used in the Term Contract, the same will include the feminine and whenever the feminine is used herein, the same will include the masculine. Unless the context requires otherwise, whenever the singular is used in the Term Contract, the same will include the plural, and whenever the plural is used herein, the same will include the singular, where appropriate. All references to "$" or "dollars" means the United States Dollar, the official and lawful currency of the United States of America.

The Term Contract will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Attachments referred to herein will be construed with, and as an integral part of, the Term Contract to the same extent as if they were set forth verbatim herein.

3.2 Administration. Execution in Counterparts. The Term Contract may be executed in counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

3.2.1 **Notices.** Where the term “written notice” is used to specify a notice requirement herein, said notice will be deemed to have been given (i) when personally delivered; (ii) email (with confirmation of receipt) the day immediately following the day (except if not a Business Day then the next Business Day) on which the notice or communication has been provided prepaid by the sender to a recognized overnight delivery service; or (iii) on the date actually received except where there is a date of the certification of receipt.

Unless otherwise specified, the Contractor shall deliver all notices to the Department’s Contract Manager and the Department shall deliver all notices to the Contractor’s Contract Manager.

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3.2.2 **Severability.** If a court deems any non-material provision of the Term Contract void or unenforceable, all other provisions will remain in full force and effect. Upon a determination that any material provision is void or unenforceable, the parties shall negotiate in good faith to modify this Term Contract to give effect to the original intent of the parties as closely as possible in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

3.2.3 **Waiver.** The delay or failure by the Department to exercise or enforce any of its rights under the Term Contract will not constitute or be deemed a waiver of the Department's right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

3.2.4 **Survivability.** The Term Contract and any and all promises, covenants, and representations made herein are binding upon the parties hereto and any and all respective heirs, assigns, and successors in interest. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of the Term Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, reporting, and public records, will survive termination or expiration of the Term Contract.

3.2.5 **Third Party Beneficiaries.** The parties acknowledge and agree that the Term Contract is for the benefit of the parties hereto. The Term Contract is not intended to confer any legal rights or benefits on any other party, except such rights and benefits associated with a purchase made by a Customer off this Term Contract.

SECTION 4. CONTRACT TERM, SUSPENSION, AND TERMINATION.

4.1 **Term.** The initial term will begin on the date set forth in the Term Contract documents or on the date the Term Contract is signed by all parties, whichever is later.

Upon written agreement, the Department and the Contractor may renew the Term Contract in whole or in part only as set forth in the Term Contract documents, and in accordance with section 287.057(13), F.S. No costs may be charged for the renewals.

4.2 **Suspension of Work and Termination.**

4.2.1 **Suspension of Work.** The Department may, in its sole discretion, suspend any or all activities under the Term Contract, at any time, when it is in the best interest of the State of Florida to do so. The Department will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Term Contract. Suspension of work will not entitle the Contractor to any compensation for services not performed or commodities not delivered during the suspension period nor for any additional compensation.

4.2.2 **Termination for Convenience.** The Term Contract may be terminated by the Department, by written notice to the Contractor thirty (30) calendar days in advance, in whole or in part at any time, when the Department determines in its sole discretion that it is in the Department's interest to do so. The Contractor shall not furnish any Product after it receives the notice of termination, except as necessary to complete

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the continued portion of the Term Contract, or a continued purchase off the Term Contract, if any. The Contractor will not be entitled to recover any cancellation charges or lost profits. If the Term Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of any Customer contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

4.2.3 **Termination for Cause.** The Department may terminate the Term Contract if the Contractor fails to (i) on multiple occasions, timely deliver Products purchased by Customers, (ii) on multiple occasions, maintain adequate progress on Customer purchases, thus endangering performance, (iii) honor any term of the Term Contract, or (iv) abide by any statutory, regulatory, or licensing requirement. The Department may, at its sole discretion, (i) immediately terminate the Term Contract, (ii) notify the Contractor of the deficiency and require that the deficiency be corrected within a specified time, otherwise the Term Contract will terminate at the end of such time, or (iii) take other action deemed appropriate by the Department. The Contractor shall continue work on any work not terminated.

Except for defaults of subcontractors at any tier, the Contractor will not be liable for any excess costs if the failure to perform arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor will not be liable for any excess costs for failure to perform, unless the subcontracted Products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Department. The rights and remedies of the Department in this clause are in addition to any other rights and remedies provided by law or under the Term Contract. The Customer will notify the Department of any vendor that has met the grounds for placement of the vendor on the Department of Management Services' Suspended Vendor List, as required in section 287.1351, F.S.

4.2.4 **Termination for Non-Compliance with E-Verify.** Pursuant to section 448.095(5)(c)1., F.S., the Department shall terminate the Term Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. Pursuant to section 448.095(5)(c)2., F.S., if the Department has a good faith belief that a subcontractor knowingly violated section 448.09(1), F.S., the Department shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.

4.2.5 **Termination Related to Statutory Certifications.** At the Department's option, the Term Contract may be terminated if the Contractor is placed on any of the lists referenced in the attached PUR 7801, Vendor Certification Form, or would otherwise be prohibited from entering into or renewing the Term Contract based on the statutory provisions referenced therein.

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4.2.6 **Termination for Refusing Access to Public Records.** In accordance with section 287.058, F.S., the Department may unilaterally terminate the Term Contract for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Term Contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.071(1), F.S.

SECTION 5. PURCHASES OFF THE TERM CONTRACT.

5.1 Purchases. By executing the Term Contract, the Contractor agrees to allow Customers to make purchases off the Term Contract. Purchases from Customers other than the Department are independent of the agreement between the Department and the Contractor, and the Department shall not be a party to such transaction. Customers' purchases off the Term Contract are limited to Products offered under the Term Contract, and no additional Products may be provided under a purchase off the Term Contract.

5.2 Purchase Submission. For any purchases off the Term Contract, either the contract (as defined in Rule 60A-1.001, F.A.C.) must be executed between the Customer and Contractor, or the purchase order (as defined in Rule 60A-1.001, F.A.C.) must be issued by the Customer to the Contractor, no later than the last day of the Term Contract's term to be considered timely. Contracts executed, or purchase orders issued, after the last day of the Term Contract's term shall be considered void.

5.3 Terms. The terms of the Form PUR 1000, General Contract Conditions, incorporated in Rule 60A-1.002, F.A.C.**,** and linked here http://www.flrules.org/Gateway/reference.asp?No=Ref-16731, are hereby incorporated by reference herein and will apply to all purchases made by a Customer off the Term Contract. The Customer may attach additional terms and conditions specific to its particular purchase made off the Term Contract, which are considered Special Conditions. The term "Special Conditions" does not include any Contractor-provided documents, including attachments or standard preprinted forms, service agreements, end user agreements, product literature, or "shrink wrap" terms accompanying or affixed to a Product, whether written or electronic, or terms incorporated onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. Any Customer Special Conditions shall not become a part of the Term Contract.

5.3.1 **Term.** The term of the Customer purchase off the Term Contract will be as specified in the purchase, except that if renewals of the purchase are permitted, the Customer and Contractor shall not renew the purchase if the Term Contract expires prior to the effective date of the renewal. Any existing term of a purchase off the Term Contract shall not extend more than forty-eight (48) months beyond the end of the Term Contract. However, if an extended pricing plan offered in the Term Contract is agreed upon by the Customer and Contractor and extends more than forty-eight (48) months beyond the end of the Term Contract, the agreed upon extended pricing plan terms shall govern the maximum duration of the purchase. The Contractor is required to fulfill timely purchases that extend performance beyond the Term Contract term even when such extended delivery will occur after expiration of the Term Contract. For such purchases, all terms and conditions of the Term Contract shall survive the termination or expiration of the Term Contract and apply to the Contractor's continued performance.

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5.3.2 **Additional Requirements.** All Customer purchases off the Term Contract shall contain the Term Contract name and number and shall be placed by the Customer. Delivery or furnishing Products shall not occur until the Customer executes their contract or transmits the purchase order**,** as defined in Rule 60A-1.001, F.A.C**.**

SECTION 6. PAYMENT AND FEES.

6.1 Pricing. The Contractor shall not exceed the pricing set forth in the Term Contract documents.

6.2 Best Pricing Offer. During the term of the Term Contract, if the Department or Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a Product outside the Term Contract, but upon the same or similar terms of the Term Contract, then the Department or Customer may request that the Contractor immediately reduce to the lower price.

6.3 Price Decreases. The following price decrease terms will apply to the Term Contract:

6.3.1 **Quantity Discounts.** The Contractor may offer additional discounts for one-time delivery of large single orders. The Customer should seek to negotiate additional price concessions on quantity purchases of any Products offered under the Term Contract.

6.3.2 **Sales Promotions.** In addition to decreasing prices for the balance of the Term Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. If conducting a sales promotion, the Contractor must submit documentation to the Department's Contract Manager identifying the proposed: (1) starting and ending dates of the promotion, (2) Products involved, and (3) promotional prices compared to then-authorized prices. The Contractor shall provide notice to Customers of the promotion and shall make the promotional prices available to all Customers.

6.3.3 **Equitable Adjustment.** The Department may, in its sole discretion, make an equitable adjustment in the Term Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Term Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Term Contract would result in a substantial loss.

6.4 Purchase Prerequisites. The Contractor may be required to accept the State of Florida Purchasing Card and MyFloridaMarketPlace (MFMP) purchase orders. The Contractor shall not charge any fees for payments received via the State's P-Card. The Contractor must ensure that entities receiving payment directly from Customers under this Term Contract must have met the following requirements:

- Have an active registration with the Florida Department of State, Division of Corporations (www.sunbiz.org), or, if exempt from the registration requirements, provide the Department with the basis for such exemption.
- Be registered in the MFMP Vendor Information Portal (https://vendor.myfloridamarketplace.com).
- Have a current W-9 filed with the Florida Department of Financial Services (https://flvendor.myfloridacfo.com)

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6.5 **Transaction Fees.** The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(24), Florida Statutes (F.S.). All payments issued by Agencies to registered vendors for purchases of Commodities or Contractual Services under Chapter 287, F.S., shall be assessed the Transaction Fee of one percent (1.0%) of the total amount of the payments received from the State or Eligible Users, as prescribed by Rule 60A-1.031, Florida Administrative Code (F.A.C.), or as may otherwise be established by law. Vendors shall pay the Transaction Fee and are subject to automatic deduction of the Transaction Fee, when automatic deduction becomes available. Vendors shall submit any monthly reports required pursuant to Rule 60A-1.031, F.A.C. All such reports and payments are subject to audit. The Agency will have grounds for declaring the vendor in default if the vendor fails to comply with the payment of the Transaction Fee or reporting of payments, which may subject the vendor to being suspended from business with the State of Florida.

6.6 **Exclusivity.** The Term Contract is not an exclusive license to provide the Products described in the Term Contract. The Department may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar Products.

SECTION 7. PERFORMANCE

7.1 **Warranty of Ability to Perform.** Upon the effective date of the Term Contract, and each year on the anniversary date of the Term Contract, the Contractor shall submit to the Department a completed PUR 7801, Vendor Certification Form. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Term Contract obligations.

Additionally, the Contractor shall promptly notify the Department in writing if its ability to perform is compromised in any manner during the term of the Term Contract (including potential inability to renew the Term Contract due to section 287.138 or 908.111, F.S.) or if it or its suppliers, subcontractors, or consultants under the Term Contract are placed on the Suspended Vendor, Convicted Vendor, Discriminatory Vendor, Forced Labor Vendor, or Antitrust Violator Vendor Lists. The Contractor shall use commercially reasonable efforts to avoid or minimize any delays in performance and shall inform the Department of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor shall promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

7.2 **Further Assurances.** The parties shall, with reasonable diligence, do all things and provide all reasonable assurances as may be necessary to complete the requirements of the Term Contact, and each party shall provide such further documents or instruments requested by the other party as may be reasonably necessary or desirable to give effect to the Term Contract and to carry out its provisions. The Department is entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and the details thereof.

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7.3 **Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Term Contract without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance of the Term Contract, unless the Department expressly waives such secondary liability. The Department may assign the Term Contract with prior written notice to Contractor of its intent to do so.

7.4 **Employees, Subcontractors, and Agents.**

7.4.1 **Subcontractors.** The Contractor will not subcontract any work under the Term Contract without prior written consent of the Department. The Contractor shall obtain prior written consent using the process identified on the Department's website: Subcontractor/Dealer/Reseller Forms / Vendor Resources / State Purchasing / Business Operations - Florida Department of Management Services (myflorida.com). The use of the term "subcontractor" may refer to affiliates, resellers, dealers, distributors, partners, teammates, and all other third parties utilized by the Contractor at any tier under the Term Contract. The Contractor is responsible for ensuring that its subcontractors providing commodities and performing services in furtherance of the Term Contract do so in compliance with the terms and conditions of the Term Contract. By execution of the Term Contract, the Contractor acknowledges that it will not be released of its contractual obligations to Customers because of any failure of a subcontractor. The Contractor is fully responsible for satisfactory completion of all work performed under the Term Contract. The Contractor's use of a subcontractor not approved by the Department will be considered a material breach of the Term Contract.

7.4.2 **Independent Contractor.** The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department or the State and are not entitled to the benefits of Department or State employees. Neither the Customer nor the State will be bound by any acts or conduct of the Contractor or its employees, subcontractors, or agents. The Contractor shall include this provision in all of its subcontracts under the Term Contract.

7.5 **Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees, subcontractors, or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, lightning strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect suppliers if no alternate source of supply is available to the Contractor.

In case of any delay the Contractor believes is excusable, the Contractor shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either (i) within ten (10) calendar days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result; or (ii) if a delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING WILL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO ANY DELAY except if such delay is caused by the fraud, bad faith, or active interference of the Department. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy, and a rebuttable presumption of prejudice will exist based on

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Contractor's untimely notice. The Contractor shall not assert any claim for damages related to such delay. The Contractor will not be entitled to an increase in the Term Contract price or payment of any kind from the Department for direct, indirect, consequential, impact, or other costs, expenses, or damages, including costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

If performance is suspended or delayed, in whole or in part, due to any of the causes described in this subsection, the Department may unilaterally (and with no recourse on the part of the Contractor) identify and use an alternate source to complete any work under the Term Contract as the Department deems necessary, in its sole discretion. After the causes have ceased to exist, the Contractor shall perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the Department or State, in which case the Department may (i) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Department with respect to Products subjected to allocation; or (ii) terminate the Term Contract in whole or in part.

SECTION 8. CONTRACT MANAGEMENT

8.1 Department's Contract Manager. The Department's Contract Manager for the Term Contract, who is primarily responsible for the Department's oversight of the Term Contract, will be identified in a separate writing to the Contractor upon Term Contract signing in the following format:

Department's Contract Manager Name
Department's Name
Department's Physical Address
Department's Telephone #
Department's Email Address

8.2 Contractor's Contract Manager. The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Term Contract performance, will be identified in a separate writing to the Department upon Term Contract signing in the following format:

Contractor's Contract Manager Name
Contractor's Name
Contractor's Physical Address
Contractor's Telephone #
Contractor's Email Address

Either party may notify the other by email of a change to a designated contact providing the contact information for the newly designated contact, and such notice is sufficient to effectuate this change without requiring a written amendment to the Term Contract.

