

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah



Master Agreement #: AR3110

Contractor: **WELLSKY CORPORATION**

Participating Entity: **STATE OF NEVADA**

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

Master Agreement Terms and Conditions:

1. Scope:

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

2. Participation:

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

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

Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state. Any defined terms not defined in this Agreement shall be as defined in the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions or the Master License and Services Agreement ("NASPO Agreement") provided by Contractor under to the extent not defined in the NASPO Agreement.

4. Primary Contacts:

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

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

Contractor

Name:	Vince Vecchiarelli
Address:	11300 Switzer Road, Overland Park, KS 66210
Telephone:	913-307-1162
Email:	Vince.vecchiarelli@wellsky.com

Participating Entity

Name:	Ryan Vradenburg, Purchasing Officer
Address:	515 E. Musser St. Ste. 300, Carson City, NV 89701
Telephone:	775-684-0197
Fax:	775-684-0188
Email:	rvradenburg@admin.nv.gov

5. Participating Entity Modifications or Additions to the Master Agreement

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

Participating Entity must check one of the boxes below.

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

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

5.1 State Agency Order Placement

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

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

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

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

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

5.2 Required Approval

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

5.3 Definitions

- 5.3.1 "State" – means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
- 5.3.2 "Contracting Agency" – means the State agency identified above.
- 5.3.3 "Contractor" – means the person or entity identified above that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.
- 5.3.4 "Fiscal Year" – means the period beginning July 1st and ending June 30th of the following year.
- 5.3.5 "Contract" – Unless the context otherwise requires, "Contract" means this document entitled Participating Addendum and all Attachments or Incorporated Documents.
- 5.3.6 "Participating Addendum" – means this document entitled Participating Addendum exclusive of any Attachments or Incorporated Documents.

NASPO ValuePoint
PARTICIPATING ADDENDUM
CLOUD SOLUTIONS 2016-2026
 Led by the State of Utah



5.4 Contract Term

This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 5.11, Contract Termination*. Contract is subject to Board of Examiners' approval (anticipated to be 10/08/2019).

Effective from:	Upon BOE Approval	To:	09/08/2026
-----------------	-------------------	-----	------------

5.5 Notice

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

5.6 Incorporated Documents

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

ATTACHMENT AA:	MASTER AGREEMENT # AR3110
----------------	---------------------------

Any provision, term or condition of an attachment that contradicts the terms of this Participating Addendum, or that would change the obligations of the State under this Participating Addendum, shall be void and unenforceable.

5.7 Consideration

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

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

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

The State does not agree to reimburse Contractor for expenses unless otherwise specified in the fully executed Work Plan. Any intervening end to a biennial

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

5.8 Assent

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

5.9 Billing Submission: Timeliness

All invoices shall be paid net 30 days following the date of the invoice. To ensure timely payment, Contractor shall include budget accounts and note descriptions on invoices submitted to the State to identify the services provided. The parties recognize that the State is on a Fiscal Year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to Contractor.

5.10 Inspection & Audit

5.10.1 Books and Records. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.

5.10.2 Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall include substantially similar audit requirements.

- 5.10.3 Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

5.11 Contract Termination

- 5.11.1 Termination Without Cause. Intentionally omitted.

- 5.11.2 State Termination for Non-Appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages solely arising out of termination under this Section 5.11.2, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired, provided that Contractor does not waive any damages existing prior to the date of termination under this Section 5.11.2, including without limitation claims for fees due by the State for services performed and accepted prior to the date of termination.

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

- 5.11.3.1 If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

within any granted extension of those time requirements, provided that such failure does not arise from the State's delay or breach of its obligations under this Contract; or

5.11.3.2 If any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

5.11.3.3 If either party becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the Bankruptcy Court; or

5.11.3.4 If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or

5.11.3.5 If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

5.11.3.6 If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

5.11.4 Time to Correct. Unless the breach is not curable, or unless circumstances do not permit an opportunity to cure, termination upon declared breach may be exercised only after service of formal written notice as specified in *Section 5.5, Notice*, and the subsequent failure of the breaching party within thirty (30) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared breach has been corrected. Upon a notice of breach, the time to correct and the time for termination of the contract

NASPO ValuePoint
PARTICIPATING ADDENDUM
CLOUD SOLUTIONS 2016-2026
Led by the State of Utah



upon breach under *Section 5.11.3*, above, shall run concurrently, unless the notice expressly states otherwise.

5.11.5 Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:

5.11.5.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

5.11.5.2 Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;

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

5.12 Remedies

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

5.13 Limited Liability

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah



5.13.1 EXCEPT FOR FRAUD OR WILLFUL MISCONDUCT, NEITHER PARTY NOR ITS LICENSORS SHALL BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE DAMAGES, OR LOST PROFITS BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES,

5.13.2 The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases.

5.13.3 Except for a breach of Contractor's proprietary rights or limitations of use on the Products, damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the Fiscal Year budget in existence at the time of the breach.

