

STATE OF NEW JERSEY
PARTICIPATING ADDENDUM AND STANDARD TERMS AND CONDITIONS
Under
NASPO ValuePoint Contract for Cloud Solutions
[State of Utah Master Contract Number AR2487]

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

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

WHEREAS, the State of Utah ("Lead State") and Contractor have entered into Master Agreement #AR2487 (the "Master Agreement"), which may be found at the following URL: <http://www.naspovaluepoint.org/#/contract-details/71/overview/general>, awarded in accordance with the State of Utah Solicitation CH16012 for Cloud Solutions; and

WHEREAS, the State of New Jersey participated in the publicly advertised, competitive bidding process with fifteen other states and evaluated the proposals; and

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

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

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

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

1. The term of this Participating Addendum shall be effective from the Effective Date and shall continue for a period ending on the earliest of (i) September 15, 2026, (ii) the date of termination or expiration of the Master Agreement, or (iii) the date this Participating Addendum expires or is terminated. Notwithstanding anything to the contrary contained in the Master Agreement, upon mutual written agreement of the parties, this Participating Addendum may be extended upon an extension of the Master Agreement under the same terms and conditions as stated in this Participating Addendum. There shall be no automatic renewals of the Participating Addendum.
2. The entire agreement, and all rights and obligations between the parties, shall consist of the following documents (which shall be collectively referred to as the "Agreement"):
 - a. This Participating Addendum, including the State of New Jersey Compliance Terms and Conditions, attached hereto as Exhibit A;
 - b. Oracle's Data Processing Agreement for Oracle Cloud Services (the "Data Processing Agreement"), attached hereto as Exhibit B;

- c. The Oracle Ordering Document issued against this Participating Addendum, which shall incorporate the applicable Oracle Hosting and Delivery Policies;
- d. The Master Agreement ("Master Agreement"), (subject to Section 7.0 of this Participating Addendum which amends the Master Agreement). attached hereto as Exhibit C including the following Exhibits attached to the Master Agreement:
 - (1) Exhibit 1: Software-as-a-Service;
 - (2) Exhibit 2: Platform-as-a-Service; and
 - (3) Exhibit 3: Infrastructure-as-a-Service;

The Data Processing Agreement attached hereto as Exhibit B shall apply to the Cloud Services ordered hereunder for a period of one (1) year from the Effective Date of this Participating Addendum and shall remain in force for the applicable Service Period of such ordered Cloud Services. The applicable version of the Data Processing Agreement will be set forth by written amendment to this Participating Addendum on an annual basis.

A copy of the Oracle's Hosting and Delivery Policies current as of the Effective Date of this Participating Addendum is attached to this Participating Addendum as Exhibit D, which is for reference purposes only and is subject to change at Oracle's discretion. The version of the Oracle Hosting and Delivery Policy that is current as of the Cloud Services start date set forth in each applicable Order is available at www.oracle.com/contracts. The parties agree that if Oracle updates the Hosting and Delivery Policies after the Effective Date of this Participating Addendum (an "Update") and the Update creates a conflict with any intellectual property ownership, indemnification, limitation of liability, or warranty term in the Master Agreement (the "Pre-existing Terms"), then the Pre-existing Terms will prevail.

- 3. These documents shall be read to be consistent and complimentary. In the event of any conflict between the terms of the documents comprising the Agreement, the conflict shall be resolved by giving priority to these documents in the order listed above. The parties expressly acknowledge and agree that as to New Jersey, any provisions establishing a different order of precedence within the documents set forth in Subsection 1.2 (b), (c), and (d) above, or any amendments thereto, shall have no effect.
- 4. The Agreement sets forth the entire agreement between the parties and supersedes all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. No Contractor terms and conditions shall apply to this Participating Addendum except those that are expressly accepted by the Lead State in the Master Agreement. Terms included in any purchase order, procurement internet portal, or other non-Oracle document shall not apply to the Services ordered.
- 5. In the event the Lead State approves Contractor to offer new or additional Services under the Master Agreement after the Effective Date of this Participating Addendum and such Services incorporate any different, inconsistent, or additional terms into the Master Agreement, including, but not limited to any software license agreement or service level agreement, such terms are subject to this Agreement as set forth below.
- 6. References to external documentation; and Oracle's Software License Agreements:
 - a. Any external information incorporated by reference within any of the documents comprising the Agreement, including without limitation, Oracle's software license agreements are subject to the terms and conditions of this Participating Addendum. In the event of a conflict, the terms of this Participating Addendum shall prevail.
 - b. Any changes in the information incorporated by reference by any of the documents that comprise the Agreement, including without limitation, Oracle's software license agreements are subject to the terms and conditions of this Participating Addendum. In the event of a conflict, the terms of this Participating Addendum shall prevail.

- c. Any reference in Contractor's documents to website URLs that contain additional terms and conditions are subject to the terms and conditions of this Participating Addendum. In the event of a conflict, the terms of this Participating Addendum shall prevail.

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

2.0 Scope of Participating Addendum

1. The scope of Services that may be procured by Authorized Purchasers defined in Section 6.0(1) of this Participating Addendum (State Agencies) shall be those Services established in the Scope Addendum attached to this Participating Addendum as Attachment 1 as may be amended by the parties in writing from time to time. For all other Authorized Purchasers, the full suite of Service offerings available under the Master Agreement may be procured under this Participating Addendum.
2. Contractor shall only accept orders for those Products or Services included within the scope of the Master Agreement as approved by the Lead State.