SECTION 9. COMPLIANCE WITH LAWS.

9.1 Conduct of Business. The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business and that are applicable to the Term Contract, including those of federal, state, and local agencies having jurisdiction and authority, and shall ensure that any and all subcontractors utilized do the same. The Contractor represents and warrants that no part of the funding under the Term Contract will be used in violation of any state or federal law, including, but not limited to, 8

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U.S.C. § 1324 or 8 U.S.C. § 1325, or to aid or abet another in violating state or federal law. The Department may terminate the Term Contract at any time if the Contractor violates, or aids or abets another in violating, any state or federal law.

If the requirements of the Term Contract conflict with any governing law, codes or regulations, the Contractor shall notify the Department in writing and the parties shall amend the Term Contract to comply with the applicable code or regulation. Similarly, if the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the Products offered under the Term Contract, the Contractor shall immediately notify the Department in writing, indicating the specific restriction. The Department reserves the right and the complete discretion to accept any such alteration or to cancel the Term Contract at no further expense to the Department.

Pursuant to section 287.057(26), F.S., the Contractor shall answer all questions of, and ensure a representative will be available to, a Customer's continuing oversight team for purchases off this Term Contract.

9.2 Integrity. In addition to any applicable statutory restrictions, the Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (i) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or (ii) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (ii), "gratuity" means any payment in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

SECTION 10. DISPUTES AND LIABILITIES.

10.1 Dispute Resolution. Should any disputes arise between the Department and the Contractor with respect to the Term Contract, the Contractor and the Department shall act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

Exhaustion of this administrative remedy detailed in the Dispute Resolution Process contemplated in this Term Contract is an absolute condition precedent to the Contractor's ability to seek other remedies related to the Term Contract.

10.2 Dispute Resolution Process.

(a) Department Review. The parties shall resolve disputes through written submission of their dispute to the Department's Contract Manager. The Department shall respond to the dispute in writing within ten (10) Business Days from the date that the Department's Contract Manager receives the dispute. The Department's decision shall be final unless a party provides the other party with written notice of the party's disagreement with the decision within ten (10) Business Days from the date of the Department's decision. If a party disagrees with the Department's decision, the party may proceed to subsection (b) below.

(b) Meeting between the Principals. If either party disagrees with the Department's decision, such disagreeing party shall notify the other party of the disagreement within ten (10) Business Days. The parties shall then schedule a meeting between each party's principal (for the Department, the Department head or designee; for the Contractor, the Chief Executive Officer or designee) on a mutually agreed upon date, no later than ten (10)

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Business Days after the provision of the notice. The principals shall attempt to mutually resolve the disagreement at such meeting.

(c) Mediation. If the dispute is not resolved through a meeting of the Principals, the parties, upon mutual agreement, may mediate such dispute. If such mediation is not completed within 100 calendar days from receipt of the Department's decision, then either party may seek other remedies.

If the dispute is not resolved through the full process in subsections (a) - (c) above (or (a) – (b), if mediation is not agreed to), either party may pursue any other remedies.

10.3 Contractor's Obligation to Perform While Disputes are Pending. The Contractor shall proceed diligently with performance under the Term Contract pending the final resolution of any dispute or request for relief, claim, appeal, or action arising under the Term Contract and shall comply with directions to perform from the Department. Should the Contractor not perform while a dispute is pending, including by not performing disputed work, such nonperformance by the Contractor may be deemed to be an unexcused breach of the Term Contract which is separate and apart from any other dispute.

10.4 Governing Law and Venue. The Term Contract will be governed by, and construed in accordance with, the laws of the State. Jurisdiction and venue for suit arising under the terms of the Term Contract will exclusively be in the appropriate State court located in Leon County, Florida. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees and costs incurred in connection with disputes arising under the terms of the Term Contract.

10.5 Remedies Cumulative. No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy will be cumulative, and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

10.6 JURY WAIVER. THE PARTIES, ON BEHALF OF THEMSELVES AND ASSIGNS, WAIVE ALL RIGHT TO TRIAL BY JURY FOR ANY ACTION, APPEAL, CLAIM, OR PROCEEDING, WHETHER IN LAW IN OR IN EQUITY, WHICH IN ANY WAY ARISES OUT OF OR RELATES TO THE TERM CONTRACT OR ITS SUBJECT MATTER.

10.7 Indemnification. For any and all third-party claims, actions, demands, liabilities, and expenses of any kind which are caused by, related to, growing out of or happening in connection with the Term Contract (including any determination arising out of or related to the Term Contract that the Contractor or its employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Department or State), the Contractor shall be fully liable for the actions of its employees, subcontractors, and agents and shall fully indemnify, defend, and hold harmless the Department and the State (including each of their current and former officers, agents, and employees) for any and all loss, damage, injury, costs, reasonable expenses, or other casualty to person or property. Without limiting this indemnification requirement, the Department may provide the Contractor (i) written notice of any action or threatened action, (ii) the opportunity to take over and settle or defend any such action at the Contractor's sole expense, and (iii) assistance in defending the action at the Contractor's sole expense. The above indemnity requirement does not apply to that portion of any loss or damages proximately caused by the negligent act or omission of the Department or the State. Nothing herein is intended to act as a waiver of the Department's or State's sovereign immunity or to be deemed consent by the Department or State or its

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subdivisions to suit by third parties.

SECTION 11. MISCELLANEOUS.

11.1 Department of State Registration. Consistent with Title XXXVI, F.S., if the Contractor asserts status other than that of a sole proprietor, it must provide the Department with i) conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity; ii) a certificate of authorization if a foreign business entity; or iii) if exempt from the registration requirements, a basis for such exemption.

11.2 Time is of the Essence. Time is of the essence regarding every obligation of the Contractor under the Term Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

11.3 Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of the Contractor, governmental entities that are not Customers may make purchases under the terms and conditions contained herein, if agreed to by the Contractor. Such purchases are independent of the Term Contract between the Department and the Contractor, and the Department is not a party to these transactions.

SECTION 12. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.

12.1 General Record Management and Retention. The Contractor shall retain all records that were made in relation to the Term Contract for the longer of five (5) years after expiration of the Term Contract or the period required by the General Records Schedules maintained by the Florida Department of State available at: https://dos.fl.gov/library-archives/records-management/general-records-schedules/.

12.2 Identification and Protection of Confidential Information. Article 1, section 24, of the Florida Constitution, guarantees every person access to public records, and section 119.011, F.S., provides a broad definition of "public record." As such, records submitted to the Department (or any other State agency) are public records and are subject to disclosure unless exempt from disclosure by law. If the Contractor considers any portion of a record it provides to the Department (or any other State agency) to be trade secret or otherwise confidential or exempt from disclosure under Florida or federal law ("Confidential Information"), the Contractor shall mark as "confidential" each page of a document or specific portion of a document containing Confidential Information and simultaneously provide the Department (or other State agency) with a separate, redacted copy of the record. The Contractor shall state the basis of the exemption that the Contractor contends is applicable to each portion of the record redacted, including the specific statutory citation for such exemption. The Contractor shall only redact portions of records that it claims contains Confidential Information. If the Contractor fails to mark a record it claims contains Confidential Information as "confidential," or fails to submit a redacted copy in accordance with this section of a record it claims contains Confidential Information, the Department (or other State agency) shall have no liability for release of such record. The foregoing will apply to every instance in which the Contractor fails to both mark a record "confidential" and redact it in accordance with this section, regardless of whether the Contractor may have properly marked and redacted the same or similar Confidential Information in another instance or record submitted to the Department (or any other State agency).

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In the event of a public records request, to which records the Contractor marked as "confidential" are responsive to the request, the Department shall provide the Contractor-redacted copy to the requestor. If the Contractor has marked a record as "confidential" but failed to provide a Contractor-redacted copy to the Department, the Customer may notify the Contractor of the request and the Contractor may have up to ten (10) Business Days from the date of the notice to provide a Contractor-redacted copy, or else the Department may release the unredacted record to the requestor without liability. If the Department provides a Contractor- redacted copy of the documents and the requestor asserts a right to the Contractor-redacted Confidential Information, the Department shall promptly notify the Contractor such an assertion has been made. The notice will provide that if the Contractor seeks to protect the Contractor-redacted Confidential Information from release it must, within thirty (30) days after the date of the notice and at its own expense, file a cause of action seeking a declaratory judgment that the information in question is exempt from section 119.07(1), F.S., or other applicable law and an order prohibiting the Department from publicly disclosing the information. The Contractor shall provide written notice to the Department of any cause of action filed. If the Contractor fails to file a cause of action within thirty (30) days the Department may release the unredacted copy of the record to the requestor without liability.

If the Department is requested or compelled in any legal proceeding to disclose documents that are marked as "confidential" (whether by oral questions, interrogatories, requests for information or documents, subpoena, or similar process), unless otherwise prohibited by law, the Department shall give the Contractor prompt written notice of the demand or request prior to disclosing any Confidential Information to allow the Contractor to seek a protective order or other appropriate relief at the Contractor's sole discretion and expense. If the Contractor fails to take appropriate and timely action to protect the Confidential Information contained within documents it has marked as "confidential" or fails to provide a redacted copy that may be disclosed, the Department may provide the unredacted records in response to the demand without liability.

The Contractor shall protect, defend, and indemnify the Department for all claims, costs, fines, settlement fees, and attorneys' fees, at both the trial and appellate levels, arising from or relating to the Contractor's determination that its records contain Confidential Information. In the event of a third-party claim brought against the Department for failure to release the Contractor's redacted Confidential Information, the Contractor shall assume, at its sole expense, the defense or settlement of such claim, including attorney's fees and costs at both the trial and appellate levels. If the Contractor fails to continuously undertake the defense or settlement of such claim or if the Contractor and Department mutually agree that the Department is best suited to undertake the defense or settlement, the Department will have the right, but not the obligation, to undertake the defense or settlement of such claim, at its discretion. The Contractor shall be bound by any defense or settlement the Department may make as to such claim, and the Contractor agrees to reimburse the Department for the expense, including reasonable attorney's fees and costs at both the trial and appellate levels associated with any defense or settlement that the Department may undertake to defend Contractor's Confidential Information. The Department will also be entitled to join the Contractor in any third-party claim for the purpose of enforcing any right of indemnity under this section.

If at any point the Department is reasonably advised by its counsel that disclosure of the

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Confidential Information is required by law, including but not limited to Florida's public records laws, the Department may disclose such Confidential Information without liability hereunder.

12.3 **Public Records Requirements Pursuant to Section 119.0701, F.S.** Solely for the purpose of this section, the Department's Contract Manager is the agency custodian of public records. If, under the Term Contract, the Contractor is providing services and is acting on behalf of the public agency, as provided in section 119.0701, F.S., the Contractor shall:

i. Keep and maintain public records required by the Department to perform the service.

ii. Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Term Contract term and following the completion of the Term Contract if the Contractor does not transfer the records to the Department.

iv. Upon completion of the Term Contract, transfer, at no cost, to the Department all public records in possession of the Contractor or keep and maintain public records required by the Department to perform the service. If the Contractor transfers all public records to the Department upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Term Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS TERM CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT PUBLICRECORDS@DMS.FL.GOV, (850) 487-1082 OR 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950.

12.4 **Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Term Contract without prior written approval from the Department, including mentioning the Term Contract in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Contractor's name and either a description of the Term Contract or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a party to the Term Contract, except potential or actual Customers or authorized distributors, dealers, resellers, or service representatives.

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12.5 Intellectual Property.

12.5.1 **Ownership.** Unless specifically addressed otherwise in the Customer's contract, the State of Florida shall be the owner of all intellectual property rights to all new property created or developed in connection with the Customer's contract. This shall not apply to intellectual property developed prior to the execution of the Term Contract.

12.5.2 **Patentable Inventions or Discoveries.** Any inventions or discoveries developed in the course, or as a result, of services in connection with the Customer's contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer and the Department of any inventions or discoveries developed or made through performance of the Customer's contract, and such inventions or discoveries will be referred to the Florida Department of State for a determination on whether patent protection will be sought. The State of Florida will be the sole owner of all patents resulting from any invention or discovery made through performance of the Customer's contract. This shall not apply to any invention or discovery made prior to the execution of the Term Contract.

12.5.3 **Copyrightable Works.** Contractor must notify the Customer and the Department of any publications, artwork, or other copyrightable works developed in connection with the Customer's contract. All copyrights created or developed through performance of the Customer's contract are owned solely by the State of Florida. This shall not apply to any copyrightable works created or developed prior to the execution of the Term Contract.

SECTION 13. DATA SECURITY.

The Contractor will maintain the security of State of Florida data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. "State of Florida data" means data collected by, transmitted from, created for, or provided by the Department or the Customer. The Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a Security Incident involving State of Florida data, the Contractor shall give notice to the Customer and the Department within one business day of becoming aware of the Security Incident. "Security Incident" for purposes of this section will refer to an actual or imminent threat of a violation of information technology resources, security, policies, or practices, unauthorized access of State of Florida data, or occurrences that compromise the confidentiality, integrity, or availability of State of Florida data. An imminent threat refers to a situation in which the Contractor has a factual basis for believing that a specific incident is about to occur. Once a data breach has been contained, the Contractor must provide the Department and the Customer with a post-incident report documenting all containment, eradication, and recovery measures taken. The Department reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other current state and federal rules and regulations regarding security of information.

SECTION 14. CONTRACT MONITORING.

14.1 Performance Standards. The Contractor agrees to perform all tasks and provide deliverables as set forth in the Term Contract. The Customer will be entitled at all times,

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upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

14.2 Contract Reporting. The Contractor shall provide the Department the following accurate and complete reports associated with this Term Contract.

14.2.1 **Term Contract Quarterly Sales Reports.** The Contractor shall submit Quarterly Sales Reports in the manner and format required by the Department within 30 calendar days after the close of each State fiscal quarter (the State's fiscal quarters close on September 30, December 31, March 31, and June 30).

The Quarterly Sales Report template can be found here: Quarterly Sales Report Format / Vendor Resources / State Purchasing / Business Operations / Florida Department of Management Services - DMS (myflorida.com). Initiation and submission of the most recent version of the Quarterly Sales Report posted on the DMS website is the responsibility of the Contractor without prompting or notification from the Department. Sales will be reviewed on a quarterly basis. If no sales are recorded in two consecutive quarters, the Contractor may be placed on probationary status, or the Department may terminate the Term Contract. Failure to provide the Quarterly Sales Report, or other reports requested by the Department, will result in the imposition of financial consequences and may result in the Contractor being found in default and the termination of the Term Contract.

14.2.2 **Certified and Minority Business Enterprises Reports.** Upon Customer request, the Contractor shall report to each Customer spend with certified and other minority business enterprises in the provision of commodities or services related to the Customer orders. These reports shall include the period covered; the name, minority code, and Vendor Identification Information of each minority business enterprise utilized during the period; commodities and services provided by the minority business enterprise; and the amount paid to each minority business enterprise on behalf of the Customer.

