

CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

Master Agreement #: AR3710

Contractor: **KYNDRYL, INC.**

Participating Entity: **STATE OF ILLINOIS**

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 the Illinois Office of Comptroller located in the Participating State *Illinois* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Officer.
2. Participation: This NASPO ValuePoint Master Agreement may be used by the Illinois Office of Comptroller. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Officer.
3. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.
4. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Kyndryl, Inc.
Address:	1 Vanderbilt Avenue, New York, NY 10017
Telephone:	1.855.596.3795
Fax:	
Email:	Ron.Kaiser@kyndryl.com

Participating Entity

Name:	Illinois Office of Comptroller (Megan Seitzinger)
Address:	325 W. Adams St., Springfield, IL 62704
Telephone:	217-782-6000
Fax:	N/A
Email:	megan.seitzinger@illinoiscomptroller.gov

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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.

The Parties to this Participating Addendum are the Illinois Office of Comptroller and the Contractor. The Master Agreement and this Participating Addendum, consisting of the signature page and numbered sections listed above and below and any attachments referenced in this Participating Addendum, constitute the entire agreement between the Parties concerning the subject matter of this agreement. In signing the Participating Addendum, the Contractor affirms that the Certifications and if applicable the Financial Disclosures and Conflicts of Interest attached hereto are true and accurate as of the date of the Contractor's execution of the Participating Addendum. This agreement supersedes all prior agreements and understandings between the Parties concerning the subject matter of the agreement. This Participating Addendum, Standard Certifications, and Financial Disclosures and Conflicts of Interest will prevail in the event of a conflict between this Participating Addendum and Master Agreement AR3710. This Participating Addendum can be signed in multiple counterparts upon agreement of the Parties.

Participating Addendum uses Illinois Procurement Gateway Certifications and Disclosures.

☒ Yes (IPG Certifications and Disclosures including FORMS B)

☐ No

5.1 JOINT AND COOPERATIVE PURCHASING

5.1.1 The personal property, supplies or services subject to this Participating Addendum shall be distributed or rendered directly to the Illinois Office of Comptroller.

5.1.2 Contractor agrees to extend all terms and conditions, specifications, and pricing or discounts specified in the NASPO ValuePoint Master Agreement for the items in this Participating Addendum to the Illinois Office of Comptroller. The services subject to this Participating Addendum shall be distributed or rendered directly to the Illinois Office of Comptroller. Contractor shall bill the Illinois Office of Comptroller directly for the costs of the personal property, supplies or services purchased.

5.2 SUBCONTRACTORS:

5.2.1 Subcontractors are allowed.

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5.2.2 For purposes of this section, subcontractors are those specifically hired to perform all or part of the work covered by the Participating Addendum. If subcontractors will be utilized, Contractor must identify below the names and addresses of all subcontractors it will be entering into a contractual agreement that has an annual value of \$50,000 or more in the performance of this Participating Addendum, together with a description of the work to be performed by the subcontractor and the anticipated amount of money to the extent the information is known that each subcontractor is expected to receive pursuant to the Participating Addendum. Attach additional sheets as necessary.

5.2.3 Will subcontractors be utilized? ☐ Yes ☒ No

- Subcontractor Name:

Amount to be paid:

Address:

Description of work:

- Subcontractor Name:

Amount to be paid:

Address:

Description of work:

5.2.4 All contracts with the subcontractors identified above must include the Standard Certifications completed and signed by the subcontractor.

5.2.5 If the annual value of any the subcontracts is more than \$50,000, then the Contractor must provide to the State the Financial Disclosures and Conflicts of Interest for that subcontractor.

5.2.6 If the subcontractor is registered in the Illinois Procurement Gateway (IPG) and the Contractor is using the subcontractor's Standard Certifications or Financial Disclosures and Conflicts of Interest from the IPG, then the Contractor must also provide to the State a completed Forms B for the subcontractor.

5.2.7 If at any time during the term of the Participating Addendum, Contractor adds or changes any subcontractors, Contractor will be required to promptly notify, in writing, the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to this Participating Addendum. Any subcontracts entered into prior to

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award of the Participating Addendum are done at the sole risk of the Contractor's and subcontractor(s) risk.

5.3 WHERE SERVICES ARE TO BE PERFORMED:

5.3.1 Unless otherwise disclosed in this subsection, all services shall be performed in the United States. If the Contractor performs the services purchased hereunder in another country in violation of this provision, such action may be deemed by the State as a breach of the contract by Contractor.

5.3.2 Contractor shall disclose the locations where the services required shall be performed and the known or anticipated value of the services to be performed at each location. If the Contractor received additional consideration in the evaluation based on work being performed in the United States, it shall be a breach of contract if the Contractor shifts any such work outside the United States.

