

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

Master Agreement #: AR2479

Contractor: **DELOITTE CONSULTING LLP**

Participating Entity: **STATE OF NEVADA**

All products, accessories, and services listed on the Contractor page of the NASPO ValuePoint website shall be available for purchase by state agencies, the university and community college system, the Legislative Counsel Bureau, and political subdivisions (i.e. cities, counties, school districts, etc.) of the State of Nevada.

Master Agreement Terms and Conditions:

1. Scope:

This addendum (also referred to herein as "Contract") covers Cloud Solutions led by the State of Utah for use by state agencies, the university and community college system, the Legislative Counsel Bureau, and political subdivisions located in the State of Nevada authorized by Nevada statute to utilize State contracts with the prior approval of the Administrator for the Department of Administration Purchasing Division.

2. Participation:

This NASPO ValuePoint Master Agreement may be used by all state agencies, the university and community college system, the Legislative Counsel Bureau, political subdivisions, and other entities authorized to use statewide contracts in the State of Nevada. Issues of interpretation and eligibility for participation are solely within the authority of the Administrator for the Department of Administration Purchasing Division.

3. Access to Cloud Solutions Services Requires State CIO Approval:

Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.

4. Primary Contacts:

The primary contact individuals for this Participating Addendum are as follows (or their named successors):

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Contractor

Name:	Thomas Beck
Address:	50 S 6 th St. Ste. 2800 Minneapolis, MN 55402
Telephone:	612-397-4000
Fax:	313-396-3618
Email:	thbeck@deloitte.com

Participating Entity

Name:	Gideon Davis, Purchasing Officer
Address:	515 E. Musser St. Ste. 300 Carson City, NV 89701
Telephone:	775-684-0196
Fax:	775-684-0188
Email:	gkdavis@admin.nv.gov

5. Participating Entity Modifications Or Additions To The Master Agreement

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions.

5.1 State Agency Order Placement

5.1.1 Orders for Nevada State Agencies shall meet requirements listed below to be placed with the contractor. It is the responsibility of the contractor to ensure orders from state agencies include required documents. The State is not liable for any costs incurred by vendors prior to entering into a formal contract or any order that does not meet the requirements listed below.

5.1.1.1 Orders shall require a fully executed Work Plan (*refer to sample template in Exhibit A*). Work Plan shall include, at a minimum:

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- A. Scope of Work
- B. Consideration
- C. Insurance risk level for cyber liability
- D. Technology Investment Request (TIR) or waiver, if required
- E. Approval in accordance with Nevada State Administrative Manual (SAM) Section 322, Subsection 1

5.1.2 Orders for the university and community college system, the Legislative Counsel Bureau, political subdivisions, and other entities authorized to use statewide contracts in the State of Nevada shall follow using entity policy. The State is not liable for the obligations of any political subdivision which joins or uses any contract resulting from this agreement.

5.1.3 Orders shall not become effective unless mutually agreed to and executed by the applicable Purchasing Entity and the Contractor.

5.1.4 As set forth in the Master Agreement, Orders may include the licensing of specific software programs pursuant to individual End User License Agreements, in a form substantially similar to the license agreement for the applicable software as attached to, or referenced in (e.g., as part of the AWS marketplace), the Master Agreement, in each case as executed by the Purchasing Entity and the applicable software vendor as part of the applicable Order. Contractor's products subsidiary, Deloitte Consulting Products Services LLC, is the reseller of any third party software products covered by any such license agreement, although Contractor will be responsible for invoicing and collecting payment with respect thereto.

5.1.5 The additional terms set forth in Attachment CC to this Participating Addendum will apply to any Order where AWS hosting is included as part of the Services thereunder.

5.2 Required Approval

This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

5.3 Definitions

5.3.1 "State" — means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.

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- 5.3.2 “Contracting Agency” – means the State agency identified above.
- 5.3.3 “Contractor” – means the person or entity identified above that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.
- 5.3.4 “Fiscal Year” – means the period beginning July 1st and ending June 30th of the following year.
- 5.3.5 “Contract” – Unless the context otherwise requires, “Contract” means this document entitled Participating Addendum and all Attachments and Incorporated Documents.
- 5.3.6 “Participating Addendum” – means this document entitled Participating Addendum exclusive of any Attachments or Incorporated Documents.