14.2.3 **Ad Hoc Sales Reports.** The Department may require additional Term Contract sales information such as copies of purchase orders or ad hoc sales reports. The Contractor shall submit these documents and reports in the format acceptable to the Department and within the timeframe specified by the Department.

14.2.4 **MFMP Transaction Fee Reports.** The Contractor shall submit complete monthly MFMP Transaction Fee Reports to the Department. Reports are due 15 calendar days after the end of each month. Information on how to submit MFMP Transaction Fee Reports online can be located at https://www.dms.myflorida.com/business_operations/state_/myfloridamarketplace/mfmp_vendors/transaction_fee_and_reporting. Assistance with transaction fee reporting is also available by email at feeprocessing@myfloridamarketplace.com or telephone at 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.

14.3 Business Review Meetings. Both the Department and Customer reserve the right to schedule business review meetings. The Department or Customer may specify the format or agenda for the meeting. At a minimum, the Business Review Meeting may include the following topics:

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- Term Contract or Customer contract compliance
- Term Contract savings (in dollar amount and cost avoidance)
- Spend reports by Customer
- Recommendations for improved compliance and performance

14.4 Performance Deficiencies.

14.4.1 **Proposal of a Corrective Action Plan.** In addition to the processes set forth in the Term Contract (e.g., service level agreements), if the Customer or the Department determines that there is a performance deficiency that requires correction by the Contractor, then the Customer or the Department will notify the Contractor. The correction must be made within a timeframe specified by the Customer or the Department. The Contractor must provide the Customer or the Department with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Customer or the Department.

14.4.2 **Retainage for Unacceptable Corrective Action Plan or Plan Failure.** For Customer-requested Corrective Action Plans, if the corrective action plan is unacceptable to the Customer, or implementation of the plan fails to remedy the performance deficiencies, the Customer will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Customer for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate the Customer for the performance deficiencies.

14.5 Inspection.

14.5.1 **Inspection at Contractor's Site.** The Department reserves the right to inspect, or enlist a third-party to perform, at any reasonable time with prior notice, the equipment, product, plant or other facilities of the Contractor to assess conformity with Term Contract requirements and to determine whether they are adequate and suitable for proper and effective Term Contract performance.

14.5.2 **Statutory Inspection Rights.** If services are to be provided pursuant to the Term Contract, in accordance with section 216.1366, F.S., the Department is authorized to inspect the: (i) financial records, papers, and documents of the Contractor that are directly related to the performance of the Term Contract or the expenditure of State funds; and (ii) programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Term Contract or to ensure that the terms of the Term Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within ten (10) Business Days after the request is made.

Further, for any Term Contract for services with a nonprofit organization as defined in section 215.97(2)(m), F.S., the Contractor must provide documentation that indicates the amount of state funds:

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1. Allocated to be used during the full term of the Term Contract for remuneration to any member of the board of directors or an officer of the contractor; and
2. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the contractor.

The documentation must indicate the amounts and recipients of the remuneration.

14.5.3 **Inspection Compliance.** The Contractor understands its, and its subcontractors (if any), duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Department's Inspector General, or other authorized State official, the Contractor shall provide any type of information the State official deems relevant to the Contractor's integrity or responsibility. Such information may include the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Term Contract. The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of the Term Contract or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs will include salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

SECTION 15. PERFORMANCE OR COMPLIANCE AUDITS.

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Term Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Term Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Term Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Term Contract.

SECTION 16. CONFIDENTIALITY.

The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its employees, subcontractors, or agents in the course of performing Term Contract work, including security procedures, business operations information, or commercial proprietary information in the possession of the Customer or State. The Contractor will not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the Customer's or State's confidential information, or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, the Contractor shall take appropriate steps as to its employees, subcontractors, and agents.

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SECTION 17. SUPPLIER DEVELOPMENT.

17.1 **Office of Supplier Development.** The State of Florida supports its business community by creating opportunities for business enterprises to participate in procurements and contracts. The Department encourages supplier development through certain certifications and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Development (OSD) at OSDHelp@dms.fl.gov.

17.2 **Reporting Certified Business Enterprises.** Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and vendor identification information of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under the Term Contract.

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Exhibit D

Contract # LS5031

STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This Contract is between the Division of Purchasing and the following Contractor:

xFact LLC		
Name		
120 Water Street, Suite 214		
Address		
North Andover	MA	01845
City	State	Zip

LEGAL STATUS OF CONTRACTOR
- ☐ Sole Proprietor
- ☐ Non-Profit Corporation
- ☒ For-Profit Corporation
- ☐ Partnership
- ☐ Government Agency

Contact Person Sean Hughes Phone # 781-520-0020 Email sean.hughes@xfact.com
Vendor #VC0000285940 Commodity Code #92005

2. CONTRACT PORTFOLIO NAME: Cloud and Software Solutions

3. PROCUREMENT: This Contract is entered into as a result of Solicitation #BP24-1.

4. CONTRACT PERIOD: Effective Date: 9/16/2026 Termination Date: 9/15/2036 unless terminated early or extended in accordance with the terms and conditions of this Contract. Renewal options (if any): None.

5. Prompt Payment Discount (if any): None. Price Guarantee Period (if any): Minimum Percentage Discount: Life of the contract
Direct Service Provide Pricing: 1 year.

6. ATTACHMENT A: NASPO ValuePoint Master Agreement Terms and Conditions
ATTACHMENT B: Scope of Work
ATTACHMENT C: Pricing Catalog
ATTACHMENT D: Contractor's Response to Solicitation
ATTACHMENT E: End User Agreements
ATTACHMENT F: 3rd Party Provider Agreement Template
ATTACHMENT G: IRS Publication 1075 Exhibit 7
Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

8. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
   a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this Contract.
   b. Utah State Procurement Code, Procurement Rules, the Solicitation, and Contractor's response to the Solicitation. Both the solicitation and Contractor's response to the solicitation, while not included as a listed attachment to the Master Agreement above, will both be available on the NASPO website for transparency less any information marked as confidential by the Contractor at the time of submission.

9. Each person signing this Contract represents and warrants that he/she is duly authorized and has legal capacity to execute and deliver this Contract and bind the parties hereto. Each signatory represents and warrants to the other that the execution and delivery of the Contract and the performance of each party's obligation hereunder have been duly authorized and that the Contract is a valid and legal Contract binding on the parties and enforceable in accordance with its terms.
IN WITNESS WHEREOF, the parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 4 above.

CONTRACTOR

Signed by: 05732E152510442...
Contractor's Signature

Jeff Valentine — Print Name
CEO — Title
10/30/2025 — Date

STATE

Signed by: C38BE9DAC528424...
Director, Division of Purchasing

10/30/2025 — Date

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ATTACHMENT A

NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

1.1 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement. Contractor also includes its Fulfillment Partners, employees, Subcontractors, agents and affiliates who are providing the services agreed to under the Master Agreement. Contractor does not include Third-party Providers.

1.2 **Data** means all information, whether in oral or written (including electronic) form, created by or in any way originating with a Participating Entity or Purchasing Entity, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or in any way originating with a Participating Entity or Purchasing Entity, in the course of using and configuring the Services provided under this Agreement.

For a more granular and complete definition of “Data” as it pertains to SaaS, PaaS, and IaaS solutions, see Section A.1 at the end of the NASPO ValuePoint Master Agreement Terms and Conditions.

1.3 **Data Breach** means any actual or reasonably suspected unauthorized access to or acquisition of computerized Non-Public Data or Personal Data that compromises the security, confidentiality, or integrity of the Non-Public Data or Personal Data, or affects the ability of Purchasing Entity to access the Non-Public Data or Personal Data.

1.4 **Data Categorization** means the systematic process of classifying and organizing Data based on its sensitivity, value, and the level of risk associated with its handling, storage, and transmission. This process involves assessing Data to determine its impact on security, privacy, and compliance requirements. See also “High Risk Data”, “Moderate Risk Data” and “Low Risk Data”.

1.5 **Data Ownership and Protection** is defined in section A.1 for SaaS, PaaS, and IaaS. On-Prem will be defined on a case by case basis by any Purchasing Entity seeking an on-prem solution.

1.6 **Disabling Code** means computer instructions or programs, subroutines, code, instructions, Data or functions, including but not limited to:

a. Viruses
b. Worms
c. Date bombs or time bombs
d. Programs or code that self-replicate without manual intervention
e. Instructions programmed to activate at a predetermined time or upon a specified event
f. Trojan horses, defined as programs claiming to do a meaningful function but designed for a different function.
g. Any other malicious software or Data that alters, destroys, inhibits, damages, interrupts, interferes with, or hinders the operation of the Purchasing Entity’s software, applications, and/or its end-user processing environment, the system in which it resides, or any other software or Data on such a system or any other system with which it is capable of communicating.

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

1.8 **End User Agreement** means any agreement or additional terms and conditions that Purchasing Entities are required to sign or accept with Contractor, Fulfillment Partner,

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or Third-party Provider in order to participate in this Master Agreement and/or receive a Product, including an End User License Agreement (EULA), customer agreement, memorandum of understanding, lease agreement, Contractor's order form, terms of use, or any other named document to the same effect. End User Agreements must contain a clear reference to the Master Agreement including the name of the Contractor and Master Agreement number by which the End User Agreement is governed by and operating under. An End User Agreement may only include terms and conditions unique to the Product and Services provided, and not include general terms and conditions already covered by the Master Agreement or applicable Participating Addendum. Specifically, End User Agreements may not contain the following general terms and conditions already covered by the Master Agreement. If any of the following general terms and conditions are included in an End User Agreement and/or other terms and conditions that contradict terms already contained in the Master Agreement or applicable Participating Addendum, such terms will be considered null and void. If any term in an End User Agreement is determined to be null and void, the remaining terms shall remain in place with full force and effect.

a. Indemnity
b. Limitation of Liability
c. Governing Law and Venue
d. Arbitration or Dispute Resolution
e. Force Majeure
f. Ordering
g. Payment (payment schedules and milestones are acceptable)
h. Termination
i. Defaults and Remedies
j. Master Agreement Order of Precedence

1.9 **Hardware** is defined as any physical component that make up a computer, electronic, or IT infrastructure system.

1.10 **High Risk Data** is as defined in FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("High Impact Data"). This refers to the Data for which the loss of confidentiality, integrity, or availability could have a severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals.

1.11 **Infrastructure as a Service (IaaS)** Further defined in section A.1. IaaS as used in this Master Agreement is defined as the capability provided to the consumer to provision processing, storage, networks, and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications; and possibly limited control of select networking components (e.g., host firewalls).

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

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

1.14 **Low Risk Data** is as defined in FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("Low Impact Data").

1.15 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now

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or hereafter amended.

1.16 **Moderate Risk Data** is as defined in FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("Moderate Impact Data").

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

1.18 **Non-Public Data** means High Risk Data and Moderate Risk Data that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the Purchasing Entity because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

1.19 **Order** or **Purchase Order** means any Purchase Order, sales order, contract or other document used by a Purchasing Entity to commit funds in exchange for a Contractor's delivery of one or more Products under this Master Agreement.

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

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

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

1.23 **Personal Data** means data alone or in combination that includes information relating to an individual that identifies the individual by name, identifying number, mark or description can be readily associated with a particular individual and which is not a public record. Personal Information may include the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or Protected Health Information (PHI) relating to a person. Federal Tax Information (FTI) as defined by the federal government Internal Revenue Service Publication 1075 (as updated, replaced, or amended over time).

1.24 **Platform as a Service (PaaS)** Further defined in section A.1. PaaS as used in this Master Agreement is defined as the capability provided to the consumer to deploy onto the cloud infrastructure consumer-created or -acquired applications created using programming languages and tools supported by the provider. This capability does not necessarily preclude the use of compatible programming languages, libraries, services, and tools from other sources. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment

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configurations

1.25 **Product** or **Products and Services** means any equipment, software (including Embedded Software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.

1.26 **Protected Health Information** (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer. PHI may also include information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual

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

1.28 **Service Level Agreement** or **SLA** means a written agreement between both the Purchasing Entity and the Contractor that is subject to the terms and conditions in this Master Agreement and relevant Participating Addendum unless otherwise expressly agreed in writing between the Purchasing Entity and the Contractor. SLAs should include: (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2)the amount of time required for notice by the provider to the public jurisdiction of upcoming changes, (3) security notice requirements, (4) timeframes for response to operational problems and failures, (5) description of service quality, (6) identification of roles and responsibilities, () remedies, such as credits, and (8) an explanation of how remedies or credits are calculated and issued.

1.29 **Software as a Service (SaaS)** Further defined in section A.1. SaaS as used in this Master Agreement is defined as the capability provided to the consumer to use the Contractor's applications running on a Contractor's infrastructure (commonly referred to as 'cloud infrastructure). The applications are accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email), or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings

1.30 **Solicitation** means the Solicitation resulting in this Master Agreement.

1.31 **Subcontractor** includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing Product or Products and Services pursuant to this Master Agreement.

II. Term of Master Agreement

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II.1 **Initial Term.** The initial term of this Master Agreement is for ten (10) years. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.

II.2 **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

II.3 **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

III.1 **Order of Precedence.** The following Order of Precedence will apply to any purchase or Order made under this Master Agreement:

III.1.1 A Participating Entity's Participating Addendum ("PA");

III.1.2 The following Master Agreement Attachments: Attachment A: NASPO ValuePoint Master Agreement Terms and Conditions, including A.1, A.2, and A.3 as applicable, Attachment B: Scope of Work, and Attachment C: Pricing Discounts and Schedule;

III.1.3 A Purchase Order, Service Level Agreement, or Statement of Work/specifications issued against the Master Agreement;

III.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;

III.1.5 Attachment D: Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State;

III.1.6 Attachment E: Contractor, Fulfillment Partner, or Third-party Provider's End User Agreement issued against a Participating Addendum. End User Agreements are expected to be negotiated by a Purchasing Entity seeking to utilize the solution at the time a Project is entered into;

III.1.7 Any other Attachments to the Master Agreement not listed above.

III.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

III.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. The term of a Participating Addendum will not exceed the term of this Master Agreement, except when a Participating Entity determines an extension of its Participating Addendum is necessary to avoid a lapse in contract coverage and is permitted by law.

IV. Participants and Scope

IV.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the

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Participating Entity and Contractor is executed.

IV.2 Applicability of Master Agreement. NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the 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.

IV.3 Scope of Work Updates. At the discretion of the Lead State, and subject to agreement by the parties, the scope of this Master Agreement may be amended to include or accommodate new or updated models, versions, or technologies related to the objectives and deliverables set forth in the Solicitation.

IV.4 Obligated Entities. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

IV.5 Notice of Participating Addendum. Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.

IV.6 Participating Entities.

IV.6.1 If not proscribed by law or by the Chief Procurement Official of the state in which the entity is located, an entity may be eligible to execute a Participating Addendum directly with Contractor. Such entities may include:

IV.6.1.1 Political subdivisions, public agencies, and service districts;

IV.6.1.2 Public and private educational institutions, including K-12 public, charter, and private schools; institutions of higher education; and trade schools;

IV.6.1.3 Federally recognized tribes;

IV.6.1.4 Quasi-governmental entities; and

IV.6.1.5 Eligible non-profit organizations.