5.13.4 Contractor's maximum liability in connection with any purchase order or contract entered by a State agency under this Participating Addendum shall not exceed the greater of (a) three million dollars (\$3,000,000) or (b) the "not to exceed" value of the purchase order or contract

5.13.5 The limitation set forth in Sections 5.13.1 and 5.13.4 shall not apply to Contractor's indemnification obligations for death, personal injury or damage to property, for claims of infringement of intellectual property rights, or for claims arising out of Contractor's fraud or willful misconduct, as set forth in Section 5.15.

5.13.6 The limitation set forth in Sections 5.13.1 and 5.13.4 shall not apply to Contractor's breach of the business associate agreement; provided, however, that Contractor's maximum liability for breach of the business associate agreement shall not exceed five million dollars (\$5,000,000). For the avoidance of doubt, government-imposed fines or penalties assessed against the Participating Entity to the extent they are caused by Contractor's breach of the business associate agreement are considered direct damages.

5.14 Force Majeure

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, pandemics or acts of God, including without limitation, earthquakes,

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases..

5.15 Indemnification and Defense

In addition to the indemnification obligations set forth on the NASPO ValuePoint Master Agreement section 13 pertaining to indemnification for death, personal injury or property damage, and for claims of infringement of intellectual property rights (which are incorporated here by reference) and subject to the Limitation of Liability set forth in Section 5.13, to the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State (a) from and against all third party liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, to the extent caused by any fraud or willful misconduct of the Contractor, its employees or subcontractors or volunteers relating to the performance under the Contract; and (b) from and against any actual and direct third party liabilities, penalties, demands or claims finally awarded, including, reasonable attorneys' fees and costs, to the extent caused by Contractor's breach of the Business Associate Agreement or Contractor's unlawful disclosure of personal information as defined in NRS 603A.040, personally identifiable information (PII), as defined in 2 CFR 200.79, or protected health information (PHI) as defined in 415 CFR 160.103; provided that for the avoidance of doubt, except for intellectual property indemnification, the above indemnity obligations shall not apply as relates to the design or functionality of the Services or the Products. Contractor's obligation to indemnify the State shall apply in all cases except for claims arising solely from the State's own negligence or willful misconduct. Contractor's duty to defend begins when the State requests defense of any claim required under this Section 5.15 and arising from this Contract.

5.16 Representations Regarding Independent Contractor Status

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

5.17 Insurance Schedule

Unless expressly waived in writing by the State, Contractor must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

provisions as described in *Attachment AA, Section 16* incorporated hereto by attachment. Neither party shall have liability except as specifically provided in the Contract.

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

5.17.1 Insurance Coverage. Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in *Attachment AA, Section 16*, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until:

- 5.17.1.1 Final acceptance by the State of the completion of this Contract; or
- 5.17.1.2 Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than sixty (60) days following the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall promptly notify the State and promptly, but in no event later than sixty (60) days replace such insurance or bond with an insurer meeting the requirements.

5.17.2 General Requirements.

- 5.17.2.1 Additional Insured: By endorsement to the general liability insurance policy, the State of Nevada, its officers, employees and

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

immune contractors as defined in NRS 41.0307 shall be included as additional insureds for all liability arising from the Contract.

- 5.17.2.2 Waiver of Subrogation: Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of Contractor.
- 5.17.2.3 Cross Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- 5.17.2.4 Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- 5.17.2.5 Policy Cancellation: Except for ten (10) days notice for non-payment of premiums, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed, provided that Contractor maintains the minimum requirements set forth above, and shall provide that notices required by this Section shall be sent by mail to the address shown on page one (1) of this contract.
- 5.17.2.6 Approved Insurer: Each insurance policy shall be:
- A. Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026
Led by the State of Utah



the State and having agents in Nevada upon whom service of process may be made; and

B. Currently rated by A.M. Best as "A-VII" or better.

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

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

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

5.17.3.2 Additional Insured Endorsement: An Additional Insured Endorsement (CG T8 00 or CG D4 30 02 19), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 5.17.2, General Requirements.*

5.17.3.3 Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the underlying Schedule from the Umbrella or Excess insurance policy may be required.

5.17.3.4 Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

5.18 Compliance with Legal Obligations

Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor shall provide proof of its compliance upon request of the Contracting Agency. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

5.19 Waiver of Breach

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

5.20 Severability

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

5.21 Assignment/Delegation

Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.

5.21.1 Notwithstanding section 5.21, Contractor may assign this Contract to an affiliate or in connection with any merger, reorganization or sale of

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah



substantially all of Contractor's assets or other change of control transaction without any consent from State. However, the State shall have a reasonable time after receiving notice of such assignment not to exceed thirty (30) days to request from the assignee information of the same type that was required to be submitted by Contractor in response to the solicitation for the NASPO ValuePoint Master Agreement concerning assignee's business profile, scope of experience, and financial condition, and the State may terminate this PA if the assignee fails to provide such information or if the assignee's business profile, scope of experience, or financial condition is materially inferior to that of the assignor upon [30] days' notice following such failure.