- Location where services will be performed:
Value of services performed at this location:
- Location where services will be performed:
Value of services performed at this location:

5.4 PRICING:

5.4.1 Type of Pricing: The Illinois Office of Comptroller requires the State to indicate whether the Participating Addendum value is firm or estimated at the time it is submitted for obligation. The total value of this Participating Addendum is Firm.

5.4.2 Expenses are not allowed.

5.4.3 Discount: N/A

5.4.4 Contractor's Pricing: See Attached Pricing Schedule

5.4.4.1 Contractor's Price for the Initial Term: See Attached Pricing Schedule

5.4.4.2 Renewal Compensation:

5.4.4.2.1 IOC Formula for Determining Renewal Compensation: See Attached Pricing Schedule

5.5 TERM AND TERMINATION

5.5.1 **TERM OF THIS CONTRACT:** This Participating Addendum has an initial term of Upon Execution to 12-months. If a start date is not identified, the term shall commence upon the last dated signature of the Parties.

5.5.1.1 In no event will the total term of the participating addendum, including the initial term, any renewal terms and any extensions, exceed 10 years.

5.5.1.2 Contractor shall not commence billable work in furtherance of the participating addendum prior to final execution of the participating addendum except when permitted pursuant to 30 ILCS 500/20-80.

5.5.2 **RENEWAL:**

5.5.2.1 Any renewal is subject to the same terms and conditions as the original participating addendum unless otherwise provided in the pricing section. The State may renew this participating addendum for any or all of the option periods specified, may exercise any of the renewal options early, and may exercise more than one option at a time based on continuing need and favorable market conditions, when in the best interest of the State. The participating addendum may neither renew automatically nor renew solely at the Contractor's option.

5.5.2.2 Pricing for the renewal term(s), or the formula for determining price, is shown in the pricing section of this contract.

5.5.2.3 The State reserves the right to renew for a total of two (2) years in any one of the following manners:

5.5.2.3.1 One renewal covering the entire renewal allowance;

5.5.2.3.2 Individual one-year renewals up to and including the entire renewal allowance; or

5.5.2.3.3 Any combination of full or partial year renewals up to and including the entire renewal allowance.

5.5.3 **TERMINATION FOR CAUSE:** The State may terminate this contract, in whole or in part, immediately upon notice to the Vendor if: (a) the State determines that the actions or inactions of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) the Vendor has notified the State that it is unable or unwilling to perform the contract.

If Vendor fails to perform to the State's satisfaction any material requirement of this contract, is in violation of a material provision of this contract, or the State

determines that the Vendor lacks the financial resources to perform the contract, the State shall provide written notice to the Vendor to cure the problem identified within the period of time specified in the State's written notice. If not cured by that date the State may either: (a) immediately terminate the contract without additional written notice or (b) enforce the terms and conditions of the contract.

For termination due to any of the causes contained in this Section, the State retains its rights to seek any available legal or equitable remedies and damages.

This section is subject to any limitations of liability in the Master Agreement or in any other document executed in conjunction with this participating addendum or the Master Agreement.

- 5.5.4 **TERMINATION FOR CONVENIENCE:** The State may, for its convenience and with thirty (30) days prior written notice to Vendor, terminate this contract in whole or in part and without payment of any penalty or incurring any further obligation to the Vendor.

Upon submission of invoices and proof of claim, the Vendor shall be entitled to compensation for supplies and services provided in compliance with this contract up to and including the date of termination.

- 5.5.5 **AVAILABILITY OF APPROPRIATION:** This participating addendum is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend this participating addendum, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason (30 ILCS 500/20-60), (2) the Governor decreases the Department's funding by reserving some or all of the Department's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly, or (3) the Department determines, in its sole discretion or as directed by the Office of the Governor, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. Contractor will be notified in writing of the failure of appropriation or of a reduction or decrease.

5.6 STANDARD BUSINESS TERMS AND CONDITIONS

5.6.1 PAYMENT TERMS AND CONDITIONS:

- 5.6.1.1 **Late Payment:** Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be

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Contractor's sole remedy for late payments by the State. Payment terms contained on Contractor's invoices shall have no force and effect.

5.6.1.2 Minority Contractor Initiative: Any Vendor awarded a contract of \$1,000 or more under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund. 15 ILCS 405/23.9.

5.6.1.3 Expenses: The State will not pay for supplies provided or services rendered, including related expenses, incurred prior to the execution of this participating addendum by the Parties even if the effective date of the participating addendum is prior to execution.