IV.6.2 Prior to execution of a Participating Addendum with an entity listed above, Contractor shall coordinate with NASPO to confirm the entity's eligibility to execute a Participating Addendum. A determination that an entity is eligible to execute a Participating Addendum is not a determination that procurement authority exists; each entity must ensure it has the requisite procurement authority to execute a Participating Addendum.

IV.7 Prohibition on Resale. Subject to any specific conditions included in the

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Solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of Intellectual Property.

IV.8 Individual Customers. Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and 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.

IV.9 Release of Information. Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.

IV.10 No Representations. The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

V.1 Applicability. NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

V.2 Administrative Fees

V.2.1 NASPO ValuePoint Fee. Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of Products and Services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's Solicitation.

V.2.2 State Imposed Fees. Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities

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within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

V.3 NASPO ValuePoint Summary and Detailed Usage Reports

V.3.1 Sales Data Reporting. In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). By placing an Order under this Master Agreement, a Purchasing Entity agrees to have their Data (i) included in reports submitted by Contractor to NASPO ValuePoint and (ii) used by NASPO ValuePoint as set forth in this Master Agreement without limitation, unless otherwise requested in writing by the Purchasing Entity and agreed to in writing by NASPO. Timely and complete reporting of Sales Data by Contractor is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, Data, and information provided under this section.

V.3.2 Summary Sales Data. "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.

V.3.3 Detailed Sales Data. "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

V.3.4 Sales Data Crosswalks. Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, Product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint

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with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and Product catalog change.

V.3.5 Executive Summary. Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

V.3.6 Obligation to Act in Good Faith. The parties acknowledge that this Master Agreement and its terms and pricing have been negotiated for the benefit of the parties, NASPO ValuePoint, Participating Entities, and Purchasing Entities. Apart from a Participating Addendum or Order, Contractor shall not intentionally induce a potential Participating Entity or Purchasing Entity to enter into a separate agreement, the pricing and terms of which are derived from this Master Agreement, for the purpose of avoiding compliance with Contractor's obligations under Section V. Nothing in this Section 5.3.6 shall prohibit Contractor from contracting with an entity with substantially similar pricing and terms if such pricing and terms are independently negotiated with the entity or are consistent with pricing and terms ordinarily offered by Contractor to public sector customers.

V.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

V.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and Participating Addendum process, and the manner in which eligible entities can participate in the Master Agreement.

V.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

V.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

V.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

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V.4.5 **Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

V.5 NASPO ValuePoint eMarketPlace

V.5.1 The NASPO ValuePoint cooperative provides an eMarketPlace for public entities to access a central online platform to view and/or purchase the goods, services, and solutions available from NASPO ValuePoint's cooperative Master Agreements. This eMarketPlace is provided by NASPO at no additional cost to the Contractor or public entities. Its purpose is to facilitate the connection of public entities with Contractors who meet the requisite needs for a good, service, or solution by that entity through a NASPO ValuePoint Master Agreement.

V.5.2 Contractor shall cooperate in good faith with NASPO, and any third party acting as an agent on behalf of NASPO, to integrate Contractor's industry presence by either an electronic hosted catalog, punchout site, or providing eQuotes through the NASPO eMarketPlace, per the Implementation Timeline as further described below.

V.5.3 Regardless of how Contractor's presence is reflected in the eMarketPlace (*i.e.*, hosted catalog, punchout site, or eQuote), Contractor's listed offerings must be strictly limited to Contractor's awarded contract offerings through the NASPO award. Products and/or services not authorized through the resulting NASPO cooperative contract should not be viewable by NASPO ValuePoint eMarketPlace users. Furthermore, Products and/or Services not authorized through a Participating Addendum should not be viewable by NASPO ValuePoint eMarketPlace users utilizing that Participating Addendum. The accuracy of Contractor's offerings through the eMarketPlace must be maintained by Contractor throughout the duration of the Master Agreement.

V.5.4 Contractor agrees that NASPO controls which Master Agreements appear in the eMarketPlace and that NASPO may elect at any time to remove any of Contractor's offerings from the eMarketPlace.

V.5.5 Contractor is solely responsible for the accuracy, quality, and legality of Contractor's Content on the eMarketPlace. "Content" means all information that is generated, submitted, or maintained by Contractor or otherwise made available by Contractor on the eMarketPlace, including Contractor catalogs. Contractor's Content shall comply with and accurately reflect the terms and pricing of this Master Agreement.

V.5.6 Contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.

V.5.7 Contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace, including the assessment, collection, and remittance of any sales tax.

V.5.8 Lead State reserves the right to approve all pricing, catalogs, and information on the eMarketPlace. This catalog review right is solely for the

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benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that Products and Services be offered at prices required by the Master Agreement.

V.5.9 NASPO Participating Entities may have their own procurement system, separate from the NASPO eMarketPlace, that enables the use of certain NASPO Master Agreements. In the event one of these entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarketPlace) but publish to their own eMarketPlace, Contractor agrees to work in good faith with the entity and NASPO to implement the catalog.

V.5.10 In the event a Participating Entity has entity-specific catalog requirements set forth in its Participating Addendum (*e.g.*, entity-specific pricing, restrictions in the scope of offerings, etc.), Contractor shall ensure its eMarketPlace Content for that Participating Entity accurately reflects and is compliant with these requirements.

V.5.11 Implementation Timeline: Following the execution of Contractor's Master Agreement, NASPO will provide a written request to Contractor to begin the onboarding process into the eMarketPlace. Contractor shall have fifteen (15) days from receipt of written request to work with NASPO to set up an enablement schedule, at which time the technical documentation for onboarding shall be provided to Contractor. The schedule will include future calls and milestone dates related to test and go live dates.

V.5.11.1 Contractor's NASPO eMarketPlace account with eQuoting functionality shall minimally be established within thirty (30) days following the written request.

V.5.11.2 Contractor shall deliver either a (1) hosted catalog or (2) punchout site, pursuant to the mutually agreed upon enablement schedule.

V.5.11.3 NASPO will work with Contractor to decide which structures between hosted catalog, punchout site, and/or eQuoting as further described below will be provided by Contractor.

V.5.11.3.1 Hosted Catalog. By providing a hosted catalog, Contractor is providing a list of its awarded Products/Services and pricing in an electronic Data file in a format acceptable to NASPO, such as a tab delimited text file. Contractor is solely responsible for ensuring the most up-to-date versions of its Product/Service offerings approved by the Lead State under this Master Agreement are reflected in the eMarketPlace.

V.5.11.3.2 Punchout Site. By providing a punchout site, Contractor is providing its own online catalog, which must be capable of being integrated with the eMarketPlace as a Standard punchout via Commerce eXtensible Markup Language (cXML). Contractor shall validate that its online catalog is up-to-date. The site must also return detailed UNSPSC codes for each line item.

V.5.11.3.3 eQuoting. NASPO will work with Contractor to set up participation and use to provide eQuotes through the NASPO eMarketPlace. This requirement would be in addition to any requirement to provide a hosted catalog or punchout site.

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V.5.12 Hosted catalogs and punchout sites will provide all of the eMarketPlace standard Data elements/information including, but not limited to, the following:

V.5.12.1 The most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date Product/Service offering the Contractor is authorized to provide in accordance with this Master Agreement;

V.5.12.2 A Lead State contract identification number for this Master Agreement;

V.5.12.3 Detailed Product line item descriptions;

V.5.12.4 Pictures illustrating Products, services, or solutions where practicable; and

V.5.12.5 Any additional NASPO, Lead State, or Participating Addendum requirements.

V.6 Cancellation In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

V.7 Canadian Participation. Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

V.8 Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

VI.1 Pricing. The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.

VI.1.1 All discounts must be guaranteed for the initial term of the Master Agreement.

VI.1.2 Requests for a discount adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.

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VI.1.3 No retroactive adjustments to prices or rates will be allowed.

VI.2 Payment. Unless otherwise agreed upon in a Participating Addendum or Order, Payment after acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.

VI.3 Leasing or Alternative Financing Methods. The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

VII.1 Order Numbers. Master Agreement order and Purchase Order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

VII.2 Quotes. Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.

VII.3 Applicable Rules. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

VII.4 Required Documentation. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

VII.5 Term of Purchase. Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.

VII.5.1 Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or definite performance period past the then-current termination date of this Master Agreement. In the event the term of any such Order placed under this Master Agreement extends past the termination or expiration of this Master Agreement, the terms and conditions of this Master Agreement shall remain in full force and effect as it applies to such Order and will continue in effect for such Order until the term of that Order expires.

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VII.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.

VII.5.3 Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

VII.5.4 Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement's terms.

VII.5.5 Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

VII.5.6 An Order, including a recurring service, maintenance, or software subscription or upcoming renewal, may be canceled before delivery or performance with 30 days advanced written notice provided by the Purchasing Entity. Purchasing Entity will compensate Contractor up to the date of the cancellation notice for expenses incurred, if any. Any order cancellation will not impact the Master Agreement.

VII.6 Order Form Requirements. All Orders pursuant to this Master Agreement, at a minimum, must include:

VII.6.1 The services or supplies being delivered;

VII.6.2 A shipping address and other delivery requirements, if any;

VII.6.3 A billing address;

VII.6.4 Purchasing Entity contact information;

VII.6.5 Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;

VII.6.6 A not-to-exceed total for the Products or Services being ordered; and

VII.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

VII.7 Communication. All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

VII.8 Contract Provisions for Orders Utilizing Federal Funds. Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

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VIII. Shipping and Delivery

VIII.1 Shipping Terms. All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.

VIII.1.1 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

VIII.2 Minimum Shipping. The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.

VIII.3 Inside Deliveries. To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (*e.g.*, scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

VIII.4 Packaging. All Products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

IX.1 Laws and Regulations. Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

IX.2 Applicability. Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

IX.3 Inspection. All Products are subject to inspection at reasonable times and places before acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

IX.3.1 Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use.

IX.3.2 Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which acceptance is revoked.

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IX.4 Failure to Conform. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.

IX.5 Acceptance Testing. Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to acceptance by the Purchasing Entity.

IX.5.1 The acceptance testing period will be forty-five (45) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for acceptance testing.

IX.5.2 If the Product does not meet the standard of performance or specifications during the initial period of acceptance testing, Purchasing Entity may, at its discretion, continue acceptance testing on a day-to-day basis until the standard of performance is met.

IX.5.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.

IX.5.4 Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.

IX.5.5 No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

X.1 Applicability. Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.

X.2 Warranty. The Contractor warrants, for hardware Products (if applicable) for a period of one year from the date of acceptance, and for software Products and Services for a period of 90 days from the date of acceptance, that: (a) the Product performs according to all specific claims that the Contractor made in its response to the Solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the Solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.

X.3 Breach of Warranty. Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.

X.4 Rights Reserved. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under

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the law, to a prevailing party, reasonable attorneys' fees and costs.

X.5 Warranty Period Start Date. The warranty period will begin upon acceptance, as set forth in Section IX.

XI. Product Title

XI.1 Conveyance of Title. If both the Contractor and Purchasing Entity intend for any Products or Services being purchased to be owned by the Purchasing Entity after the sale (as opposed to a subscription service, service term, or other right of use), 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.

XI.2 Embedded Software. Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

XI.3 License of Pre-Existing Intellectual Property. Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

XII.1 General Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or Subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.

XII.2 Intellectual Property Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").

XII.2.1 The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

XII.2.1.1 provided by the Contractor or the Contractor's subsidiaries or affiliates;

XII.2.1.2 specified by the Contractor to work with the Product;

XII.2.1.3 reasonably required to use the Product in its intended manner, and the infringement could not have been avoided

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by substituting another reasonably available product, system or method capable of performing the same function; or

XII.2.1.4 reasonably expected to be used in combination with the Product.

XII.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

XII.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

XII.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

XIII.1 Term. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

XIII.2 Class. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's State and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

XIII.3 Coverage. Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:

XIII.3.1 Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, Products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than $1 million per occurrence and $2 million general aggregate;

XIII.3.2 CLOUD MINIMUM INSURANCE COVERAGE:

	Data Breach and Privacy/Cyber Liability including Technology Errors and Omissions
Level of Risk	Minimum Insurance Coverage

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Low Risk Data	$2,000,000
Moderate Risk Data	$5,000,000
High Risk Data	$10,000,000

XIII.3.3 Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

XIII.4 Notice of Cancellation. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

XIII.5 Notice of Endorsement. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.

XIII.6 Participating Entities. Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.

XIII.7 Furnishing of Certificates. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. The Lead State or a Participating Entity may request proof of insurance and copies of certificates of insurance at any time during the term of the Master Agreement. 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.

XIII.8 Disclaimer. Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

XIV.1 Records Administration and Audit

XIV.1.1 The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a

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period of six (6) years following termination of this Agreement or final payment for any Order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's State statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

XIV.1.2 Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

XIV.1.3 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

XIV.2 Confidentiality, Non-Disclosure, and Injunctive Relief

XIV.2.1 **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

XIV.2.1.1 Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").

XIV.2.1.2 Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.

XIV.2.1.3 Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or Subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

XIV.2.2 **Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this

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Master Agreement.

XIV.2.2.1 Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

XIV.2.2.2 Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.

XIV.2.2.3 Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

XIV.2.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

XIV.2.3 **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be adequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

XIV.2.4 **Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

XIV.2.5 **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction Data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law,

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Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

XIV.2.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

XIV.2.7 Purchasing Entity Data. Purchasing Entity retains full rights and title to Data provided by it and any Data derived therefrom, including metadata. Contractor shall not collect, access, or use user-specific Purchasing Entity Data except as strictly necessary to provide Service to the Purchasing Entity. No information regarding Purchasing Entity's use of the Service may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an Order of a court of competent jurisdiction. The obligation shall extend beyond the term of this Master Agreement in perpetuity. Contractor shall not use any information collected in connection with this Master Agreement, including Purchasing Entity Data, for any purpose other than fulfilling its obligations under this Master Agreement.

XIV.2.7.1 Regarding Purchasing Entity Data related to an Artificial Intelligence (AI) solution purchased, the above section applies but may be negotiated on a state by state, case by case basis. Often AI models that are purchased to assist an entity, rely on having some type of access, license, and/or approval to use the data for the purpose of continually updating the AI model. This allows them to enhance, modify, and/or update the AI model so that the Purchasing Entity has the most up to date model for the best user experience. A Purchasing Entity has the default of section 14.2.7 applied unless a different standard is negotiated specific to AI.

XIV.3 Assignment/Subcontracts

XIV.3.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

XIV.3.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

XIV.4 Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

XIV.5 Independent Contractor. Contractor is an independent Contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

XIV.6 Cancellation. Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective

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date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

XIV.7 Force Majeure. Neither party to this Master Agreement shall be held responsible for delay or default caused by one or more of the following events, if such occurrence or continuation of such occurrence is beyond the party's reasonable control and substantially inhibits the party's ability to deliver Product or other deliverables in accordance with this Master Agreement: fire, riot, unusually severe weather, other acts of God, acts of war or terrorism, and restrictions on the movement of people or goods imposed in a public health order or by a declared state of emergency. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement

XIV.8 Defaults and Remedies

XIV.8.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

XIV.8.1.1 Nonperformance of contractual requirements;

XIV.8.1.2 A material breach of any term or condition of this Master Agreement;

XIV.8.1.3 Any certification, representation or warranty by Contractor in response to the Solicitation or in this Master Agreement that proves to be untrue or materially misleading;

XIV.8.1.4 Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

XIV.8.1.5 Any default specified in another section of this Master Agreement.