5.4 Contract Term

This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 5.11, Contract Termination*. Contract is subject to Board of Examiners’ approval (anticipated to be 05/08/2018).

Effective from:	Upon BOE Approval ✓	To:	09/08/2026 ✓
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5.5 Notice

All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (i) by delivery in person; (ii) by a nationally recognized next day courier service, return receipt requested; or (iii) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or electronic mail to the address(es) such party has specified in writing.

5.6 Incorporated Documents

The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work that may be ordered under this Contract. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	MASTER AGREEMENT # AR2479
ATTACHMENT BB:	STATE of UTAH CONTRACT ASSIGNMENT

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ATTACHMENT CC:	AWS HOSTING
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Any provision, term or condition of an Attachment that contradicts the terms of this Participating Addendum, or that would change the obligations of either party under this Participating Addendum, shall be interpreted first by giving priority to the terms of this Participating Addendum and then subject to the order of precedence set forth above for the Attachments hereto.

5.7 Consideration

State is not liable for the obligations of any political subdivision which joins or uses any contract resulting from this agreement.

Each Nevada State Agency project shall require a fully executed Order, including work plan, as identified in *Section 5.1, State Agency Order Placement*.

The parties agree that Contractor will provide the services specified in *Section 5.6, Incorporated Documents*, to the extent included on a fully executed Order, including its Work Plan at a cost as negotiated and approved on the Work Plan.

The Contracting Agency shall compensate Contractor pursuant to the terms of the applicable fully executed Order. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the fully executed Order. Contractor's invoices are due within thirty (30) days of receipt. If payment is not received within thirty (30) days of receipt of an invoice Contractor may suspend or terminate the Services upon ten (10) days' written notice if payment is not received within such period.

5.8 Assent

The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

5.9 Billing Submission: Timeliness

The parties agree that timeliness of billing is of the essence to the Contract and recognize that the State is on a Fiscal Year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the state of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to Contractor.

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5.10 Inspection & Audit

- 5.10.1 Books and Records. Contractor agrees to keep and maintain under standard accounting principles full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all applicable State and federal regulations and statutes.
- 5.10.2 Inspection & Audit. Contractor agrees that the relevant books, records, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with reasonable prior written notice by the State Auditor, the relevant State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this Section.
- 5.10.3 Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years with respect any Order that is federally funded. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
- 5.10.4 Limitations. Any records, contracts, books, documents, reports and/or other materials made available by Contractor under this Section 5.10 (collectively, "Records") are the proprietary Records of Contractor and may be redacted by Contractor to the extent necessary to protect any of its proprietary information unrelated to the purposes of this Section 5.10 and to avoid any unnecessary invasion of personal privacy. Moreover, the Records (including copies thereof) shall not be disclosed, in whole or in part, by any party conducting any inspection, examination, review or audit pursuant to this Section 5.10, to

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any person or entity other than in furtherance of the purposes of this Section 5.10.

5.11 Contract Termination

5.11.1.1 Termination Without Cause; Other Termination. Regardless of any terms to the contrary, this Contract may be terminated upon written notice by mutual consent of both parties. The State unilaterally may terminate this contract without cause by giving not less than thirty (30) days' notice in the manner specified in *Section 5.5, Notice*. The State may also unilaterally terminate this Contract if any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or if Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the Bankruptcy Court.

5.11.2 If this Contract is unilaterally terminated by the State, Contractor shall use its best efforts to minimize cost to the State and Contractor will not be paid for any cost that Contractor could have avoided.