3.0 Reporting Requirements

The Contractor shall deliver a copy of the detailed sales data reports described in Section 42 of the Master Agreement ("Reports") to the Procurement Specialist and State Contract Manager within ten (10) days of providing the Reports to the Lead State and NASPO ValuePoint Cooperative Development Team. The Reports may be limited to Sales made to Authorized Purchasers under this Participating Addendum.

4.0 Restrictions

Any restrictions or limitations regarding the State's use of this Agreement will be set forth in the State's Method of Operation, as may be amended from time to time and posted on the State's website. The foregoing statement does not impose additional responsibility on the Contractor and is meant as a notification to Authorized Purchasers only.

Financing, leasing, and renting is not permitted under this Participating Addendum for State agencies. Authorized Purchasers, as defined in Section 6.0(2) - (5) may finance their purchase, if permitted under law. If financing is through a lease agreement, that agreement is separate from this Participating Addendum and is between the Contractor and the respective Authorized Purchaser only.

5.0 Termination of Contract

1. For Convenience-
 - A. Notwithstanding any provision or language in the Agreement to the contrary, the Director may terminate at any time, in whole or in part, this Participating Addendum for the convenience of the State, upon no less than forty-five (45) days written notice to the Contractor.
 - B. Contractor shall not have the right to terminate this Participating Addendum for convenience.
2. For cause-
 - A. Where the Contractor fails to perform or comply with the Agreement or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17: 12-4.2 et seq., the Director may terminate this Participating Addendum, in whole or in part, upon thirty (30) days' notice to the Contractor with an opportunity to respond and cure within the thirty-day period.
 - B. Where in the reasonable opinion of the Director, the Contractor continues to perform poorly under the Agreement as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the Contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint the Director may terminate this Participating Addendum, in whole

or in part, upon thirty (30) days' notice to the Contractor with an opportunity to respond prior to termination.

3. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond.
4. In the event of termination under this section, the Contractor will be compensated for work performed or goods supplied in accordance with the Agreement, up to the date of termination. Such work performed or goods supplied under this Agreement may be subject to adjustments as permitted under the Agreement. Amounts due and owed may be offset as required by New Jersey statutes. In the event of a termination for convenience under Section 5.0(1), there shall be no refund of pre-paid fees. In the event of a termination for cause under Section 5.0(2), Contractor shall issue Authorized Purchaser(s) a pro-rata refund of unused pre-paid fees.
5. The Contractor shall not have the right to terminate this Participating Addendum. Any provisions in the Agreement regarding the Contractor's right to terminate or cancel this Participating Addendum are superseded by and replaced in their entirety by this Section 5.0 of this Participating Addendum. However, this Participating Addendum shall terminate on the termination or expiration date of the Master Agreement. In addition, in the event that an Authorized Purchaser violates its obligations under the Agreement, Contractor may refuse to accept or process orders from such Authorized Purchaser immediately upon written notice to the State and such Authorized Purchaser, until such time as Authorized Purchaser submits a plan to correct such violations satisfactory to Contractor, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary, Contractor shall continue to process orders submitted by other Authorized Purchasers. Section 7, Termination and Suspension of Service, in the applicable Exhibit to the Master Agreement shall apply in the event of a termination or cancellation pursuant to this section.
6. Any termination under this provision shall not affect the rights and obligations attending Orders outstanding at the time of termination, including but not limited to any right of any Authorized Purchaser to indemnification by the Contractor, rights of payment for Services performed, data ownership, Contractor obligations regarding Confidential Information as referenced in Section 8. , rights attending default in performance in an applicable Ordering Document, Contractor obligations under Section 7, Termination and Suspension of Service, in the applicable Exhibit to the Master Agreement, and any responsibilities arising out of a Security Breach.
7. The following applies to onsite Professional Services only. The State may, for valid reason, issue a stop order directing the Contractor to suspend Professional Services for a specific time. The Contractor shall be paid for Professional Services requested and performed until the effective date of the stop order. The Contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager and Contractor may agree in writing. The period of suspension shall be deemed added to the Contractor's approved schedule of performance. The Director may make an equitable adjustment, if any is required, to the Statement of Work price. The Contractor shall provide whatever information that Director may require related to the equitable adjustment. In the event Contractor disagrees with the final adjusted contract price, Section 10.0 (Defaults and Remedies) of the Master Agreement shall apply.

Notwithstanding anything to the contrary in any of the documents comprising the Agreement, Orders shall not automatically renew.

6.0 Authorized Purchasers

"Authorized Purchasers" (referred to as "Purchasing Entities" under the Master Agreement) under this Participating Addendum shall mean the State and the following:

1. State agencies.

2. **Quasi-State Agencies** - A "Quasi-State Agency" is any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member, as defined in N.J.S.A. 52:27B-56.1, provided that any sale to any such bi-state governmental entity is for use solely within the State of New Jersey.
3. **Political Subdivisions, Volunteer Fire Departments And First Aid Squads, And Independent Institutions Of Higher Education** - Counties, municipalities and school districts as defined in N.J.S.A. 52:25-16.1., volunteer fire departments, volunteer first aid squads and rescue squads as defined in N.J.S.A. 52:25-16.2, independent institutions of higher education as defined in N.J.S.A. 52:25-16.5, but limited to state institutions of higher education, provided that each purchase by the independent institution of higher education shall have a minimum cost of \$500. The extension to counties, municipalities, school districts, volunteer fire departments, first aid squads and independent institutions of higher education must be under the same terms and conditions, including price, applicable to the State.
4. **State Colleges** –in accordance with N.J.S.A. 18A:64-60.
5. **County Colleges** - in accordance with N.J.S.A. 18A:64A- 25.9.