XIV.8.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

XIV.8.3 If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master

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Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

XIV.8.3.1 Any remedy provided by law;

XIV.8.3.2 Termination of this Master Agreement and any related Contracts or portions thereof;

XIV.8.3.3 Assessment of liquidated damages as provided in this Master Agreement;

XIV.8.3.4 Suspension of Contractor from being able to respond to future bid solicitations;

XIV.8.3.5 Suspension of Contractor's performance; and

XIV.8.3.6 Withholding of payment until the default is remedied.

XIV.8.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

XIV.9 Waiver of Breach. Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV.10 Debarment. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

XIV.11 No Waiver of Sovereign Immunity

XIV.11.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from

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any claim or from the jurisdiction of any court.

XIV.11.2 This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

XIV.12 Governing Law and Venue

XIV.12.1 The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the State serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

XIV.12.2 Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.

XIV.12.3 If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing Order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

XIV.13 Assignment of Antitrust Rights. Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's State antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

XIV.14 Survivability. Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

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Attachment A.1 – Software Publisher Terms and Conditions

The terms and conditions contained within Attachment A.1 cover the three following user options:

A. Software as a Service (SaaS)
B. Platform as a Service (PaaS)
C. Infrastructure as a Service (IaaS)

A. Software-as-a-Service (SaaS) Terms and Conditions

1. Definitions:

a. **Authorized Persons:** The service provider's employees, contractors, Subcontractors or other agents who need to access the public jurisdiction's personal data to enable the service provider to perform the services required.

b. **Individually Identifiable Health Information:** Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual. .

c. **Public Jurisdiction:** Any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

d. **Public Jurisdiction Data:** All data created or in any way originating with the public jurisdiction and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

e. **Public Jurisdiction Identified Contact:** The person or persons designated in writing by the public jurisdiction to receive security incident or breach notifications.

f. **Security Incident:** The potentially unauthorized access by non-authorized persons to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

g. **Service provider:** The Contractor and its employees, Subcontractors, agents and affiliates who are providing the services agreed to under the contract. Service provider also includes a Third-party Provider providing services under the contract.

h. **Software-as-a-Service (SaaS):** The capability provided to the consumer to use the

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provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a web browser (e.g., web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure — including network, servers, operating systems, storage or even individual application capabilities — with the possible exception of limited user-specific application configuration settings.

i. **Statement of Work:** A Statement of Work (SOW) is a detailed document issued against the Master Agreement that defines the scope, deliverables, timelines, responsibilities, and acceptance criteria for Products and Services to be performed, ensuring clear expectations between the Contractor or Third-Party Provider and Purchasing Entities.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data except (1) during data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

a. The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with NIST SP 800- 53 (then current, or prior version compliant with the appropriate certification body's requirements) and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

b. All data obtained by the service provider in the performance of this contract shall become and remain property of the public jurisdiction.

c. Unless otherwise stipulated, all personal data and non-public data shall be encrypted at rest and in transit with controlled access in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). Unless otherwise stipulated, the service provider is responsible for encryption of the personal data. Any stipulation of responsibilities will identify specific roles and responsibilities and shall be included in the SLA, End User Agreement, or otherwise made a part of this contract.

d. Unless otherwise stipulated, it is the public jurisdiction's responsibility to identify data it deems as non-public data to the service provider. The level of protection and

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encryption for all non-public data shall be identified and made a part of this contract.

e. At no time shall any data or processes that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.

f. The service provider shall not use any information collected in connection with the service issued from this contract for any purpose other than fulfilling the service.

4. Data Privacy: The service provider's privacy controls must also abide by the following:

a. No type of data mining may be performed on any public jurisdiction data without permission from the public jurisdiction. This includes mining location data from users of applications running on behalf of the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Privacy Controls.

b. No public jurisdiction data may be sold or transferred to any third party, including service provider affiliates, without permission from the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Privacy Controls.

5. Data Location: The service provider shall provide its services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support (see also below regarding offshore access and follow the sun technical support).

6. Data Access: The service provider shall be responsible for:

a. Providing a multifactor authentication access mechanism for all its personnel and contractors to access any system and data management tool which acts upon any public jurisdiction data in accordance with NIST SP 800- 53 (then current, or prior version compliant with the appropriate certification body's requirements) Access Controls.

b. Preventing offshore access by service provider employees and contractors unless explicitly authorized by the Purchasing Entity for follow the sun technical support.

c. Maintaining government data and allowing the downloading of that data for a minimum period of 90 days after the termination of the agreement between the public jurisdiction and the service provider. After this period, the service provider will

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destroy/delete the data and all copies wherever they may reside and provide a certificate of destruction/deletion to the public jurisdiction.

7. Import and Export of Data: The public jurisdiction shall have the ability to import or export data:

a. In piecemeal or in entirety at its discretion without interference and with support from the service provider as described in the contract, End User Agreement, or SLA. This includes the ability for the public jurisdiction to import or export data to/from other service providers.

b. At intervals as frequent as the public jurisdiction requires.

8. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any security incident or data breach.

a. **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the public jurisdiction should be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

b. **Security Incident Reporting Requirements:** The service provider shall report a security incident to the appropriate public jurisdiction identified contact within the manner and timeframe defined in law, a Participating Addendum, or End User Agreement.

c. **Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any public jurisdiction content that is subject to applicable data breach notification law, the service provider shall notify the appropriate public jurisdiction identified contact within 48 hours or sooner — unless shorter time is required by applicable law — and take commercially reasonable measures to address the data breach in a timely manner.

9. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

a. The service provider, unless stipulated otherwise, shall immediately notify the appropriate public jurisdiction identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The service provider, unless stipulated otherwise, shall notify the appropriate public jurisdiction identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes there has been a data breach. The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures,

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if necessary, and (3) document actions taken in response to the data breach, including any post-incident review of events and changes in business practices. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifying individuals, regulators or others required by state law; (3) providing a credit monitoring service required by state or federal law; (4) providing a website or a toll-free number and call center for affected individuals required by state law; and (5) completing all corrective actions as reasonably determined by the service provider based on root cause. These costs shall not exceed the average per-record, per-person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach. All actions [1 through 5] are subject to this contract's limitation of liability.

10. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including Subcontractors, to fulfill obligations of the contract who have been convicted of any crime of dishonesty if such staff in fulfilling the obligations of the contract would have access to Purchasing Entity data or access onsite to Purchasing Entity's facilities. This includes but is not limited to criminal fraud or conviction of any felony or misdemeanor offense with an authorized penalty of up to one year of incarceration. The service provider shall promote and maintain an awareness among its employees and agents of the importance of securing the public jurisdiction's information. Each State/Participating Entity may have different background check requirements that must be followed for work performed in its jurisdiction, and such requirements would be discussed at the time a Participating Addendum is entered into.

11. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable NDAs and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

12. Right to Remove Individuals: The public jurisdiction may at any time require that the service provider remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall notify the service provider of its determination and its reasons for requesting the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

13. Security: The service provider shall disclose its non-proprietary security protocols, processes, tools and technical limitations to the public jurisdiction such that adequate protection and flexibility can be attained between the public jurisdiction and the service provider. The service provider's disclosures shall include information related to:

1. Governance and compliance
2. Standards and policies
3. Security and risk assessments
4. Continuous monitoring and alerting
5. Privilege and identity access management

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6. Data protections
7. Infrastructure and application protections
8. Native cloud service provider security information and event management (SIEM)/log management tools
9. System health and resource monitoring
10. Incident response and recovery

The public jurisdiction and the service provider shall understand each other's roles and responsibilities for security and document them within the SLA or End User Agreement.

14. Access to Security Logs and Reports:

a. The service provider shall provide reports to the public jurisdiction in a format specified in the SLA or End User Agreement. Reports shall include latency statistics, date and time stamps, user access IP addresses, source and destination IP addresses, system events (e.g., failed and successful events — system shutdown or starting a service, errors, anomalous/abnormal activity or system events, etc.), log-on/authentication attempts (failed and successful), user access history, account changes (e.g., account creation and deletion, account privilege assignment, etc.), security policy changes, system configuration changes, usage information (e.g., number of transactions occurring in a certain period of time) and transaction size (e.g., email message size, file transfer size, etc.), and security logs for all public jurisdiction data related to this contract.

b. The service provider and the public jurisdiction share security responsibilities. The service provider is responsible for providing a secure infrastructure (e.g., storage and servers), virtualization/ hypervisor, operating system, middleware and runtime, applications and networking. The service provider and the public jurisdiction typically share responsibility for identity, credential and access management; networking; and data. The methods and conditions for authorized access to logs/reports and the format for the logs/reports shall be specified and agreed upon by both parties in the SLA or End User Agreement. Specific shared responsibilities are identified in the SLA or End User Agreement.

15. Retention, Preservation and Archival of Security Logs and Reports: The service provider shall retain security logs and reports in a usable format for a minimum of 6 years and a maximum retention/archival of 6 years beyond the termination of the contract. The methods and timeframes for the retention, reservation (i.e., legal hold) and archival for the logs and reports will be specified and agreed upon by both parties in the SLA or End User Agreement.

16. Encryption of Data at Rest: The service provider shall prevent its employees and Subcontractors from storing personal data on portable devices, except within data centers located in the United States. If personal data must be stored on portable devices to accomplish the work, the service provider must use hard drive encryption in accordance with cryptography standards referenced in FIPS 140-2, Security Requirements for Cryptographic Modules.

17. Contract Audit: The service provider shall cooperate with public jurisdiction audit of conformance to the contract terms. The public jurisdiction or a contractor of its choice may perform the audit. The cost of the audit is the responsibility of the public jurisdiction. If information deemed confidential or proprietary must be reviewed during a contract compliance

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audit, either party may request the execution of a non-disclosure agreement (NDA), to the extent such agreements are allowed by the public jurisdiction's state law or municipal code.

18. Data Center Audit: An annual audit as required by StateRAMP and/or FedRAMP shall be performed for all relevant data centers associated with the provision of a cloud service at the data center provider's expense. Providers must grant the government's information security office access to view the audit and artifacts through StateRAMP, if applicable. Some governments may accept a SOC 2 Type 2 audit annually for all relevant data centers associated with the provision of the cloud service at the service provider's expense. The audit must be made available to the jurisdiction if requested under unilateral NDA or after being redacted.

19. Continuous Monitoring: The service provider shall, at service provider's expense, conduct continuous monitoring of its compliance with security controls required within the contract. Continuous monitoring shall be conducted via one or a combination of the following methods approved by the public jurisdiction:

a. Reliance on StateRAMP authorization and independent assessments by third-party assessment organizations (3PAOs)
b. Reliance on FedRAMP authorization and independent assessments by 3PAOs
c. Review of control documentation by internal staff or 3PAO
d. Acceptance of the service provider's third-party attestation (e.g. AICPA SOC2-Type 2 audit)
e. Self-assessment by service provider

20. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibility of the service provider. The system shall be available 24/7/365, with agreed-upon maintenance downtime, and provide service to customers as defined in the SLA or End User Agreement.

21. Change Control and Advance Notice: The service provider shall give advance notice (to be determined at the contract time and included in the SLA or End User Agreement) to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades or system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version to bring the system up to date or improve its characteristics. It usually includes a new version number.

22. Subcontractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all Subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any application development and/or operations.

23. Business Continuity and Disaster Recovery:
The service provider shall provide a business continuity and disaster recovery plan upon request and ensure that the public jurisdiction's recovery time objective (RTO) is met.

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24. Compliance with Accessibility Standards:
The service provider shall comply with and adhere to accessibility standards of Section 508 Amendment to the Rehabilitation Act of 1973.

25. Web Services: The service provider shall use web services exclusively to interface with the public jurisdiction's data in near real time when possible.

26. Subscription Terms: Contractor grants to a purchasing entity a license to: (1) access and use the service for its business purposes; (2) for SaaS, use underlying software as embodied or used in the service; and (3) view, copy, upload and download (where applicable), and use contractor's documentation.

27. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

28. Termination and Suspension of Service:

a. In the event of a contract termination, the service provider shall return public jurisdiction's data in a CSV or other mutually agreeable format at a time agreed to by the parties. The service provider also will provide for the subsequent secure disposal of public jurisdiction data.

b. During any period of service suspension, the service provider shall not intentionally erase any public jurisdiction data.

c. If any services are terminated or the entire agreement is terminated, the service provider shall not intentionally erase any public jurisdiction data for a period of:

    1. 10 days after the effective date of termination, if the termination is in accordance with the contract period
    2. 30 days after the effective date of termination, if the termination is for convenience
    3. 60 days after the effective date of termination, if the termination is for cause

    After such period, the service provider has no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

d. The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established in the SOW.

e. The service provider shall securely dispose of all requested data in all forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data

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shall be permanently deleted and shall not be recoverable, according to NIST-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

----------END of SaaS Terms and Conditions----------

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B. Platform-as-a-Service (PaaS) Terms and Conditions

1. Definitions:

a. **Authorized Persons:** The service provider's employees, contractors, Subcontractors or other agents who need to access the public jurisdiction's personal data to enable the service provider to perform the services required.

b. **Individually Identifiable Health Information:** Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

c. **Platform-as-a-Service (PaaS):** The capability provided to the consumer to deploy onto the cloud infrastructure consumer created or acquired applications created using programming languages and tools supported by the provider. This capability does not necessarily preclude the use of compatible programming languages, libraries, services and tools from other sources. The consumer does not manage or control the underlying cloud infrastructure, including network, servers, operating systems or storage, but has control over the deployed applications and possibly application hosting environment configurations..

d. **Public Jurisdiction:** Any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

e. **Public Jurisdiction Data:** All data created or in any way originating with the public jurisdiction and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

f. **Public Jurisdiction Identified Contact:** The person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

g. **Security Incident:** The potentially unauthorized access by non-authorized persons to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

h. **Service Provider:** The Contractor and its employees, Subcontractors, agents and affiliates who are providing the services agreed to under the contract. Service provider also includes a Third-party Provider providing services under the contract.

i. **Statement of Work:** A Statement of Work (SOW) is a detailed document issued against the Master Agreement that defines the scope, deliverables, timelines, responsibilities,

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and acceptance criteria for Products and Services to be performed, ensuring clear expectations between the Contractor or Third-Party Provider and Purchasing Entities.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its public jurisdiction data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data except (1) during data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the public jurisdiction's written request.

3. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information within its control and comply with the following conditions:

a. The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data within its control. Such security measures shall be in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

b. All data obtained by the service provider within its control in the performance of this contract shall become and remain property of the public jurisdiction.

c. Unless otherwise stipulated, all personal data and non-public data shall be encrypted at rest and in transit with controlled access in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). The SLA or End User Agreement and contract document will specify which party is responsible for encryption and access control of the public jurisdiction data for the service model under contract. If the Statement of Work and the contract are silent, then the public jurisdiction is responsible for encryption and access control.

d. Unless otherwise stipulated, it is the public jurisdiction's responsibility to identify data it deems as non-public data to the service provider. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.

e. At no time shall any data or processes which either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.

4. Data Privacy: The service provider's privacy controls must abide by the following:

a. No type of data mining may be performed on any public jurisdiction data without permission from the public jurisdiction. This includes mining location data from users of applications running on behalf of the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Privacy Controls.

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b. No public jurisdiction data may be sold or transferred to any third party, including service provider affiliates, without permission from the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Privacy Controls.

5. Data Location: The service provider shall provide its services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support (see also below regarding offshore access and follow the sun technical support).

6. Data Access: The service provider shall be responsible for:

a. Providing a multifactor authentication access mechanism for all its personnel and contractors to access any system and data management tool which acts upon any public jurisdiction data in accordance with NIST SP 800- 53 (then current, or prior version compliant with the appropriate certification body's requirements) Access Controls.

   Preventing any offshore access by service provider, employees and contractors, unless explicitly authorized by the Purchasing Entity for follow the sun technical support.

b. Maintaining government data and allowing downloading for a minimum period of 90 days after the termination of the agreement between the public jurisdiction and the service provider. After this period, the service provider will destroy/delete the data and all copies wherever they may reside and provide a certificate of destruction/ deletion to the public jurisdiction.

7. Import and Export of Data: The public jurisdiction shall have the ability to import or export data:

a. In piecemeal or in entirety at its discretion without interference and with support from the service provider as described in the contract, End User Agreement, or SLA. This includes the ability for the public jurisdiction to import or export data to/from other service providers.

b. At intervals as frequent as the public jurisdiction requires.

8. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any security incident or data breach.

a. **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the public

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jurisdiction should be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

b. **Security Incident Reporting Requirements:** The service provider shall report a security incident to the appropriate public jurisdiction identified contact within the manner and timeframe defined in law, a Participating Addendum, or End User Agreement.

c. **Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any public jurisdiction content that is subject to applicable data breach notification law, the service provider shall notify the appropriate public jurisdiction identified contact within 48 hours or sooner — unless shorter time is required by applicable law — and take commercially reasonable measures to address the data breach in a timely manner.

9. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider and related to the service provided under this contract.

a. The service provider, unless stipulated otherwise, shall immediately notify the appropriate public jurisdiction identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

   The service provider, unless stipulated otherwise, shall notify the appropriate public jurisdiction identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is or reasonably believes there has been a data breach. The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document actions taken in response to the data breach, including any post-incident review of events and changes in business practices.

b. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifying individuals, regulators or others required by state law; (3) providing a credit monitoring service required by state or federal law; (4) providing a website or a toll-free number and call center for affected individuals required by state law; and (5) completing all corrective actions as reasonably determined by the service provider based on root cause. These costs shall not exceed the average per-record, per-person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach. All actions [1 through 5] are subject to this contract's limitation of liability.

10. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including Subcontractors, to fulfill obligations of the contract who have been convicted of any crime of dishonesty if such staff in fulfilling the obligations of the contract

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would have access to Purchasing Entity data or access onsite to Purchasing Entity's facilities. This includes but is not limited to criminal fraud or conviction of any felony or misdemeanor offense with an authorized penalty of up to one year of incarceration. The service provider shall promote and maintain an awareness among its employees and agents of the importance of securing the public jurisdiction's information. Each State/Participating Entity may have different background check requirements that must be followed for work performed in its jurisdiction, and such requirements would be discussed at the time a Participating Addendum is entered into.

11. Non-Disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements and limit staff knowledge of customer data to that which is absolutely necessary to perform job duties.

12. Right to Remove Individuals: The public jurisdiction may at any time require the service provider to remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

13. Security: The service provider shall disclose its non-proprietary security protocols, processes, tools and technical limitations to the public jurisdiction such that adequate protection and flexibility can be attained between the public jurisdiction and the service provider.

1. The service provider's disclosures shall include information related to:
2. Governance and compliance
3. Standards and policies
4. Security and risk assessments
5. Continuous monitoring and alerting
6. Privilege and identity access management
7. Data protections
8. Infrastructure and application protections
9. Native cloud service provider SIEM/log management tools
10. System health and resource monitoring
11. Incident response and recovery

The public jurisdiction and the service provider shall understand each other's roles and responsibilities and document them within the SLA or End User Agreement.

14. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction in a format as specified in the SLA or End User Agreement and agreed to by the service provider and the public jurisdiction. Reports will include latency statistics, date and time stamps, user access IP addresses, source and destination IP addresses, system events (e.g., failed and successful events — system shutdown or starting a service, errors, anomalous/abnormal activity or system events, etc.), log-on/authentication attempts (failed and successful), user access history, account changes (e.g., account creation and deletion,

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account privilege assignment, etc.), security policy changes, system configuration changes, usage information (e.g., number of transactions occurring in a certain period of time) and transaction size (e.g., email message size, file transfer size, etc.), and security logs for all public jurisdiction data related to this contract.

a. The service provider and the public jurisdiction recognize that security responsibilities are shared. The service provider is responsible for providing a secure infrastructure (e.g., storage and servers), virtualization/ hypervisor, operating system, middleware and runtime. The service provider and the public jurisdiction typically share responsibility for identity, credential and access management; networking; and data. In certain instances, the public jurisdiction has sole responsibility for securing its applications and data that run within the PaaS computing environment. The methods and conditions for access to logs/reports and the format for logs/reports shall be specified and agreed upon by both parties in the SLA or End User Agreement. Specific shared responsibilities are identified in the SLA or End User Agreement.

15. Retention, Preservation and Archival of Security Logs and Reports: The service provider shall retain security logs and reports in a usable format for a minimum of 6 years and a maximum retention/archival of 6 years beyond the termination of the contract. The methods and timeframes for the retention, preservation (i.e., legal hold), and archival for the logs and reports will be specified and agreed upon by both parties in the SLA or End User Agreement.

16. Encryption of Data at Rest: The service provider shall prevent its employees and Subcontractors from storing personal data on portable devices, except within data centers located in the United States. If personal data must be stored on portable devices to accomplish the work, the service provider must use hard drive encryption in accordance with cryptography standards referenced in FIPS 140-2, Security Requirements for Cryptographic Modules.

17. Contract Audit: The service provider shall cooperate with public jurisdiction audit of conformance to the contract terms. The public jurisdiction or a contractor of its choice may perform the audit. The cost of the audit is the responsibility of the public jurisdiction. If information deemed confidential or proprietary must be reviewed during a contract compliance audit, either party may request the execution of an NDA, to the extent such agreements are allowed by the public jurisdiction's state law or municipal code.

18. Data Center Audit: An annual audit as required by StateRAMP and/or FedRAMP shall be performed for all relevant data centers associated with the provision of a cloud service at the data center provider's expense. Providers must grant the government's information security office access to view the audit and artifacts through StateRAMP, if applicable.

Some governments may accept a SOC 2 Type 2 audit annually for all relevant data centers associated with the provision of the cloud service at the service provider's expense. The audit must be made available to the jurisdiction if requested under unilateral NDA or after being redacted.

19. Continuous Monitoring: The service provider shall, at service provider's expense, conduct continuous monitoring of its compliance with security controls required within the contract. Continuous monitoring shall be conducted via one or a combination of the following methods approved by the public jurisdiction:

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a. Reliance on StateRAMP authorization and independent assessments by third-party assessment organizations (3PAOs)
b. Reliance on FedRAMP authorization and independent assessments by 3PAOs
c. Review of control documentation by internal staff or 3PAOs
d. Acceptance of the service provider's third-party attestation (e.g. AICPA SOC2-Type 2 audit)
e. Self-assessment by the service provider

20. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment are the responsibility of the service provider. The system shall be available 24/7/365 (with agreed-upon maintenance downtime) and provide service to customers as defined in the SLA or End User Agreement.

21. Change Control and Advance Notice: The service provider shall give advance notice (to be determined at contract time and included in the SLA or End User Agreement) to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades or system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version to bring the system up to date or improve its characteristics. It usually includes a new version number.

22. Sub-Contractor Disclosure: The service provider shall identify all strategic business partners related to services provided under this contract, including but not limited to all Subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who will be involved in any application development and/or operations.

23. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan upon request and ensure the public jurisdiction's recovery time objective (RTO) is met.

24. Compliance with Accessibility Standards: The service provider shall comply with and adhere to accessibility standards of Section 508 Amendment to the Rehabilitation Act of 1973.

25. Web Services: The service provider shall use web services exclusively to interface with the public jurisdiction's data in near real time when possible.

26. Subscription Terms: Contractor grants to a purchasing entity a license to: (1) access and use the service for its business purposes; (2) for PaaS, use underlying software as embodied or used in the service; and (3) view, copy, upload and download (where applicable), and use the contractor's documentation.

27. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which might reasonably require access to the data of the public jurisdiction. The service provider shall not

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respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

28. Termination and Suspension of Service:

a. In the event of an early contract termination, the service provider shall allow the public jurisdiction to retrieve its digital content and provide for the subsequent secure disposal of public jurisdiction digital content.

b. During any period of service suspension, the service provider shall not intentionally erase any public jurisdiction digital content.

c. If any services are terminated or the entire agreement is terminated, the service provider shall not intentionally erase any public jurisdiction data for a period of 45 days after the effective date of a termination for convenience, or 60 days after the effective date of a termination for cause. After such period, the service provider has no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control. In the event of a termination for cause, the service provider will impose no fees the customer for access and retrieval of digital content.

d. After termination of the contract and the prescribed retention period, the provider shall securely dispose of all digital content in all forms, such as disk, CD/ DVD, backup tape and paper. The public jurisdiction's digital content shall be permanently deleted and shall not be recoverable, according to NIST-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

----------END of PaaS Terms and Conditions----------

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C. Infrastructure-as-a-Service (IaaS) Terms and Conditions

1. Definitions:

a. **Authorized Persons:** The service provider's employees, contractors, Subcontractors or other agents who need to access the public jurisdiction's personal data to enable the service provider to perform the services required.

b. **Individually Identifiable Health Information:** Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

c. **d. Infrastructure-as-a-Service (IaaS):** The capability provided to the consumer to provision processing, storage, networks and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, including operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications and possibly limited control of select networking components (e.g., host firewalls). .

d. **Public Jurisdiction:** Any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

e. **Public Jurisdiction Data:** All data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

f. **Public Jurisdiction Identified Contact:** The person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

g. **Security Incident:** The potentially unauthorized access by non-authorized persons to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non- public data within the possession or control of the service provider. A security incident may or may not turn into a data breach. .

h. **Service Provider:** The Contractor and its employees, Subcontractors, agents and affiliates who are providing the services agreed to under the contract. Service provider also includes a Third-party Provider providing services under the contract.

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i. **Statement of Work:** A Statement of Work (SOW) is a detailed document issued against the Master Agreement that defines the scope, deliverables, timelines, responsibilities, and acceptance criteria for Products and Services to be performed, ensuring clear expectations between the Contractor or Third-Party Provider and Purchasing Entities.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its public jurisdiction data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data except (1) during data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information within its control and comply with the following conditions:

a. The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data within its control. Such security measures shall be in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

b. All data obtained by the service provider within its control in the performance of this contract shall become and remain property of the public jurisdiction.

c. Unless otherwise stipulated, all personal data and non-public data shall be encrypted at rest and in transit with controlled access in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). The SLA or End User Agreement and contract document will specify which party is responsible for encryption and access control of the public jurisdiction data for the service model under contract. If the statement of work and the contract are silent, then the public jurisdiction is responsible for encryption and access control.

d. Unless otherwise stipulated, it is the public jurisdiction's responsibility to identify data it deems as non-public data to the service provider. The level of protection and encryption for all non-public data shall be identified and made a part of this contract. At no time shall any data or processes which either belong to or are intended for the use of public jurisdiction or its officers, agents or employees be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.

4. Data Privacy: The service provider's privacy controls must abide by the following:

a. No type of data mining may be performed on any public jurisdiction data without permission from the public jurisdiction. This includes mining location data from users of applications running on behalf of the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's

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requirements) Privacy Controls.

b. No public jurisdiction data may be sold or transferred to any third party, including service provider affiliates, without permission from the public jurisdiction in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Privacy Controls.

5. Data Location: The service provider shall provide its services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements). The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support (see also below regarding offshore access and follow the sun technical support).

6. Data Access: The service provider is responsible for:

a. Providing a multifactor authentication access mechanism for all its personnel and contractors to access any system and data management tool which acts upon any public jurisdiction data in accordance with NIST SP 800-53 (then current, or prior version compliant with the appropriate certification body's requirements) Access Controls.

b. Preventing offshore access by service provider employees and contractors unless explicitly authorized by the Purchasing Entity for follow the sun.

c. Maintaining government data and allowing the downloading of that data for a minimum period of 90 days after the termination of the agreement between the public jurisdiction and the service provider. After this period, the service provider will destroy/delete the data and all copies wherever they may reside and provide a certificate of destruction/deletion to the public jurisdiction.

7. Import and Export of Data: The public jurisdiction shall have the ability to import or export data:

a. In piecemeal or in entirety at its discretion without interference and with support from the service provider as described in the contract, End User Agreement, or SLA. This includes the ability for the public jurisdiction to import or export data to/from other service providers.

b. At intervals as frequent as the public jurisdiction requires.

8. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any security incident or data breach.

a. **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the public

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jurisdiction should be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

b. **Security Incident Reporting Requirements:** The service provider shall report a security incident to the appropriate public jurisdiction identified contact within the manner and timeframe defined in law, a Participating Addendum, or End User Agreement.

c. **Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any public jurisdiction content that is subject to applicable data breach notification law, the service provider shall notify the appropriate public jurisdiction identified contact within 48 hours or sooner — unless shorter time is required by applicable law and take commercially reasonable measures to address the data breach in a timely manner.

9. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of a service provider and related to service provided under this contract.

a. The service provider, unless stipulated otherwise, shall immediately notify the appropriate public jurisdiction identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The service provider, unless stipulated otherwise, shall notify the appropriate public jurisdiction identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is or reasonably believes that there has been a data breach. The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document actions taken in response to the data breach, including any post-incident review of events and changes in business practices.

c. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifying individuals, regulators or others required by state law; (3) providing a credit monitoring service required by state or federal law; (4) providing a website or a toll-free number and call center for affected individuals required by state law; and (5) completing all corrective actions as reasonably determined by the service provider based on root cause. These costs shall not exceed the average per-record, per-person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach. All actions [1 through 5] are subject to this contract's limitation of liability.

10. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including Subcontractors, to fulfill obligations of the contract who have been convicted of any crime of dishonesty if such staff in fulfilling the obligations of the contract would have access to Purchasing Entity data or access onsite to Purchasing Entity's

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facilities. This includes but is not limited to criminal fraud or conviction of any felony or misdemeanor offense with an authorized penalty of up to one year of incarceration. The service provider shall promote and maintain an awareness among its employees and agents of the importance of securing the public jurisdiction's information. Each State/Participating Entity may have different background check requirements that must be followed for work performed in its jurisdiction, and such requirements would be discussed at the time a Participating Addendum is entered into.