5.11.3 State Termination for Non-Appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages (except for the State's payment obligations under Section 5.11.5, below), effective immediately upon receipt of written notice (or any date specified therein) if for any reason the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

5.11.4 Termination with Cause for Breach. A breach may be declared with or without termination. A notice of breach and termination shall specify the date of termination of the Contract, which shall not be sooner than the expiration of the Time to Correct, if applicable, allowed under *Section 5.11.4*. This Contract may be terminated by either party upon written notice of breach to the other party on the following grounds:

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- 5.11.4.1 If Contractor materially breaches any of its obligations under this Contract; or
- 5.11.4.2 If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
- 5.11.4.3 If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- 5.11.4.4 If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.
- 5.11.5 Time to Correct. Unless the breach is not curable, termination upon declared breach may be exercised only after service of formal written notice as specified in *Section 5.5, Notice*, and the subsequent failure of the breaching party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared breach has been corrected. Upon a notice of breach, the time to correct and the time for termination of the contract upon breach under *Section 5.11.3*, above, shall run concurrently, unless the notice expressly states otherwise.
- 5.11.6 Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:
 - 5.11.6.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract;
 - 5.11.6.2 Contractor shall complete work in progress at the agreed rate (or a pro rata basis if necessary and agreed) if so requested by the Contracting Agency and agreed by Contractor;

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5.11.6.3 Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with *Section 5.22, State Ownership of Proprietary Information*.

5.12 Remedies

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and as applicable and awarded under law, to a prevailing party reasonable attorneys' fees and costs. For purposes of an award of attorneys' fees to either party, the parties stipulate and agree that a reasonable hourly rate of attorneys' fees shall be one hundred and fifty dollars (\$150.00) per hour. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

5.13 Limited Liability

The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Subject to and not in limitation in any way of the immediately preceding sentence, contract liability of both parties shall not be subject to punitive, consequential, special, indirect, incidental, punitive or exemplary claims, liabilities, losses, damages or expenses (collectively, "Damages"). Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the Fiscal Year budget in existence at the time of the breach. Except in the case of (i) Contractor's recklessness or intentional torts, or (ii) the fulfillment of Contractor's indemnification obligations, Contractor's, its contractors'/subcontractors', and their respective personnel's liability for all Damages for breach of contract, tort (including, without limitation, negligence), or other cause of action arising out of, or related to, this Contract, any Order, or the services for an aggregate amount in excess of the fees paid by the Contracting Agency to Contractor under such Order over the twelve (12)-month period immediately preceding the date on which the first cause of action giving rise to Damages under such Order accrues.

5.14 Force Majeure

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the

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party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

5.15 Indemnification and Defense

To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs attributable to claims of third parties for (i) bodily injury, death, or physical damage to real or tangible personal property, to the extent caused by the negligent or willful acts or omissions of Contractor, its officers, employees and agents in the performance of services hereunder, and (ii) infringement by a deliverable created by Contractor for delivery to the State hereunder of any U.S. patent known to Contractor or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) the State's modification of such deliverable or use thereof in a manner not contemplated by this Contract, (ii) the failure of the State to use any corrections or modifications made available by Contractor, (iii) information, materials, instructions, or specifications provided by or on behalf of the State, or (iv) the use of such deliverable in combination with any product or data not provided by Contractor. If the State's use of any such deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, Contractor, at its option and expense, shall have the right to (x) procure for the State the continued use of such deliverable, (y) replace such deliverable with a non-infringing deliverable, or (z) modify such Deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by Contractor, the replacement or modified deliverable is capable of performing substantially the same function. The foregoing provisions of this Section constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of Contractor, relating to a claim that any of Contractor's deliverables infringes any patent, copyright or other intellectual property right of a third party.

5.16 Representations Regarding Independent Contractor Status

Contractor represents that it is an independent contractor, as defined in NRS 333.700(2) and 616A.255, warrants that it will perform all work under this contract as an independent contractor, and warrants that the State of Nevada will not incur any employment liability by reason of this Contract or the work to be performed under this Contract. To the extent the State incurs any employment liability for the work under this Contract; Contractor will reimburse the State for that liability.

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5.17 Insurance Schedule

Unless expressly waived in writing by the State, Contractor must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in *Attachment AA, Section 16* incorporated hereto by attachment. The State shall have no contractual liability except as specifically provided in the Contract.