5.6.1.4 Prevailing Wage: As a condition of receiving payment Contractor must (i) be in compliance with the participating addendum, (ii) pay its employees prevailing wages when required by law, (iii) pay its suppliers and subcontractors according to the terms of their respective contracts, and (iv) provide lien waivers to the State upon request. Examples of prevailing wage categories include public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services. The prevailing wages are revised by the Illinois Department of Labor (DOL) and are available on DOL's official website, which shall be deemed proper notification of any rate changes under this subsection. Contractor is responsible for contacting DOL at 217-782-6206 or (<http://www.state.il.us/agency/idol/index.htm>) to ensure understanding of prevailing wage requirements.

5.6.2 INVOICING: By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of this contract, and the amount billed and expenses incurred are as allowed in this contract. Invoices for supplies purchased, services performed, and expenses incurred through June 30 of any year must be submitted to the State no later than July 31 of that year; otherwise Vendor may have to seek payment through the Illinois Court of Claims. 30 ILCS 105/25. All invoices are subject to statutory offset. 30 ILCS 210.

5.6.2.1 Vendor shall not bill for any taxes unless accompanied by proof that the State is subject to the tax. If necessary, Vendor may request the applicable Agency's Illinois tax exemption number and Federal tax exemption information.

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5.6.2.2 Vendor shall invoice at this completion of the contract unless invoicing is tied in this contract to milestones, deliverables, or other invoicing requirements agreed to in the contract.

5.6.3 ASSIGNMENT: This participating addendum may not be assigned, transferred in whole or in part by Contractor without the prior written consent of the State.

5.6.4 SUBCONTRACTING: For purposes of this section, subcontractors are those specifically hired to perform all or part of the work covered by the participating addendum. Contractor must receive prior written approval before use of any subcontractors in the performance of this participating addendum. Contractor shall describe, in an attachment if not already provided, the names and addresses of all authorized subcontractors to be utilized by Contractor in the performance of this participating addendum, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this participating addendum. If required, Contractor shall provide a copy of any subcontracts within fifteen (15) days after execution of this participating addendum. All subcontracts must include the same certifications that Contractor must make as a condition of this participating addendum. Contractor shall include in each subcontract the subcontractor certifications as shown on the Standard Certification form available from the State. If at any time during the term of the Participating Addendum, Contractor adds or changes any subcontractors, then Contractor must promptly notify, by written amendment to the Participating Addendum, the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Participating Addendum. 30 ILCS 500/20-120.

5.6.5 AUDIT/RETENTION OF RECORDS: Contractor and its subcontractors shall maintain books and records relating to the performance of the participating addendum or subcontract and necessary to support amounts charged to the State pursuant the participating addendum or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Contractor for a period of three (3) years from the later of the date of final payment under the participating addendum or completion of the participating addendum, and by the subcontractor for a period of three (3) years from the later of final payment under the term or completion of the subcontract. If Federal funds are used to pay participating addendum costs, the Contractor and its subcontractors must retain their respective records for five (5) years. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the procuring Agency, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Contractor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of

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these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this participating addendum or any subcontract for which adequate books and records are not available to support the purported disbursement. The Contractor or subcontractors shall not impose a charge for audit or examination of the Contractor's or subcontractor's books and records. 30 ILCS 500/20-65.

- 5.6.6 **TIME:** The parties agree to perform their respective obligations in accordance with the mutually agreed upon schedule. Contractor shall continue to perform its undisputed obligations while any dispute concerning this contract is being resolved, unless otherwise mutually agreed upon by the parties. The parties will work expeditiously to resolve any dispute in accordance with the informal dispute resolution terms contained in this Agreement.
- 5.6.7 **NO WAIVER OF RIGHTS:** Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.
- 5.6.8 **FORCE MAJEURE:** Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence, including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel the participating addendum without penalty if performance does not resume within thirty (30) days of the declaration.
- 5.6.9 **CONFIDENTIAL INFORMATION:** Each Party to this participating addendum, including its agents and subcontractors, may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this contract. Contractor shall presume all information received from the State or to which it gains access pursuant to this participating addendum is confidential. Contractor information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of the participating addendum shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of the participating addendum or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of the participating addendum, in whatever form it is maintained, promptly at the end of the participating addendum, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third Party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the

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receiving Party; or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

5.6.10 USE AND OWNERSHIP: All work performed or supplies created by Contractor under this participating addendum, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Contractor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Contractor may have to such work including any so-called "moral rights" in connection with the work. Contractor acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to confidentiality provisions of this participating addendum.