11. Non-Disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements and limit staff knowledge of customer data to that which is absolutely necessary to perform job duties.

12. Right to Remove Individuals: The public jurisdiction may at any time require the service provider remove from interaction with the public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall notify the service provider of its determination and its reasons for requesting the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

13. Security: The service provider shall disclose its non-proprietary security protocols, processes, tools and technical limitations to the public jurisdiction such that adequate protection and flexibility can be attained between the public jurisdiction and the service provider. The service provider's disclosures shall include information related to:

1. Governance and compliance
2. Standards and policies
3. Security and risk assessments
4. Continuous monitoring and alerting
5. Privilege and identity access management
6. Data protections
7. Infrastructure and application protections
8. Native cloud service provider SIEM/log management tools
9. System health and resource monitoring
10. Incident response and recovery

The public jurisdiction and the service provider shall understand each other's roles and responsibilities and document them within the SLA or End User Agreement.

14. Access to Security Logs and Reports:

a. The service provider shall provide reports to the public jurisdiction directly related to the infrastructure that the service provider controls upon which the public jurisdiction account resides. Unless otherwise agreed to in the SLA or End User Agreement, the service provider shall provide the public jurisdiction a history of all API calls for the public jurisdiction's account. This report shall include the identity of the API caller, the date and time of the API call, the source IP address of the API caller, the request

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parameters, and the response elements returned by the service provider. The report will be sufficient to enable the public jurisdiction to perform security analysis, resource change tracking and compliance auditing.

b. The service provider and the public jurisdiction share security responsibilities. The service provider is responsible for providing a secure infrastructure (e.g., storage and servers) and virtualization/hypervisor. The service provider and the public jurisdiction typically share responsibility for identity, credential and access management; networking; and data. The public jurisdiction is responsible for its secure guest operating system, middleware, runtime, applications, firewalls and other logs captured within the guest operating system. The methods and conditions for access to logs/reports and the format for logs/reports are to be specified and agreed upon by both parties in the SLA or End User Agreement. Specific shared responsibilities are identified within the SLA or End User Agreement.

15. Retention, Preservation and Archival of Security Logs and Reports: The service provider shall retain security logs and reports in a usable format for a minimum of 6 years and a maximum retention/archival of 6 years beyond the termination of the contract. The methods and timeframes for the retention, preservation (i.e., legal hold), and archival for the logs and reports will be specified and agreed upon by both parties in the SLA or End User Agreement.

16. Encryption of Data at Rest: Not relevant to service model. Standards would be selected by the public jurisdiction.

17. Contract Audit: The service provider shall cooperate with public jurisdiction audit of conformance to the contract terms. The public jurisdiction or a contractor of its choice may perform the audit. The cost of the audit is the responsibility of the public jurisdiction. If information deemed confidential or proprietary must be reviewed during a contract compliance audit, either party may request the execution of a non-disclosure agreement (NDA), to the extent such agreements are allowed by the public jurisdiction's state law or municipal code.

18: Data Center Audit: An annual audit as required by StateRAMP and/or FedRAMP shall be performed for all relevant data centers associated with provision of the cloud service at the data center provider's expense. Providers must grant the government's information security office access to view the audit and artifacts through StateRAMP, if applicable.

a. Some governments may accept a SOC 2 Type 2 audit annually for all relevant data centers associated with provision of the cloud service at the service provider's expense. The audit must be made available to the jurisdiction if requested under unilateral NDA or after being redacted.

19. Continuous Monitoring: The service provider shall, at the service provider's expense, conduct continuous monitoring of its compliance with security controls required within the contract. Continuous monitoring shall be conducted via one or a combination of the following methods approved by the public jurisdiction:

a. Reliance on StateRAMP authorization and independent assessments by third-party assessment organizations (3PAOs)
b. Reliance on FedRAMP authorization and independent assessments by 3PAOs

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Review of control documentation by internal staff or 3PAOs

c. Acceptance of the service provider's third-party attestation (e.g. AICPA SOC2-Type 2 audit)
d. Self-assessment by the service provider

20. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment are the responsibility of the service provider. The system shall be available 24/7/365, with agreed-upon maintenance downtime, and provide service to customers as defined in the SLA or End User Agreement.

21. Change Control and Advance Notice: The service provider shall give advance written notice (to be determined at contract time and included in the SLA or End User Agreement) to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades or system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version to bring the system up to date or improve its characteristics. It usually includes a new version number.

22. Subcontractor Disclosure: The service provider shall identify all strategic business partners related to services provided under this contract, including but not limited to all Subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider and who shall be involved in any application development and/or operations.

23. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan upon request and ensure the public jurisdiction's recovery time objective (RTO) is met.

24. Compliance with Accessibility Standards: Not relevant to service model. Standards would be selected by the public jurisdiction.

25. Web Services: Not relevant to service model. Standards would be selected by the public jurisdiction.

26. Subscription Terms: Contractor grants to a purchasing entity a license to: (1) access and use the service for its business purposes; (2) for IaaS, use underlying software as embodied or used in the service; (3) view, copy, upload and download (where applicable), and use contractor's documentation.

27. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

28. Termination and Suspension of Service:

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a. In the event of an early contract termination, the service provider shall allow the public jurisdiction to retrieve its digital content and provide for the subsequent secure disposal of public jurisdiction digital content.

b. During any period of suspension, the service provider shall not intentionally erase any public jurisdiction digital content.

c. If any services are terminated or the entire agreement is terminated, the service provider shall not intentionally erase any public jurisdiction data for a period of 45 days after the effective date of a termination for convenience, or 60 days after the effective date of a termination for cause. After such period, the service provider has no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control. In the event of a termination for cause, the service provider will impose no fees the customer for access and retrieval of digital content.

d. After termination of the contract and the prescribed retention period, the provider shall securely dispose of all digital content in all forms, such as disk, CD/ DVD, backup tape and paper. The public jurisdiction's digital content shall be permanently deleted and shall not be recoverable, according to NIST-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

----------END of IaaS Terms and Conditions----------

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Attachment A.2 – On-Premises Terms and Conditions

Due to the nature of on-premise software solutions, the Master Agreement defers these terms and conditions to be negotiated on a case by case basis by the entity seeking an on-premise software solution. As most Purchasing Entities will have very specific technology restrictions and/or statutes within its jurisdiction, creating a standard set of terms for this type of implementation was not reasonable. Each State and/or Participating Entity may add in specific on-premise terms and conditions to be negotiated at the time a Participating Entity seeks to enter a PA with an awarded Offeror.

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Attachment B
SCOPE OF WORK

This Scope of Work describes the solutions and services Contractor will provide through the Master Agreement.

The Master Agreement is not intended to replace or materially overlap in scope with other NASPO ValuePoint contract portfolios, including, but not limited to, the following:

1. Data Communications
2. eProcurement Solutions
3. Multi-Function Devices
4. Citizen Engagement Platforms
5. IT Research and Advisory Services
6. Audio Video Equipment, Software, and Services
7. MMIS
    a. Medicaid Enterprise Systems - Provider Services Module
    b. Medicaid Enterprise Systems - Claims Processing and Management Services Module
    c. Medicaid Enterprise Systems - Third Party Liability
    d. Medicaid Enterprise Systems - Pharmacy Benefits Manager (PBM)

Contractor may include equipment, accessories, and services available under these portfolios only to the extent that such solutions are complementary to the equipment, products, or services being offered. The Lead State may, at its sole discretion, reject products and services from a Contractor's catalog, or remove products and services from a Contractor's Master Agreement, if the Lead State determines that such products and services exceed the intended scope of this Master Agreement or do not comply with this requirement.

I. Scope of Work Overview:

This Scope of Work includes the award categories listed below. For any awarded category, Contractor may also provide related Value-Added Services. Contractor's awarded categories are listed below:

1. Direct Service Provider: SAAS
2. Direct Service Provider: Iaas
3. Direct Service Provider: Paas
4. Direct Service Provider: On-Premise
5. Direct Service Provider: Value Added Services

Hardware is generally not within the scope of this Master Agreement, however, some hardware that is an integral part of a Cloud or On-premises solution may be sold as part of an overall solution. Hardware is not available as a standalone purchase from the Master Agreement and Participating Addenda, except as replacement parts as needed for previously purchased hardware that was not purchased as a standalone but rather was incidental, ancillary, and/or required as part of an overall Cloud or On-Premises solution purchased under this contract. Internet Service Provider services are not within the scope of this Master Agreement.

Definitions:

Cloud and other software services terminology varies greatly within the information technology industry. To clarify the target audience and the intent of the Master Agreement, the following definitions shall apply:

1. Definitions, Roles, and Responsibilities:

Direct Service Providers: A Direct Service Provider is the entity responsible for making a service available to Purchasing Entities. A Direct Service Provider for a cloud solution or other software solution could include an original equipment manufacturer ("OEM"), software publisher, etc. A Direct Service Provider for purposes of the Master Agreement is an entity who creates and has its own solutions, and provides their own cloud or software solutions or services, and typically sets the pricing for its own Products and Services that it provides. A Direct Service Provider may or may not necessarily sell directly

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to customers and Purchasing Entities (it may onboard and utilize Fulfillment Partners and sell through the Fulfillment Partners exclusively as its authorized resellers as an example). A Direct Service Provider for an On-Premises solution would develop, maintain and support software that is installed locally on a consumer's system, hardware, or infrastructure and which is provided as Product under the Master Agreement.

A Direct Service Provider is responsible for all obligations and performance under its Master Agreement including all Products and Services, solutions, etc. provided by its Subcontractors, Fulfillment Partners, or Third-party Providers.

Value-added Reseller: A Value-added Reseller is an entity which primarily resells or distributes products, software, solutions, services, etc. that are developed and provided by a Subcontractor or Third-party Provider. Value-added Reseller may also include a firm, implementer, integrator, etc. that partners with a cloud or software solution provider, publisher, original equipment manufacturer ("OEM"), etc. to provide a solution. The value is generated by the Value-added Reseller's ability to help Purchasing Entities source multiple solutions through a one stop shop or to help create an overall cloud or software solution composed of multiple systems and services.

A Value-added Reseller is responsible for all obligations and performance under its Master Agreement, including all Products and Services, solutions, etc. provided by its Subcontractors, Fulfillment Partners, or Third-party Providers.

Fulfillment Partner: Is an agent authorized to act on behalf of a Contractor including a Contractor who is either a Direct Service Provider or Value-added Reseller. Fulfillment Partners may act as an authorized reseller, implementer, service provider, or other related role to fulfill and complete the delivery and performance of a Product or solution that is being purchased through a Master Agreement. Fulfillment Partners may quote, invoice, and receive payment on behalf of a Contractor. To add a Fulfillment Partner to a Master Agreement, the Contractor must submit a request to the Lead State for approval providing the Fulfillment Partner's vendor information, W-9, and updated list of Fulfillment Partners containing their contact information, which states/areas they are authorized to act in, and other pertinent information related to the products, services, solutions, etc. Fulfilment Partners are authorized to provide Products or resell on behalf of the Contractor.

A Contractor, whether in their role as a Direct Service Provider or Value-added Reseller (i.e. the Master Agreement holders), is fully responsible for all actions and performance of its Fulfillment Partners. A Purchasing Entity typically should not need to sign an End User Agreement to utilize a Fulfillment Partner because the Fulfillment Partner is acting on behalf of the primary Contractor and has been approved by the Lead State.

Subcontractor: A Subcontractor may be onboarded by a Contractor to provide additional Products and Services that are within the Contractor's Master Agreement award(s). A Subcontractor may include a software publisher, OEM, cloud provider, service provider, consultant, implementer, etc. and will provide Products and Services on a Contractor's Master Agreement in accordance with the terms and conditions of the Master Agreement. Because a Contractor is fully responsible for a Subcontractor and Subcontractor's Products and Services, the Subcontractor is not required to sign a Third-party Provider Agreement, but Contractor must have a Subcontractor approved by the Lead State to add its Products and Services to Contractor's Master Agreement (see Catalog Updates below). Contractor must ensure when onboarding a Subcontractor that the Subcontractor understands and accepts that the Master Agreement's and applicable Participating Addendum's terms and conditions will apply to Subcontractor's Products and Services when sold and provided through the Contractor's Master Agreement. Additionally, if a Subcontractor requires an End User Agreement, the Contractor must ensure its Subcontractors understand and accept the Order of Precedence outlined in the Master Agreement and where the Subcontractor's End User Agreements falls within the Order of Precedence. All End User Agreements for Subcontractors must meet the requirements outlined in the Master Agreement.

Subcontractors may not quote, invoice, or receive payment on behalf of a Contractor unless they are set up as a Fulfillment Partner by the Contractor and approved by the Lead State.

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Third-party Provider: A Third-party Provider is not a Contractor and does not hold a Master Agreement. A Third-party Provider is a third-party publisher, developer, service provider, OEM, etc. who has executed a Third-party Provider Agreement with a Contractor and which has been approved by the Lead State. After executing a Third-party Provider agreement with a Contractor and receiving approval from the Lead State, a Third-party Provider allows their products, solutions, services, etc. to be sold and provided through the Contractor's Master Agreement. By executing a Third-party Provider Agreement with a Contractor and receiving approval from the Lead State, a Third-party Provider becomes party to the Master Agreement as a Third-party Provider as defined in the Master Agreement. In their role as a Third-party Provider, it agrees to, is bound by, and required to perform in accordance with all the terms and conditions of the Master Agreement and applicable Participating Addendum as it relates to all Products and Services it offers under the Master Agreement. This includes but is not limited to, that all its Products comply with all security standards/requirements, insurance requirements, and acknowledge the Order of Precedence contained in the Master Agreement.

Contractor, whether in a role as a Direct Service Provider or a Value-added Reseller, may utilize Third-party Providers in accordance with the terms of its Master Agreement. Because Third-party Providers receive compensation and a benefit for providing their Products and Services through a Master Agreement, and sign a Third-party Provider Agreement, it is the intent of the parties that both the Third-party Providers and Contractors are jointly and severally liable for the Products provided by a Third-party Provider. Third-party Providers are not responsible or liable for Products and Services provided by other Third-party Providers, only joint and severally liable, along with the Contractor, for the Products and Services the Third-party Provider itself offers. Contractor will always serve as the main points of contact for Purchasing Entities and Participating Entities for any and all issues related to the performance and delivery of Products provided under the Master Agreement. Contractors must make best efforts to assist Purchasing Entities and Participating Entities with any issues involving Third-party Providers that the Contractor may not have direct control over. A Third-party Provider is liable for the Products it provides via the Master Agreement in accordance with the Master Agreement, Participating Addendum, and applicable End User Agreement terms and conditions. Any breach of the Master Agreement, Participating Addendum, and applicable End User Agreement terms and conditions by the Third-party Provider may be enforced against the Third-party Provider as though it were a Contractor and signatory to the Master Agreement.

