

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah



Master Agreement #: AR3110

State of Kansas Contract Number: 000000000000000000048763

Contractor: **WELLSKY CORPORATION**

Participating Entity: **STATE OF KANSAS**

The following products or services are included in this contract portfolio:

- *All products and accessories listed on the Contractor page of the NASPO ValuePoint website.*

Master Agreement Terms and Conditions:

1. Scope: This addendum covers **Cloud Solutions** led by the State of *Utah* for use by state agencies and other entities located in the Participating State of Kansas authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other *public* entities authorized to use statewide contracts in the State of Kansas. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
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 *review* 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):

Contractor

Name:	Vince Vecchiarelli
Address:	11300 Switzer Road Overland Park, KS 66210 Copy To: Legal Contracts
Telephone:	913-307-1162
Fax:	913-871-9571
Email:	vince.vecchiarelli@wellsky.com

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Participating Entity

Name:	Neal Farron
Address:	Department of Administration, Office of Procurement and Contracts 900 SW Jackson, Rm 451S Topeka, KS 66612
Telephone:	785-296-3122 or 785-296-2376
Fax:	785-296-7240
Email:	Neal.Farron@ks.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.

- a) The laws of the State of Kansas shall govern this Participating Addendum.
- b) State of Kansas Contractual Provisions Attachment, DA-146a attached and incorporated into this Participating Addendum as will have prior precedence over the Order of Precedence for the Master Agreement (No. AR3110).
- c) Travel expenses if applicable, shall be reimbursed under the same rates and conditions as noted in the "Employee Travel Expense Reimbursement Handbook" found at: <https://admin.ks.gov/offices/chief-financial-officer/travel-information-for-state-employees> unless otherwise agreed upon with the Purchasing Entity.
- d) Leasing is outside the scope of the NASPO ValuePoint Agreement and this Participating Addendum unless authorized by the State's Chief Procurement Officer for an individual order. For the avoidance of doubt, the parties acknowledge and agree that this provision is not intended to prevent Software as a Service orders under this Participating Addendum.
- e) Upon request of the Purchasing Entity, the Contractor and Subcontractors shall accept a Business Procurement Card (BPC) or other like instrument in lieu of a warrant for payment under this agreement.

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f) Reports and Administrative Fees:

The Contractor shall submit reports and administrative fees to the Office of Procurement and Contracts for all acquisitions, less returned product ("actual, net invoice sales"), made from this Participating Addendum. These items are to be submitted no later than 60 days following the end of each calendar quarter. The report should include as a minimum the agency name, quantity, description and amount. The report is to be provided electronically to reports@ks.gov. The Administrative Fee is to be one-half of one percent (0.5% or 0.005). A physical check is to be mailed to and be made payable to the State of Kansas – Office of Procurement and Contracts.

g) All Administrative Fees will be incorporated into the quoted unit prices of this contract.

(h) This contract is not an exclusive contract. The State of Kansas is not precluded from the purchase of goods and services from other sources.

i) A State of Kansas, Tax Clearance Certificate is required to execute this contract.

j) The contractor shall sign and submit a "Policy Regarding Sexual Harassment Acknowledgment form" per Executive Order 18-04. This form is required to execute this contract.

k) The contractor shall sign and submit a "Boycott of Israel certification Form" per HB 2482, 2018 Legislature. This form is required to execute this contract.

l) The contractor acknowledges the assigned State of Kansas contract number is:
0000000000000000000048763.

6. Subcontractors: Approved subcontractors, dealers, resellers or fulfillment partners in the State of Kansas will be mutually agreed to and will be provided on a separate listing or website. The State of Kansas, Procurements and Contracts has discretion as to which partners will be authorized for use for State of Kansas executive branch agencies. The Contractor will notify the participating state promptly when changes occur for the authorized subcontractors.

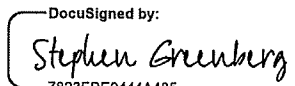
The contractor's subcontractor participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement and this Participating Addendum. The Contractor is to obtain from the subcontractor(s) information and fees as described in section 5, part f and supply to the State of Kansas.

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. Ordering instructions will be provided to the participating entity when changes occur.

Political Subdivisions are responsible for processing Purchase orders directly with the Contractor.

8. Entire Agreement: This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

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

Participating Entity: State of Kansas	Contractor: WellSky Corporation
Signature: 	Signature: 
Name: Richard Beattie	Name: Stephen Greenberg
Title: Director of Procurements and Contracts	Title: SVP Human & Social Services
Date: 8/20/2020	Date: 8/12/2020

WellSky™ offers the most complete set of solutions and services across the full continuum of care. Today, care providers of all types and disciplines are confronting dramatic change and looking for a partner who can help them solve challenges and thrive.

State of Kansas
Department of Administration DA-146a
(Rev. 07-19)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 20th day of August, 2020.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to

include *anti-discrimination* provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor *that provides services directly to the State on behalf of Contractor*; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403).
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title. For avoidance of doubt, a breach of this Agreement is a wrongful act.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.