Authorized Purchasers as defined in Section 6.0(2) - (5) are responsible for the full cost of their purchases. The State and Authorized Purchasers as defined in Section 6.0(1) are responsible for the full cost of their purchases. Authorized Purchasers may order Services from Oracle in accordance with the terms and conditions of this Participating Addendum. By placing an order under this Participating Addendum, each Authorized Purchaser agrees to be bound by the terms and conditions of the Agreement, as defined in this Participating Addendum. For the purposes of such Order, the "State" as used in this Participating Addendum shall be deemed to refer to such Authorized Purchaser, unless indicated otherwise herein. Each Authorized Purchaser shall be responsible for its compliance with and breach(es) of such terms and conditions.

7.0 Modified Original Master Agreement Terms

1. **Section 8 Confidentiality, Non-Disclosure, and Injunctive Relief**, in the Master Agreement is deleted in its entirety and replaced with the following:

8. Confidentiality, Non-Disclosure, and Injunctive Relief

- a. By virtue of this Master Agreement, the parties may have access to information that is confidential to one another ("**Confidential Information**"). We each agree to disclose only information that is required for the performance of obligations under this Master Agreement. Confidential information shall be limited to Your Content and Your Applications residing in the Services Environment, and all information clearly identified as confidential at the time of disclosure. Notwithstanding the previous sentence, the Contractor acknowledges the terms and pricing of the contract are subject to disclosure under the New Jersey Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena.
- b. A party's Confidential Information shall not include information that: (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (iv) is independently developed by the other party.
- c. We each agree not to disclose each other's Confidential Information to any third party other than as set forth in the following sentence for a period of five years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party; however, Oracle will hold the Purchasing Entity's Confidential Information that resides within the Services Environment in confidence for as long as such information resides in the Services Environment.

For the avoidance of doubt, Oracle and Purchasing Entity agree that Personally Identifiable information (PII) and Non-Public Data that are residing in the Services Environment must remain confidential in perpetuity, and therefore the above time period does not apply. Non-Public Data means data that is identified by the State as non-public information or otherwise deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data must be clearly identified as confidential at the time of disclosure. We each may disclose Confidential Information to those employees, agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than required under this Master Agreement. Oracle will protect the confidentiality of Your Content or Your Applications residing in the Services Environment in accordance with the Oracle security practices defined as part of the Service Specifications applicable to the Purchasing Entity's Order. In addition, the Purchasing Entity's Personal Data will be treated in accordance with the terms of Section 2 (Data Protection) of Exhibits 1, 2, and 3 to the Master Agreement.

- d. Injunctive Relief. Each party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that the disclosing party shall be entitled, without waiving any other rights or remedies under this Master Agreement, to seek such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.
- e. Reserved.
- f. The State's obligation to maintain the confidentiality of Contractor's Confidential Information provided to the State under the Agreement is conditioned upon and subject to the State's obligations under the New Jersey Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena.
- g. In the event that the State receives a request for Contractor's Confidential Information related to the Agreement pursuant to a court order, subpoena, lawful document request (including a request under OPRA) or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such request. Contractor shall take any action it deems appropriate to protect its documents and/or information.
- h. In addition, in the event Contractor receives a request for Confidential Information (as defined herein) pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such request. The State shall take any action it deems appropriate to protect its documents and/or information. Notice to the State shall not relieve the Contractor of its obligation to take action to protect such information if the Contractor is aware of a legal reason to do so.
- i. Notwithstanding the requirements of nondisclosure described in this Section either party may release the other party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a lawfully issued subpoena or other lawful document request, (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in subsection (g) above, or if Contractor is unsuccessful in defending its rights as described in subsection (g), or (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights as described in subsection (h) above, or if the State is unsuccessful in defending its rights as described in subsection (h).

2. Section 10 Defaults and Remedies: The second paragraph of Section 10 in the Master Agreement is amended and restated as follows:

In the event of any dispute or disagreement between the parties arising out of or relating to (i) this Master Agreement, (ii) a Participating Addendum, or (iii) an Ordering Document (the "dispute"), the parties will endeavor to resolve the dispute in accordance with this section. Either party may invoke this section by providing the other party written notice of its decision to do so, including a description of the issues subject to the dispute. Each party will appoint a Managing Director (or

the equivalent) to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. or the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., may begin until the Managing Directors (or the equivalent) conclude, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. The parties shall refrain from exercising any termination right and shall continue to perform their respective obligations under this Master Agreement and the applicable Participating Addendum and Ordering Document, if any, while the parties endeavor to resolve the dispute under this section, provided that, any party alleged to be in breach promptly makes good faith efforts to cure the breach and pursues the cure in good faith. The period of dispute resolution after notice will not exceed thirty (30) days, unless both parties agree to an extension.