5.21.2 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract.

5.21.3 Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract pursuant to this Section 5.21 if so requested by the State.

5.22 State Ownership of Proprietary Information

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

5.23 Public Records

Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

5.24 Confidentiality

Subject to Section 5.23, the parties shall keep confidential all information, in whatever form, produced, prepared, observed or received by the other party to the extent that such information is confidential by law or otherwise required by this Contract.

5.25 Federal Funding

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

5.25.1 Contractor affirms, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This affirmation is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation subpart 9.4, and any relevant program-specific regulations. Contractor shall include substantially similar assurances from every subcontractor receiving any payment in whole or in part from federal funds.

5.25.2 Contractor and its subcontracts shall comply with all applicable terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.

5.25.3 Contractor and its subcontractors shall comply with the applicable requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

5.26 Lobbying

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

5.26.1 Any federal, state, county or local agency, legislature, commission, council or board;

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

5.26.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

5.26.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

5.27 General Warranty

Contractor warrants that all services, deliverables, and/or work products under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be of good quality, with no material defects.

5.28 Proper Authority

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

5.29 Disclosures Regarding Current or Former State Employees

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

5.30 Governing Law: Jurisdiction: Informal Dispute Resolution

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

Informal Dispute Resolution. The parties agree that the performance of this Contract shall be enhanced by the timely resolution of any dispute between them. Therefore, before either party files a lawsuit for a breach of this Contract (except in circumstances where a party is seeking emergency injunctive relief) the parties hereby agree to submit

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

to the following resolution process: (i) the aggrieved party shall provide the other party written notice that dispute resolution is required with a detailed description of the issues causing the dispute; (ii) within 10 business days thereafter, both Parties will appoint a representative (who must have the authority to resolve disputes) and give notice to the other party of the name and title of the representative; and (iii) within 10 business days thereafter the named representatives shall meet in person at State's site with the sole purpose of resolving the issues causing the dispute. Neither party shall be compensated for any time or expense related to the dispute resolution process.

5.31 Entire Contract and Modification

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

5.32 Administrative Fee

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

5.32.2 All administrative fee payments shall include the contract number on any transmittal document. However, only one contract number shall be entered on a transmittal document. If submitting an administrative fee payment for more than one contract, then a separate electronic payment and associated transmittal document shall be submitted by the contractor for each contract.

5.32.3 The State will not issue an invoice for the administrative fee owed to the State. It is the responsibility of the vendor to pay the administrative fee with no

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah



prompting from the State. Contractor shall pay the quarterly administrative fee within forty-five (45) calendar days of quarter end (refer to Section 1.4).

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

5.33 Nevada Purchasing Division Statewide Contract Quarterly Administrative Fee Report

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

5.34 Nevada Purchasing Division Statewide Contract Quarterly Usage Report

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

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

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

5.35 Fee Payment and Report Schedule

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

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

5.36 Report Modifications:

The Purchasing Division reserves the right to modify the requested format and contents of the Quarterly Administrative Fee & Usage Report by providing thirty (30) calendar days written notice to Contractor. The Purchasing Division may unilaterally amend the contract, with (30) calendar days written notice to the Contractor solely to change the timing for submission of the Quarterly Administrative Fee & Usage Report. Contractor understands and agrees that if such an amendment is issued by the Purchasing Division, Contractor shall comply with all contract terms, as amended. For the avoidance of doubt, no other terms and conditions outside of the timing for submission of the Quarterly Administrative Fee & Usage Report may be modified without formal written amendment to the Contract.

5.37 Timely Reports and Fees:

If the administrative fee is not paid and quarterly report is not received within forty five (45) calendar days of quarter end, then Contractor will be in material breach of this contract, provided that such material breach may be cured in accordance with 5.11.4.

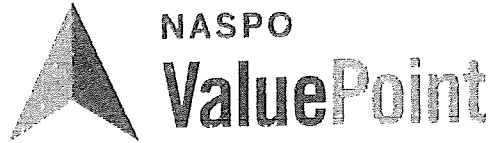
6. Subcontractors:

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

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.

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

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

DocuSigned by:
Stephen Greenberg 6/22/2020 Stephen Greenberg, SVP Human Services
Independent Contractor's Signature Date Independent Contractor's Title

Kevin D. Doty 6/29/2020
Kevin D. Doty Date Administrator, Purchasing Division

Susan B. APPROVED BY BOARD OF EXAMINERS
Signature – Board of Examiners

On: 8-11-2020
Date

Approved as to form by:

On:

[Signature]
Deputy Attorney General for Attorney General

26 June 20
Date

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Tim Hay
Telephone:	971-915-1229
Email:	thay@naspovaluepoint.org

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