Contractor shall not commence work before Contractor has provided the required evidence of insurance to the Contracting Agency. The State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

5.17.1 Insurance Coverage. Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment BB, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until:

5.17.1.1 Final acceptance by the State of the completion of this Contract; or

5.17.1.2 Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis with respect to Contractor's activities under this Contract. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than ten (10) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

5.17.2 General Requirements.

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- 5.17.2.1 Additional Insured: By endorsement to the general liability insurance policy evidenced by Contractor, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be included as additional insureds for liability arising from the Contract.
- 5.17.2.2 Waiver of Subrogation: With the exception of professional liability each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of Contractor.
- 5.17.2.3 Cross Liability: All required commercial general and auto liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- 5.17.2.4 Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention.
- 5.17.2.5 Policy Cancellation: Except for ten (10) days notice for non-payment of premiums, each certificate of insurance shall state that insurers will provide thirty (30) days prior written notice to the Contractor, before the policy is canceled or non-renewed, Contractor shall in turn provide such notice to by certified mail to State of Nevada, c/o Contracting Agency the address shown on page one (1) of this contract.
- 5.17.2.6 Approved Insurer: Each insurance policy shall be:
- A. Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - B. Currently rated by A.M. Best as "A-VII" or better.

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5.17.3 Evidence of Insurance. Prior to the start of any work, Contractor must provide the following documents to the contracting State agency:

5.17.3.1 Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf, or be an authorized representative of the insurer. The State project/Contract number; description and Contract effective dates shall be noted on the certificate, and upon renewal of the policies listed, Contractor shall furnish the State with replacement certificates as described within *Section 5.17.1, Insurance Coverage.*

**Mail all required insurance documents to the State
Contracting Agency identified on page one of the applicable
Order.**

5.17.3.2 Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 5.17.2, General Requirements.*

5.17.3.3 Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, or employees to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise.

5.18 Compliance with Legal Obligations

Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor

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to provide the goods or services required by this Contract. Contractor shall provide proof of its compliance upon request of the Contracting Agency. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

5.19 Waiver of Breach

Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

5.20 Severability

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

5.21 Assignment/Delegation

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.

5.22 State Ownership of Proprietary Information

Any data or information provided by the State to Contractor and any documents or materials provided by the State to Contractor in the course of this Contract ("State Materials") shall be and remain the exclusive property of the State and all such State Materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract.

5.23 Public Records

Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that

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Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

5.24 Confidentiality

Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by applicable law or regulation.

5.25 Federal Funding

In the event federal funds are used for payment of all or part of this Contract, Contractor agrees to comply with all federal laws, regulations and executive orders, including, without limitation the following, to the extent applicable to Contractor in its performance of the services hereunder:

- 5.25.1 Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
- 5.25.2 Contractor and its subcontracts shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
- 5.25.3 Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

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5.26 Lobbying

The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- 5.26.1 Any federal, state, county or local agency, legislature, commission, council or board;
- 5.26.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
- 5.26.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

5.27 General Warranty

Contractor warrants that all services under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry applicable to such work. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.28 Proper Authority

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

5.29 Disclosures Regarding Current or Former State Employees

For the purpose of State compliance with NRS 333.705, Contractor represents and warrants that if Contractor, or any employee of Contractor who will be performing services under this Contract, is a current employee of the State or was employed by the State within the preceding 24 months, Contractor has disclosed the identity of such persons, and the services that each such person will perform, to the Contracting Agency.

5.30 Assignment of Antitrust Claims

Contractor irrevocably assigns to the State any claim for relief or cause of action which Contractor now has or which may accrue to Contractor in the future by reason of any

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violation of State of Nevada or federal antitrust laws in connection with any goods or services provided under this Contract.

5.31 Governing Law: Jurisdiction

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract, and consent to personal jurisdiction in such court for any action or proceeding arising out of this Contract.

5.32 Entire Contract and Modification

This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General and the State Board of Examiners. This Contract, and any amendments, may be executed in counterparts.

5.33 Reports and Fees

5.33.1 Administrative Fee: Contractor shall pay a quarterly administrative fee to the State in the form of an electronic funds transfer (EFT) payment. The fee will be payable to the "State of Nevada Purchasing Division." The administrative fee is one percent (1%) and applies to all payments (net of returns, credits, or adjustments) received by the contractor for all products and services provided under the contract during the quarter beginning July 1, 2017, or the date of execution of this amendment, whichever is later.