3. **Section 13 Indemnification**, in the Master Agreement is deleted in its entirety and replaced with the following:

13. Indemnification

- a. Subject to the terms of this Section 13 (Indemnification), if a third party makes a claim against the Purchasing Entity ("Recipient"), that any information, design, specification, instruction, software, service, data, hardware, or material (collectively, "Material") furnished by Oracle ("Provider") and used by the Recipient infringes the third party's intellectual property rights, the Provider, at the Provider's sole cost and expense, will, to the extent not prohibited by law, defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:
- (i) notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
 - (ii) gives the Provider sole control of the defense and any settlement negotiations. However, if a claim arising under this Section involves State-specific issues, as hereinafter defined, then the State retains the right to assume the defense and settlement of any State-specific issues(s). "State-specific issues" shall include any claims, arguments or positions concerning the State's sovereign, statutory or other immunities. Where the Provider is in sole control over the defense or settlement, the Provider agrees that the State may observe the proceedings and confer with the Provider at the State's expense; and
 - (iii) gives the Provider the information authority and assistance the Provider needs to defend against or negotiate a settlement to the claim. Any settlement to the claim must be approved in writing by the State if such settlement places an obligation on the State to (i) pay money, (ii) make any admissions, or (iii) imposes prospective injunctive relief on the State.
- b. If the Provider believes or it is determined that any of the Material may have violated a third party's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any unused, prepaid fees the Recipient may have paid to the other party for such Material. If such return materially affects Oracle's ability to meet its obligations under the relevant Order, then Oracle may, at its option and upon 30-days prior written notice, terminate the Order. If such Material is third party technology and the terms of the third party license do not allow Oracle to terminate the license, then Oracle may, upon 30-days prior written notice, end the Services associated with such Material and refund to Purchasing Entity any unused, prepaid fees for such Services.
- c. The Provider will not indemnify the Recipient if the Recipient (i) alters the Material or uses it outside the scope of use identified in the Provider's user or program documentation or Service Specifications, (i) uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was made available to the Recipient, or (iii) continues to use the applicable Material after the end

of the license to use that Material. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, service, data, hardware or material not furnished by the Provider. Oracle will not indemnify Purchasing Entity for any portion of an infringement claim that is based upon the combination of any Material with any products or Services not provided by Oracle. Oracle will not indemnify the Purchasing Entity to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible or made available to Purchasing Entity within or by the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, marketing data from third party data providers, etc. Oracle will not indemnify the Purchasing Entity for infringement caused by the Purchasing Entity's actions against any third party if the Services as delivered to the Purchasing Entity and used in accordance with the terms of this Master Agreement would not otherwise infringe any third party intellectual property rights. Oracle will not indemnify the Purchasing Entity for any intellectual property infringement claim(s) known to the Purchasing Entity at the time Services rights are obtained.

- d. **This Section 13(a)-(d) provides the Purchasing Entity's exclusive remedy for any infringement claims or damages.**
- e. Oracle ("Indemnitor") shall defend and indemnify the Purchasing Entity ("Indemnitee") against any and all claims of bodily injury (including wrongful death) and/or tangible personal property damage resulting from negligence, gross negligence or intentionally wrongful actions or omissions of the Indemnitor or a person employed by the Indemnitor (i.e., as an employee or independent contractor) while performing or participating in services under an Ordering Document at your site, except that if such actions or omissions were proximately caused by the action or omission of the Indemnitee, the Indemnitor shall not be obligated to indemnify the Indemnitee for claims arising out of same; provided however, that (i) the Indemnitee notifies the Indemnitor within thirty (30) days of the Indemnitee's receipt of a claim; (ii) the Indemnitor has sole control of the defense and all related settlement negotiations the State may observe the proceedings relating to the alleged claim and confer with the Indemnitor at the State's expense; provided, however, any settlement to the claim must be approved in writing by the State if such settlement places an obligation on the State to (i) pay money, (ii) make any admissions, or (iii) imposes prospective injunctive relief on the State ; and (iii) subject the Indemnitee gives the Indemnitor the information and reasonable assistance necessary to perform the above; reasonable out-of-pocket expenses incurred by the Indemnitee in providing such assistance will be reimbursed by the Indemnitor. As used in this Section, the term "tangible personal property" shall not include software, documentation, data or data files. The Indemnitor shall have no liability for any claim of bodily injury and/or tangible personal property damage arising from use of software or hardware, (i) except for Indemnitee's use within Oracle's product specifications; or (ii) if Oracle's employee or independent contractors incorrectly installs or makes modifications to the hardware in a manner that is contrary to or inconsistent with Oracle's products specifications; **This Section 13(e) states Oracle's entire liability and the Purchasing Entity's exclusive remedy for bodily injury and property damage.**
- f. Neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP.
- g. Notwithstanding anything to the contrary contained in the Agreement, the State shall not be responsible for the Contractor's attorney fees and/or expenses.

- h. The Contractor's indemnification obligations are not limited by, but are in addition to the insurance obligations contained in the Agreement.
- i. Notwithstanding anything to the contrary in the Agreement or any contract document, including but not limited to an Ordering Document, Hosting and Delivery Policy, or Data Processing Agreement, under no circumstances will the State indemnify, defend or hold harmless Contractor and any such provision in the Agreement or any contract document shall be of no force and effect. The State will not pay or reimburse for claims absent compliance with the terms of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

4. Section 16 Insurance, in the Master Agreement is amended as follows:

- a. Subsection 16(b)(3) is amended to state the following:
 - i. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$1,000,000 BODILY INJURY, EACH OCCURRENCE
 \$1,000,000 DISEASE EACH EMPLOYEE
 \$1,000,000 DISEASE AGGREGATE LIMIT

- b. The following section is added as subparagraph (g):
 - g. New Jersey Requirements:
 - i. The Provider shall provide the State with current certificates of insurance for all coverages and renewals thereof. If the Provider receives a notice of cancellation, the Provider will promptly replace such coverage so that no lapse in insurance occurs.
 - ii. The Provider shall not begin to provide services or goods to the State until evidence of the required insurance is provided.
 - iii. The certificates of insurance shall indicate the contract number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, PO Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates shall be emailed to the State at ccau.certificate@treas.state.nj.us.