A template of the Third-party Provider Agreement to be executed at a later date between a Contractor and Third-party Provider is attached to the Master Agreement. Unless and until a Third-party Provider Agreement is executed between the Contractor and Third-party Provider, approved by the Lead State, and posted on NASPO ValuePoint's website on the Contractors landing page, it is not considered a valid agreement.

Third-party Providers may not quote, invoice, or receive payment on behalf of a Contractor unless they are set up as a Fulfillment Partner by the Contractor and approved by the Lead State.

Software Online Marketplace: A software online marketplace is a curated digital storefront or online catalog where customers can find, buy and manage software, data, services, etc. Use of a software online marketplace or digital catalog (e.g. AWS Marketplace, Azure Marketplace, etc.) by a Contractor is allowable to sell a Contractor's Products and Services (including Products and Services it may offer through Subcontractors or Third-party Providers), but only if there is a process through the online marketplace to incorporate the terms and conditions of the Contractor's Master Agreement and applicable Participating Addendum, and Contractor ensures the correct process for doing so is completed. Before any Subcontractor's, or Third-party Provider's solution may be sold by the Contractor via the online marketplace the Subcontractor or Third-party Provider Products and Services must be properly onboarded to Contractor's Master Agreement, including receiving approval from the Lead State (see above regarding Subcontractors and Third-party Providers, and see below regarding Catalog Updates).

2. Categorization of Risk

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Contractor must store and secure one, all, or a combination of data[1] Risk categories of the data are defined as:

a. Low Risk Data

Definition: FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("Low Impact Data").

Low Impact levels are defined in FIPS 199 as follows:

The potential impact is low if the loss of confidentiality, integrity, or availability could be expected to have a limited adverse effect on organizational operations, organizational assets, or individuals. A limited adverse effect could mean that the loss of confidentiality, integrity, or availability might:

- Cause a degradation in mission capability to an extent and duration that the organization is able to perform its primary functions, but the effectiveness of the functions is noticeably reduced;
- Results in minor damage to organizational assets, minor financial loss, or minor harm to individuals.

b. Moderate Risk Data

Definition: FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("Moderate Impact Data").

The potential impact is moderate if the loss of confidentiality, integrity, or availability could be expected to have a serious adverse effect on organizational operations, organizational assets, or individuals. A serious adverse effect could mean that the loss of confidentiality, integrity, or availability might:

- Cause a significant degradation in mission capability to an extent and duration that the organization is able to perform its primary functions, but the effectiveness of the functions is significantly reduced;
- Result in significant damage to organizational assets, significant financial loss, or significant harm to individuals, but not loss of life or serious life-threatening injuries.

c. High Risk Data

Definition: FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems ("High Impact Data").

The potential impact is high if the loss of confidentiality, integrity, or availability could be expected to have a severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals. A severe or catastrophic adverse effect could mean that the loss of confidentiality, integrity, or availability might:

- Cause a severe degradation in or loss of mission capability to an extent and duration that the organization is not able to perform one or more of its primary functions;
- Result in major damage to organizational assets, major financial loss, or severe or catastrophic harm to individuals involving loss of life or serious life-threatening injuries.

Prior to signing a Participating Addendum, a Contractor and a Participating State must cooperate and determine what type of risk categories of the data are going to be utilized in the Participating Addendum.

[1] Data types and classifications may vary depending on the Participating State's laws and regulations. Participating States may change the classification levels, types, names, and restrictions for certain data during the participating addendum stage.

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3. Service Models

All Cloud Service Based Models must follow the NIST definition of cloud computing in NIST Special Publication 800-145. Any applicable standards for such Service Model identified in NIST 800-145 and 800-53 will apply to those Service Models that the Contractor was awarded. Additionally, all solutions and services (whether a Cloud Service Based Model or On-premise) must comply with NIST Special Publication 800-53 and any other applicable NIST standards.

Award Categories:

Below is not considered an exhaustive list of all the available types of cloud or software services that may be available. Often newer solution types may be a combination or a hybrid variation of the below categories. For example, Wi-Fi as a Service may be allowable as it's a combination of SaaS, IaaS and professional services.

All service models must align with all applicable NIST requirements and standards. The 4 main software services models and award categories are defined as:

1. **Software as a Service (SaaS) -** as used in this Master Agreement is defined as the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email), or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings. Full terms and conditions applicable to SaaS are located in Attachment A NASPO Master Agreement Terms and Conditions.

2. **Infrastructure as a Service (IaaS)** - as used in this Master Agreement is defined as the capability provided to the consumer for provision processing, storage, networks, and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications; and possibly limited control of select networking components (e.g., host firewalls). Full terms and conditions applicable to IaaS are located in Attachment A NASPO Master Agreement Terms and Conditions.

3. **Platform as a Service (PaaS)** - as used in this Master Agreement is defined as the capability provided to the consumer to deploy onto the cloud infrastructure consumer-created or -acquired applications created using programming languages and tools supported by the provider. This capability does not necessarily preclude the use of compatible programming languages, libraries, services, and tools from other sources. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment configurations. Full terms and conditions applicable to PaaS are located in Attachment A NASPO Master Agreement Terms and Conditions.

4. **On-Premises** – as used in this Master Agreement is defined as Products and Services installed or provided locally on a consumer's hardware, servers, or other infrastructure. On-Premises solutions are not cloud solutions. Consumer maintains and has control over their operating systems, hardware, and infrastructure. Appropriate terms and conditions applicable to On-Premises solutions are being deferred to Participating Entities to negotiate in its Participating Addendum (PA). As On-Premises solutions are unique to each entity and involve individual jurisdictions and applicable code, rule, regulations, and statutes that will oversee this Service Model. This allows each Participating Entity to place its own mandatory requirements.

Value Added Services – Value Added Services includes a variety of professional services such as implementation, consulting, data migration, customization, configuration, installation, setup, etc. Value Added Services must fall within the general scope of an awarded category above.

4. Deployment Models

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Contractor must provide software services through one of the following deployment methods:

a. **Private cloud.** The cloud infrastructure is provisioned for exclusive use by a single organization comprising multiple consumers (e.g., business units). It may be owned, managed, and operated by the organization, a third party, or some combination of them, and it may exist on or off premises.
b. **Community cloud.** The cloud infrastructure is provisioned for exclusive use by a specific community of consumers from organizations that have shared concerns (e.g., mission, security requirements, policy, and compliance considerations). It may be owned, managed, and operated by one or more of the organizations in the community, a third party, or some combination of them, and it may exist on or off premises.
c. **Public cloud.** The cloud infrastructure is provisioned for open use by the general public. It may be owned, managed, and operated by a business, academic, or government organization, or some combination of them. It exists on the premises of the cloud provider.
d. **Hybrid cloud.** The cloud infrastructure is a composition of two or more distinct cloud infrastructures (private, community, or public) that remain unique entities, but are bound together by standardized or proprietary technology that enables data and application portability (e.g., cloud bursting for load balancing between clouds)
e. **On-Premises.** software is installed and runs on computers on the premises of the person or organization using the software, rather than at a remote facility such as a server farm or cloud. In an On-Premises model the hardware and infrastructure is owned and maintained by the Purchasing Entity.

Note: In order to comply with NIST Standards and Requirements but encourage the development and use of new technologies and as new definitions or modifications of NIST Standards and Requirements are established, the scope of services for the Master Agreement may be modified to align with those definitions, pursuant to Utah Administrative Code R33-12-502. The scope of services may be modified for the Contract if both parties agree to the modification. Contract may not be extended beyond the terms of the contract included in this Master Agreement as a result of a modification.

II. NEW TECHNOLOGY

Pursuant to Utah Administrative Rule R33-12-502 the awarded contract(s) may be modified to incorporate new technology or technological upgrades associated with the procurement item being solicited, including new or upgraded: (i) systems; (ii) apparatuses; (iii) modules; (iv) components; and (v) other supplementary items. Further, a maintenance or service agreement associated with the procurement item under the resulting contract(s) may be modified to include any new technology or technological upgrades. Any contract modification incorporating new technology or technological upgrades will be specific to the procurement item being solicited and substantially within the scope of the original procurement or contract.

III. CATALOG UPDATES

Contractor may only add new Products and Services to their pricing catalog for those categories (i.e., service models - SaaS, IaaS, PaaS, and/or On-premises) that it was awarded.

At a minimum, Contractor's detailed catalog must identify the name and description of the Product offered, the Product provider's name, and the role of the Product provider under the Contract (e.g. Fulfilment Partner, Subcontractor, or Third-party Provider). Contractor catalog must list all Products and Services with SKUs (or some equivalent identifiers) and pricing. Pricing must demonstrate the correct contract price with the MSRP (or list price or equivalent if MSRP is not available), discount percentage, and Master Agreement price clearly listed. Additionally, Contractor must provide a summary catalog document listing all the solutions' names and Products available on the Master Agreement, but without all the pricing, line items, and SKU details. This will help Participating Entities more easily see what is available in a much more accessible document than the full detailed catalog.

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Contractor is limited to one catalog and End User Agreement update **per quarter**. To add new Products and Services, the Contractor must submit the following information and documents to the State Lead for approval:

1. A brief description of the Product(s) to be added;
2. The category of the Product that falls within one of the Contractor's awarded categories (i.e. SaaS, PaaS, IaaS, On-Premises, Value Added Services);
3. An updated catalog/price list with a clear description of the Products offered and the category they fall under (SaaS, IaaS, PaaS, On-Premises, or Value Added Services);
4. Any additional terms and conditions that accompany the additional Products and Services, including End User Agreements that will be added to Master Agreement Attachment E. The Lead State will review these additional terms and conditions and End User Agreements to ensure their form complies with requirements in the Master Agreement. The Lead State approving of the addition of End User Agreements to the Master Agreement is not acceptance for purposes of making a purchase, and any additional terms and End User Agreements may be negotiated as needed by Participating Entities and individual Purchasing Entities at the time of ordering and making a purchase.
5. A certification that new catalog additions,(including any Products and Services offered via Subcontractors, Fulfillment Partners, and/or Third-party Providers) meet all the Terms & Conditions and requirements of the Master Agreement. An email message certification will suffice.
6. A certification that the new additions comply with the mandatory minimum discount % (and if applicable maximum mark up percentage for Value-added Resellers) as required in Contractor's Master Agreement. An email message certification will suffice.
7. A copy of the executed Third-party Provider Agreement (using the template provided in the Master Agreement) with a Third-party Provider whose Products the Contractor is reselling or utilizing in an overall solution through its Master Agreement (if applicable).
8. Copies of certificates of insurance that meet the correct coverage amounts for all Third-party Providers as required by the Master Agreement and appropriate for the Products and Services they offer through the Contractor's Master Agreement (if applicable).

Once the new catalog and any applicable End User Agreements are approved by the Lead State, the updated catalog and, if applicable, new End User Agreements will be published on the NASPO ValuePoint website via a Google Drive link or similar file sharing system maintained by the Lead State. Contractor catalogs and other product documents approved by the Lead State and published on or accessible through NASPO ValuePoint's website are incorporated by reference to the Master Agreement. An amendment to the Contractor's Master Agreement is not required for a catalog update that is approved by the Lead State and published on NASPO ValuePoint's website.

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Attachment C Pricing Discounts and Schedule

The discount percentages that shall apply to the Contractor's catalog are outlined below.
The Contractor's detailed and summary catalogs, as described in Attachment B: Scope of Work, will be available on the NASPO ValuePoint website. Attachment C of the Master Agreement incorporates by reference catalogs approved by the Lead State and posted on the Contractor's landing page on NASPO ValuePoint's website.

Minimum Discount % Off MSRP	Software (Saas)	Infrastructure (Iaas)	Platform (Paas)	On-Premises	Value Added Services*
Direct Service Providers: Minimum Discount % off MRSP * (also applies to all Third-party solutions or services offered within this Value Added Services category)	5%	5%	5%	5%	5%

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Attachment D

Contractor's Response to the Solicitation

Both the solicitation and the Contractor's response to the solicitation will both be available on the NASPO website for transparency, less any information marked as confidential by the Contractor at the time of submission.

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Attachment E

End User Agreements

This Attachment E incorporates by reference the End User Agreements approved by the Lead State and posted on NASPO ValuePoint's website.

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Attachment F: Third-party Provider Agreement (Template)

Pursuant to, and in accordance with, Attachment B of Master Agreement [*insert master agreement* number] signed between Contractor and the Lead State of Utah (the "Master Agreement"), [*insert third-party publisher/provider's information* here] the "Third-party Provider" hereby acknowledges that it has received and reviewed a complete copy of the Master Agreement and agrees that upon execution of this Third-party Provider Agreement, such Third-party Provider shall become a Third-party Provider under the Master Agreement once this Third-party Provider Agreement is signed by the Contractor and approved by the Lead State. Third-Party Provider shall be fully bound by, and subject to, all of the covenants, terms, and conditions of the Master Agreement as if it were a Contractor as they apply to its role as a Third-party Provider, as that term is defined and used in the Master Agreement.

Contractor and Third-party Provider are joint and severally liable for all Products and Services, as that term is defined in the Master Agreement, provided by the Third-party Provider under the Contractor's Master Agreement.

Third-party Provider acknowledges that any Third-party Terms and/or End User Agreements included by Third Party Provider will not supersede either the Master Agreement terms and conditions nor any Participating Entities terms and conditions contained within its Participating Addendum (PA). Third-Party Provider's additional terms (if any) will follow the order of precedence as established in the Master Agreement. Any breach of the Master Agreement Terms and Conditions by the Third Party may be enforced against the Third Party as though they were a signatory to the Master Agreement.

Contractor and Third-party Provider acknowledge this Third-party Provider Agreement is not effective until it is approved by the Lead State and posted on NASPO ValuePoint's Website on the Contractor's landing page. Third-party Provider may not begin providing services, access to a solution, delivering equipment, or provide any other Deliverables via Contractor's Master Agreement until the Lead State has provided written approval to the Contractor, and this Third-party Provider Agreement is posted on NASPO ValuePoint's website.

Contractor Name:	Third-party Provider Name:
_____ Signature and Date	_____ Signature and Date
_____ Signer Name and Title	_____ Signer Name and Title

Lead State Approval:

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Attachment G
IRS Publication 1075 Exhibit 7

Exhibit 7 Safeguarding Contract Language

I. PERFORMANCE

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by officers or employees with the following requirements:

(1) All work will be performed under the supervision of the contractor.

(2) The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.

(3) FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.

(4) FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.

(5) The contractor will certify that FTI processed during the performance of this contract will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.

(6) Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.

(7) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

(8) No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.

(9) Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.

(10) To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.

(11) In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and

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obligated to the agency under this contract.

(12) For purposes of this contract, the term “contractor” includes any officer or employee of the contractor with access to or who uses FTI, and the term “subcontractor” includes any officer or employee of the subcontractor with access to or who uses FTI.

(13) The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

II. CRIMINAL/CIVIL SANCTIONS

(1) Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

(2) Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

(3) Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of $1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency’s security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency’s security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*). The training on the agency’s security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

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III. INSPECTION

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with FTI safeguard requirements.