5.33.2 All administrative fee payments shall include the contract number on any transmittal document. However, only one contract number shall be entered on a transmittal document. If submitting an administrative fee payment for more

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than one contract, then a separate electronic payment and associated transmittal document shall be submitted by the contractor for each contract.

5.33.3 The State will not issue an invoice for the administrative fee owed to the State. It is the responsibility of the vendor to pay the administrative fee with no prompting from the State. Contractor shall pay the quarterly administrative fee within forty five (45) calendar days of quarter end (refer to Section 1.4).

5.33.4 The template for the required Quarterly Administrative Fee & Usage Report outlined below in Sections 1.2 and 1.3, may be downloaded from the Purchasing Division website <http://purchasing.nv.gov/vendors/DBINV/>. The report must be submitted via email to: NVQtlyReport@admin.nv.gov

5.34 Nevada Purchasing Division Statewide Contract Quarterly Administrative Fee Report

Contractor shall complete the Statewide Contract Quarterly Administrative Fee Report. The report shall identify total payments (minus returns and credits) received by Contractor from state agencies, the university and community college system, the Legislative Counsel Bureau, political subdivisions, and other authorized entities that were made pursuant to the contract.

5.35 Nevada Purchasing Division Statewide Contract Quarterly Usage Report

Contractor shall complete the Statewide Contract Quarterly Usage Report to include at a minimum the data element information listed below:

Data Element	Description
Customer Name	Name of entity making the purchase—if customer has multiple locations, please use the main entity name.
Customer Type	Indicate the type of entity making the purchase: S=State Agency E=University and Community College P=Political Subdivision O=Other Entity
PO # or Other Authorization Type	Number provided by the customer to authorize the purchase. If purchase was made with a credit card enter P-Card.
Purchase Description	Description of the product or service purchased.
Quantity	Quantities (excluding returns) of products delivered—enter a quantity of one (1) for a service.
Unit Price	Unit price charged (excluding credits) for the product or service purchased.

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Total Cost	Total cost of the purchase—quantity delivered x unit price charged.
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5.36 Fee Payment and Report Schedule

Contractor shall pay the administrative fee quarterly, if owed, and provide the Quarterly Administrative Fee & Usage Report to the Purchasing Division even if no payments are made in a quarter in accordance with the following schedule:

Period End	Report Due
March 31	May 15
June 30	August 14
September 30	November 14
December 31	February 14

5.37 Report Modifications:

The Purchasing Division reserves the right to reasonably modify the requested format and contents of the Quarterly Administrative Fee & Usage Report by providing thirty (30) calendar days written notice to Contractor. The Purchasing Division may unilaterally amend the contract, with (30) calendar days written notice to the contractor solely to change the timing for submission of the Quarterly Administrative Fee & Usage Report and provided that such changes become effective only when reasonably practicable for Contractor to comply therewith. Contractor understands and agrees that if such an amendment is issued by the Purchasing Division, Contractor shall comply with all contract terms, as amended.

5.38 Timely Reports and Fees:

If the administrative fee is not paid and quarterly report is not received within forty five (45) calendar days of quarter end, then Contractor will be in material breach of this contract.

6. Subcontractors:

All contactors, dealers, and resellers authorized in the State of Nevada, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

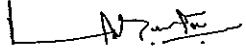
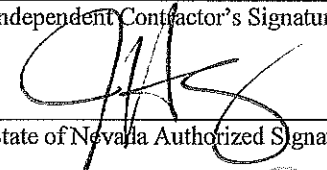
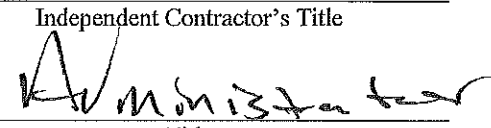
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7. Orders:

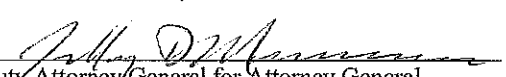
Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by parties below.