5. Section 34 Assignment of Antitrust Rights, in the Master Agreement is amended to add the following:

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

- 1. It will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder.
- 2. It will advise the Attorney General of New Jersey:
 - a. in advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action;
 - b. immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- 3. It shall notify the defendants in any antitrust suit of the fact of the within assignment at the earliest practicable opportunity after the Contractor has initiated an action on its own behalf

or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice will be sent to the Attorney General of New Jersey.

Furthermore, it is understood and agreed that in the event any payment under any such claim or cause of action is made to the Contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. Section 44 b. ii. **Service Specifications**, in the Master Agreement is amended as follows:

The last sentence is deleted in its entirety and replaced with the following:

"The Service Specifications are subject to change at Oracle's discretion; however, Oracle changes to the Service Specifications will not result in a material reduction in the level of performance, functionality, security or availability of the applicable Services provided to the Purchasing Entity for the duration of the Services Period."

8.0 Authorized Resellers

1. Certain Oracle-authorized resellers ("Authorized Resellers" or "Fulfillment Partners") are eligible to resell Services to Authorized Purchasers under this Participating Addendum. Such Authorized Resellers, if any, are authorized to take orders under this Participating Addendum and invoice and receive payment from such Authorized Purchasers. Oracle is responsible for any reports and/or fees that are required per the terms and conditions of the Master Agreement and/or this Participating Addendum, unless expressly stated otherwise herein. Participation of Authorized Resellers, if any, will be in accordance with the terms and conditions set forth in the Master Agreement and this Participating Addendum.
2. In the event Contractor offers Fulfillment Partner Products and Services to Authorized Purchasers, each Fulfillment Partner must be approved by the State. A Fulfillment Partner has no authority to amend this Agreement or to bind Contractor, State, or Authorized Purchasers to any additional terms and conditions. Contractor may add Fulfillment Partners to its Participating Addendum at any time during the contract term, upon agreement of the parties.
3. Authorized Resellers and Fulfillment Partners will be required to supply the State of New Jersey with all required forms outlined in Section 14.0 of this Participating Addendum.
4. Except in the event of a merger, consolidation, acquisition, internal restructuring, or sale of all or substantially all of the assets of Contractor, this Participating Addendum may not be subcontracted or assigned by the Contractor, in whole or in part, without the prior written consent of the Director, which shall not be unreasonably withheld.

9.0 Ordering and Compensation

1. Pricing shall be in accordance with the terms set forth in the Master Agreement, as amended by this Participating Addendum.
2. The State of New Jersey Contract number and the Master Agreement number ("M-4002, AR2487") MUST be shown on all Ordering Documents and Purchase Orders issued against this Participating Addendum.
3. All orders and payments will be issued to either the Contractor or the Fulfillment Partner, as applicable, and shall be in accordance with the terms set forth in the Agreement, as amended by this Section 9.0 of this Participating Addendum.
4. Orders shall not automatically renew.

5. The State of New Jersey's obligation to make payment under the Agreement is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State of New Jersey for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency which is an Authorized Purchaser by the New Jersey State Legislature and made available through receipt of revenues. Notwithstanding the foregoing, the parties agree that performance under this Agreement is contingent upon the appropriation of funds. Therefore, the Authorized Purchaser's issuance of a purchase order under the Participating Addendum shall signify to Contractor that all funds for such order have been appropriated at the time of the purchase order...
6. Contractors or Fulfillment Partners may be paid by the State through the Procurement card (p-card) at the time the original order is placed. P-card transactions do not require the submission of either a contractor invoice or a State payment voucher. Purchasing transactions utilizing the p-card will usually result in payment to the Contractor or the Fulfillment Partners in three (3) days. The Contractor and the Fulfillment Partner should take note that there will be a transaction processing fee for each p-card transaction. To participate, the Contractor or Fulfillment Partner must be capable of accepting the applicable credit card.
7. Payments shall be made to the Contractor or Fulfillment Partners pursuant to the provisions of the New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq. The Act requires state agencies to pay for goods and services within sixty (60) days of the state agency's receipt of a properly executed State Payment Voucher. Interest will be paid on delinquent accounts at a rate established by the New Jersey State Treasurer (the "State Treasurer"). Interest will not be paid until it exceeds \$5.00 per properly executed invoice. Oracle acknowledges that the Prompt Payment Act affords the State sixty (60) days within which it must make payment in order to avoid the accrual of interest on a delinquent payment. The terms of this Agreement, however, require payment within thirty (30) days in order to avoid the remedies contained herein. .
8. Cash discounts and other payment terms included as part of the Agreement are not affected by the Prompt Payment Act.
9. Contractor and Fulfillment Partners are encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the lowest quote.

Discount periods shall be calculated starting from the next business day after the recipient has accepted the goods or services received a properly signed and executed State Payment Voucher form and, when required, a properly executed performance security, whichever is latest.

Contractor does not offer cash discounts based on expedited payment.

10. The date on the check issued by the State in payment of that Voucher shall be deemed the date of the State's response to that Voucher.

10.0 Additions to the State of New Jersey Compliance Terms and Conditions

1. Compliance With State Laws-

It is agreed and understood that any Orders placed under this Participating Addendum and any claims and any and all litigation arising there from or related thereto shall be governed and construed and the rights and obligations of the parties hereto and of the Authorized Purchasers shall be determined in accordance with the laws of the State of New Jersey, including without limitation, by the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq., and governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles, and any and all litigation arising therefrom or related thereto shall be filed in the appropriate Division of the New Jersey Superior Court. Notwithstanding the preceding sentence, the Parties agree that venue and jurisdiction for any action involving prospective injunctive relief may be brought in any

federal or state court located in New Jersey. For the avoidance of doubt, no actions for monetary damages may be brought in a federal court.

2. *Open Public Records Act-*

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

3. *Maintenance of Records-*

The Contractor shall maintain records for products and/or Services directly related to sales orders and corresponding invoices, including product specifications at time of order, issued in accordance with this Participating Addendum for a period of five (5) years from the date of final payment. Such records shall be made available to the State, including the State of New Jersey, Office of the State Comptroller, for audit and review.

4. *Organ and Tissue Donation –*

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

5. *Tax Exemption-*

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

11.0 Liabilities

1. Unless otherwise agreed in writing and signed by the Director, the following limitation of liability shall apply:

- a. Contractor's liability for damages arising out of or in connection with this Participating Addendum or each Order(s) whether in contract or tort, or otherwise is limited to two times (2x) the amount paid by the State under the applicable Order(s) over the prior twelve months. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than \$250,000.
- b. In no event shall Contractor be liable for any punitive, special, indirect, or consequential damages arising out of this Participating Addendum.
- c. This limitation of liability shall not apply to:
 - i. Contractor's indemnification obligations as described in Section 13, Indemnification, of the Master Agreement as amended by this Participating Addendum,
- d. Notwithstanding section 11.1.a. Above, in no event shall the aggregate liability of contractor and its affiliates arising out of or related to this participating addendum or authorized purchaser's order for misappropriation of authorized purchaser's personal data caused solely by contractor's breach of its security practices described in the service specifications exceed three times (3x) the total amounts actually paid under the authorized purchaser's order for services giving rise to the liability during the twelve (12) months immediately preceding the event giving rise to such liability. For the foregoing sentence only, the parties agree that these items will be classified as direct damages: (a) authorized purchaser's reasonable costs for legally required breach notification to individuals whose personal information was misappropriated, and (b) authorized purchaser's reasonable costs for twelve (12) months of credit monitoring for such individuals.

2. Where Contractor, Authorized Purchaser, and the Director agree in writing to a different limitation of liability than that established in this Section 11.0 ("Negotiated LOL"), the Negotiated LOL shall only apply to the specific Order for that Authorized Purchaser. The Negotiated LOL shall not be deemed an amendment to this Participating Addendum. For the avoidance of doubt, all other terms of the Order shall be subject to the order of precedence established in Section 1.0 of this Participating Addendum.

12.0 Miscellaneous

1. *Mergers, Acquisitions and Dissolutions-*

Merger or Acquisition:

If, during the term of this Participating Addendum, the Contractor shall merge with or be acquired by another firm, the Contractor shall give notice to the Director as soon as practicable and in no event longer than thirty (30) days after said merger or acquisition. Any such merger or acquisition will require the assignment of the Agreement, as amended by this Participating Addendum, pursuant to the provisions related thereto set forth therein. The Contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the Contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents shall be submitted within thirty (30) days of the request. Failure to do so may result in termination of this Participating Addendum for cause.

Dissolution:

If, during the term of this Participating Addendum, the Contractor's partnership, joint venture or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director, in writing, the names of the parties proposed to perform under this Participating Addendum and the names of the parties to whom payment should be made. No payment will be made until all parties to the dissolved business entity submit the required documents to the Director.

2. *Announcements and/or Advertisements-*

All publicity and/or public announcements pertaining to this Participating Addendum shall be approved in writing by the State prior to release.

Contractor must obtain prior written (email) approval, no less than seven (7) business days before release for any and all advertisements pertaining to this Participating Addendum during its effective term.

3. *Contractor Audit-*

The State and Authorized Purchasers reserve the right to audit the Contractor's compliance with the Agreement. Such audit shall be in accordance with Section 26, Records Administration and Audit, in the Master Agreement. The State or Authorized Purchaser shall provide Contractor thirty (30) days' written notice of intent to audit and such audit such be conducted during normal business hours.

4. *Reserved.*

5. *Audit of Authorized Purchaser use of Intellectual Property -*

1. Notwithstanding anything to the contrary in the Agreement, in the event that the Contractor seeks to exercise a right in the Agreement to audit the State's use of Contractor's intellectual property, the Contractor shall deliver simultaneous written notice, no less than thirty (30) days in advance of the audit start date (unless the Contractor's notice provides a longer notice period), to:

- a. the Director of the New Jersey Department of Treasury, Division of Purchase and Property:
Procurement Bureau, Technology Unit
P.O. Box 230

Trenton, NJ 08625-0230

b. the Chief Data Officer of the New Jersey Office of Information Technology:
Office of the Chief Technology Officer
300 Riverview Plaza
Trenton, NJ 08625

c. and the State Contract Manager for this contract.