 Rakesh Duttagupta Independent Contractor's Signature	March 14th, 2018 Date	Principal Independent Contractor's Title
 State of Nevada Authorized Signature	3-26-18 Date	 Title
 Signature – Board of Examiners		APPROVED BY BOARD OF EXAMINERS

On: 6/8/18
Date

Approved as to form by:

 Deputy Attorney General for Attorney General	On: <u>22 Mar 18</u> Date
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For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Shannon Berry
Telephone:	775-720-3404
Email:	sberry@naspovaluepoint.org

Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

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Attachment CC

AWS Hosting

In addition to the terms and conditions in the Participating Addendum, the terms and conditions set forth in this exhibit will apply to any Order where AWS hosting is included as part of the Services thereunder.

(a) State Participating Entity or Purchasing Entity acknowledges and agrees that Contractor will be contracting with Amazon Web Services, Inc. ("AWS"), an independent commercial public cloud infrastructure provider, as a vendor to provide the AWS cloud-computing platform, services and tools ("AWS Platform") as part of the Services in the applicable Order. State Participating Entity or Purchasing Entity acknowledge and agree that AWS is not a subcontractor under the Agreement.

(b) By entering into the Order, State Participating Entity or Purchasing Entity acknowledges that its use of the AWS Platform is subject to AWS's access policy currently located at <https://s3.amazonaws.com/Reseller-Program-Legal-Documents/AWS+Access+Policy.pdf>, as it may be updated by AWS from time to time, and as may be made available on any successor or related site designated by AWS ("AWS Public Sector Access Policy"), a copy of the current version is attached to the NASPO Master Agreement as Schedule E. State Participating Entity or Purchasing Entity hereby accepts the terms of the AWS Public Sector Access Policy.

(c) State Participating Entity or Purchasing Entity acknowledges that aspects of, or changes to, the functionality of the AWS Platform is outside of Contractor's direct control. In the event the AWS Platform experiences an availability, performance, or security failure solely as a result of an outage, malfunction, unavailability of, or change by AWS to an AWS Platform component (a "Platform failure"): (i) Contractor shall coordinate with AWS and the State Participating Entity or Purchasing Entity to monitor status on resolving any such issue and Contractor will work collaboratively with the State Participating Entity or Purchasing Entity to develop a mutually agreeable resolution to address the impact of such failure; and (ii) to the extent AWS provides a credit/payment to Contractor as a result, Contractor shall apply such amount against amounts due to Contractor for the Services; and (iii) State Participating Entity or Purchasing Entity agrees that Contractor will not be in breach of its obligations for such a Platform failure. The foregoing shall not relieve Contractor from responsibility for any other aspects of the Services, such as the functionality of the hosted solution, nor from responsibility for Contractor not having properly installed or configured any AWS Platform components in accordance with the applicable Order.

(d) "State Items" shall mean any State-provisioned application or other software installed or uploaded onto the AWS Platform by or on behalf of State Participating Entity or Purchasing Entity, or by Contractor as part of the Services ("State Software") and any State-provisioned machine images, data, text, audio, video, images or other content that is installed or uploaded onto the AWS Platform by Contractor as part of the Services, or that State Participating Entity or Purchasing Entity or any of its end users (a) runs on any State Software hosted on the AWS Platform, (b) uploads to any State Software hosted on the AWS Platform, or (c) causes to interface with the AWS Platform. State Items, once uploaded to and while hosted on the AWS Platform,

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will not be considered Confidential Information under the Agreement, but will be subject to any security control measures to be implemented as agreed to by the parties to the applicable Order. Contractor shall promptly notify State Participating Entity or Purchasing Entity of any unauthorized third-party access to any State Items. Notwithstanding the foregoing, any State Items that Contractor maintains in its possession or accesses in connection with the Services, in each case outside of the Hosted Solution, shall be treated by Contractor as Confidential Information under the terms of the Agreement.

(e) In lieu of an order to comply with any inspection under the Agreement of the AWS Platform or the AWS data center facilities, servers, networking equipment and hosting software systems, State may review relevant security documentation regarding AWS's FedRAMP program by submitting a request directly to AWS. In addition, notwithstanding anything to the contrary, State Participating Entity's or Purchasing Entity's audit rights set forth in the Contract shall not extend to AWS's books and records.