2. The notice shall reference the specific audit provision(s) in the Agreement being exercised and include copies of same, specify the means by which the Contractor will conduct the audit, and shall require the audit to be conducted in accordance with generally accepted standards in the field of such audits.

3. To the extent the agreement permits Contractor to conduct periodic audits of the State's usage of the Products and/or Services provided thereunder, such provision is amended to include the following dispute resolution process:

If the State, in good faith, provides Contractor with written notice of an alleged error in the amount of underpaid fees due Contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the license agreement, while they endeavor to resolve the dispute under this paragraph.

4. Notwithstanding anything to the contrary in the Agreement, the State will not pay or reimburse Contractor for costs or expenses associated with the performance of an audit.

5. In the event that the Agreement does not permit audits of the State's usage of the Contractor's Intellectual Property this provision shall not be interpreted to provide such an audit right.

6. Dispute Resolution – RESERVED.

7. Arbitration or Mediation –

Any provision regarding arbitration or binding mediation within the Agreement is deleted in its entirety.

13.0 Waiver

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

14.0 The State of New Jersey Mandatory Certification Requirements

The following are New Jersey procurement requirements that Contractor agrees to fulfill prior to the Effective Date. Some Authorized Purchasers may have additional requirements when placing an order and Contractor shall consider such requirements and will advise the Authorized Purchaser if unable to comply. Contractor shall not unreasonably refuse to comply with the additional requirements of the Authorized Purchaser.

1. New Jersey Business Registration (N.J.S.A. 52:32-44);
2. Ownership Disclosure (N.J.S.A. 52:25-24.2);
3. Disclosure of Investment Activities in Iran (N.J.S.A. 52:32-55 et seq.)
4. Executed MacBride Principles (N.J.S.A. 52:34-12.2);
5. Completed Contractor Certification and Disclosure of Political Contributions (N.J.S.A. 19:44A-20:13 et. seq.);
6. Disclosure of Investigations and Actions Involving Bidder
7. Vendor Certification (P.L. 2005, c.271);
8. Proof of insurance as specified herein;
9. Proof of compliance with New Jersey Affirmative Action requirements (N.J.A.C. 17:27-1.1 et. seq.):
 - a. New Jersey Form AA-302 Affirmative Action Employee Information Report; or
 - b. New Jersey Affirmative Action Certificate; or
 - c. Federal Affirmative Action Approval Letter.

15.0 Primary Contacts

The Division of Purchase and Property contact for this Participating Addendum is as follows:

Name: Joseph Woodside
Title: Procurement Specialist
Participating Entity Name: Division of Purchase and Property,
Department of the Treasury
State of New Jersey
Address: 33 West State Street, 8th Floor
PO Box 230
Trenton, New Jersey 08625-0230
Telephone: (609) 292-4189
Fax: (609) 292-5170
E-mail: Joseph.Woodside@treas.nj.gov

The State Contract Manager for this Participating Addendum is as follows:

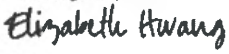
Name: Lynne Gash
Title: State Contract Manager
Participating Entity Name: Office of Information Technology,
State of New Jersey
Address: 300 Riverview Plaza
Trenton, New Jersey 08625
Telephone: (609) 376-0888
E-mail: Lynne.Gash@tech.nj.gov

The primary Contractor contact for this Participating Addendum is as follows:

Name: Virginia Akoto
Title: Contracts Manager
Contractor: Oracle America, Inc.
Address: 500 Oracle Parkway
Redwood Shores, CA 94065
Telephone: (703) 364-0941
E-mail: Virginia.a.akoto@oracle.com

The parties hereto agree that this Participating Addendum may be executed in counterpart, each original signed page to become part of the original document.

IN WITNESS WHEREOF, authorized representatives of Contractor and the State have executed this Participating Addendum to be effective on the Effective Date.

State of New Jersey, Department of the Treasury, Division of Purchase and Property	Oracle America, Inc.
 _____ Maurice A. Griffin, Esq. Assistant Division Counsel	DocuSigned by:  678130064A374EB _____ Signature
<u>9/17/19</u> _____ Date	Elizabeth Hwang _____ Print Name Senior Manager, Public Sector Deal Management _____ Print Title 17-Sep-2019 11:58 AM PDT _____ Date
Approved as to Form: Gurbir S. Grewal Attorney General of the State of New Jersey	
 _____ Signature	
<u>Aimee M. Nasom</u> _____ Print Name Deputy Attorney General <u>9-17-19</u> _____ Date	

State of New Jersey Compliance Terms and Conditions

The following terms and conditions are incorporated into the Participating Addendum.

1. LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS -

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625. The Contractor will comply with all laws to the extent that such laws, by their terms, are applicable to Contractor's provision of Services under this Participating Addendum and impose obligations directly upon Contractor in its role as an information technology services provider with respect to the Services. The Authorized Purchaser may not provide Contractor access to any health, payment card or other sensitive personal information that requires the application of specific regulatory, legal or industry data security obligations unless the applicable obligations are specified in the applicable Order.

Your content and your applications may be maintained in one of Oracle's data centers. The location of the data will be indicated on the Ordering Document. If the Ordering Document indicates "Customer Selected," the applicable data center will be in the U.S. unless otherwise specified by the Authorized Purchaser during provisioning.

1.1 BUSINESS REGISTRATION – Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue.

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

1.2 ANTI-DISCRIMINATION - All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

1.3 ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS -

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

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

State of New Jersey Compliance Terms and Conditions

- b) The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
- c) The Contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows;

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

1.4 PREVAILING WAGE ACT - Pursuant to the New Jersey Prevailing Wage Act (N.J.S.A. 34: 11-56.26 et seq.), contractor guarantees that it has not been suspended or debarred by the Commissioner, New Jersey Department of Labor and Workforce Development, for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; contractor also guarantees that it will comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required and to the extent applicable to this contract.

1.5 AMERICANS WITH DISABILITIES ACT - The Contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, *et seq.*

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

State of New Jersey Compliance Terms and Conditions

- 1.7 PAY TO PLAY PROHIBITIONS** – Pursuant to N.J.S.A. 19:44A-20.13 et seq (L.2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the Agreement for the Contractor to:
- a. make or solicit a contribution in violation of the statute;
 - b. knowingly conceal or misrepresent a contribution given or received;
 - c. make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - d. make or solicit any contribution on the condition or with the Agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee;
 - e. engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
 - f. fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - g. engage in any exchange of contributions to circumvent the intent of the Legislation; or
 - h. directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.
- 1.8 POLITICAL CONTRIBUTION DISCLOSURE** – The Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (L. 2005, c. 271, §3 as amended) if in a calendar year the Contractor receives one or more contracts valued at \$50,000.00 or more. It is the Contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at <http://www.elec.state.nj.us/>.
- 1.9 STANDARDS PROHIBITING CONFLICTS OF INTEREST** - The following prohibitions on Contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).
- a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.
 - b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
 - c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the

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Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

- d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f. The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

- 1.10 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE** - Pursuant to L 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

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

- 1.11 COMPLIANCE - STATE LAWS; JURISDICTION** - It is agreed and understood that any contracts and/or orders shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY, without giving effect to its conflict of laws. Any action brought regarding the Agreement or Services purchased thereunder shall be filed in the appropriate Division of the State of New Jersey Superior Court. Notwithstanding the preceding sentence, the Parties agree that venue and jurisdiction for any action involving prospective injunctive relief may be brought in any federal or state court located in New Jersey. For the avoidance of doubt, no actions for monetary damages may be brought in a federal court.

- 1.12 OWNERSHIP DISCLOSURE** – In accordance with N.J.S.A. 52:25-24.2, Contractor shall disclose the names and addresses of all of its owners holding 10% or more of the corporation's stock or interest during the term of the Agreement, by submitting an Ownership Disclosure Form at time of contract award. The contractor has the continuing obligation to notify the Division of any change in its ownership affecting 10% or more of its ownership as soon as such change has been completed.

State of New Jersey Compliance Terms and Conditions

1.13 PROHIBITED INVESTMENT IN IRAN - Pursuant to N.J.S.A. 52:32-55 et seq., the Contractor must utilize the Disclosure of Investment Activities in Iran form to certify that neither the contractor, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Contractor, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities as directed on the form.

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

2.1 COMPLIANCE - CODES – The Contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The Contractor shall be responsible for securing and paying all necessary permits, where applicable.

2.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT - The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

2.3 COMPLIANCE WITH ACCESSIBILITY STANDARDS The Contractor acknowledges that the State is required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794.

The extent to which an Oracle product is, prior to any customizations, capable of providing comparable access to individuals with disabilities, consistent with the applicable provisions of Section 508, is indicated by the dependencies, comments and exceptions (some of which may be significant, if any) noted on the applicable Voluntary Product Accessibility Templates (VPAT) available at www.oracle.com/accessibility for each product, when such products are used in accordance with Oracle's associated documents and other written information, and provided that any assistive technologies and any other products used with them properly interoperate with the product.

For purposes of the preceding sentence, Section 508 means Architectural and Transportation Barriers Compliance Board standards set out in 36 CFR Part 1194 (known as 'Section 508'), effective as of June, 2001, or the Revised version in Appendix A (known as 'Revised Section 508') effective as of January, 2018 and the Web Content Accessibility Guidelines (WCAG) version 2.0 level AA.

The Contractor agrees that any information that it provides to the State or to an Authorized Purchaser in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State or Authorized Purchaser with the Service Specifications in the event that the State or an Authorized Purchaser relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794.

2.4 BUILDING SERVICE – Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

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- 2.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** - The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.
- 2.6 BUY AMERICAN** – Pursuant to N.J.S.A. 52:32-1, if applicable to the Agreement, if manufactured items or farm products will be provided under this Agreement to be used in a public work, they shall be manufactured or produced in the United States and the Contractor shall be required to so certify.

Attachment 1 – Scope Addendum

**STATE OF NEW JERSEY
PARTICIPATING ADDENDUM AND STANDARD TERMS AND CONDITIONS
Under
NASPO ValuePoint Contract for Cloud Solutions
[State of Utah Master Agreement Number AR2487]**

Scope Addendum

As set forth in Section 2.0, Scope of Participating Addendum, the scope of Products and Services that may be procured by Authorized Purchasers defined in Section 6.0(1) of this Participating Addendum (State Agencies) shall be those Services established below. Contractor may only offer State Agencies the Services from the following cloud service providers:

- Oracle America, Inc.

Contractor may also provide State Agencies cloud related Services within the scope of the Master Agreement Contract # AR2487.

For all other Authorized Purchasers, the full suite of Product and Service offerings available under the Master Agreement may be procured under this Participating Addendum.