5.6.11 INDEMNIFICATION AND LIABILITY: The Vendor shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any real or personal property, or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; (c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents; or (d) any actual or alleged claim that the services or goods provided under this contract infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret, or trademark) rights of a third party. Vendor shall have no liability for any claim of bodily injury and/or tangible personal property arising from use of software or hardware. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois, the State may not indemnify private parties absent express statutory authority permitting the indemnification. Neither Party shall be liable for incidental, special, consequential, or punitive damages. This Section 5.6.11 states Vendor's entire liability and an Indemnified Party's exclusive remedy for bodily injury and property damage.

5.6.12 INSURANCE: Contractor shall, at all times during the term of this contract and any renewals or extensions, maintain and provide a Certificate of Insurance naming the State as an additionally insured for all required bonds and insurance. Certificates may not be modified or canceled until at least thirty (30) days' notice has been provided to the State. Contractor shall provide: (a) General Commercial Liability insurance in the amount of \$1,000,000 per occurrence (Combined Single Limit

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Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned Auto (Combined Single Limit Bodily Injury and Property Damage), in amount of \$1,000,000 per occurrence; and (c) Worker's Compensation Insurance in the amount required by law. Insurance shall not limit Contractor's obligation to indemnify, defend, or settle any claims.

- 5.6.13 **INDEPENDENT CONTRACTOR:** Contractor shall act as an independent contractor and not an agent or employee of, or joint venture with the State. All payments by the State shall be made on that basis.
- 5.6.14 **SOLICITATION AND EMPLOYMENT:** Contractor shall not employ any person employed by the State during the term of this participating addendum to perform any work under this participating addendum. Contractor shall give notice immediately to the Agency's director if Contractor solicits or intends to solicit State employees to perform any work under this participating addendum.
- 5.6.15 **COMPLIANCE WITH THE LAW:** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars and all license and permit requirements in the performance of this participating addendum. Contractor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Contractor shall obtain at its own expense, all licenses and permissions necessary for the performance of this participating addendum.
- 5.6.16 **BACKGROUND CHECK:** Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Contractor's and subcontractor's officers, employees or agents performing work directly related to this Participating Addendum. Contractor or subcontractor shall immediately reassign any individual who, in the opinion of the State, does not pass the background check.
- 5.6.17 **APPLICABLE LAW:**
- 5.6.17.1 **PREVAILING LAW:** This participating addendum shall be construed in accordance with and is subject to the laws and rules of the State of Illinois.
- 5.6.17.2 **EQUAL OPPORTUNITY:** The Department of Human Rights' Equal Opportunity requirements are incorporated by reference. 44 ILL. ADM. CODE 750.
- 5.6.17.3 **COURT OF CLAIMS; ARBITRATION; SOVEREIGN IMMUNITY:** Any claim against the State arising out of this participating addendum must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. The State shall not enter into binding arbitration to resolve any dispute arising out of this participating addendum. The State of Illinois does not waive sovereign immunity by entering into this participating addendum.

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- 5.6.17.4 **OFFICIAL TEXT:** The official text of the statutes cited herein is incorporated by reference. An unofficial version can be viewed at (www.ilga.gov/legislation/ilcs/ilcs.asp).
- 5.6.18 **ANTI-TRUST ASSIGNMENT:** If Contractor does not pursue any claim or cause of action it has arising under Federal or State antitrust laws relating to the subject matter of this participating addendum, then upon request of the Illinois Attorney General, Contractor shall assign to the State all of Contractor's rights, title and interest in and to the claim or cause of action.
- 5.6.19 **CONTRACTUAL AUTHORITY:** The Agency that signs this contract on behalf of the State of Illinois shall be the only State entity responsible for performance and payment under this participating addendum. When the Chief Procurement Officer or authorized designee signs in addition to an Agency, he/she does so as approving officer and shall have no liability to Contractor.
- 5.6.20 **EXPATRIATED ENTITIES:** Except in limited circumstances, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall submit a bid for or enter into a contract with a State agency if that business or any member of the unitary business group is an expatriated entity.
- 5.6.21 **NOTICES:** Notices and other communications provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express or other similar and reliable carrier), by electronic mail whenever possible. Notices shall be sent to the individuals who signed this participating addendum using the participating addendum information following the signatures. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change its participating addendum information.
- 5.6.22 **MODIFICATIONS AND SURVIVAL:** Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this participating addendum officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Contractor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.
- 5.6.23 **PERFORMANCE RECORD / SUSPENSION:** Upon request of the State, Contractor shall meet to discuss performance or provide participating addendum performance updates to help ensure proper performance of the participating addendum. The State may consider Contractor's performance under this participating addendum and compliance with law and rule to determine whether to

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continue the participating addendum, suspend Contractor from doing future business with the State for a specified period of time, or whether Contractor can be considered responsible on specific future participating addendum opportunities.

5.6.24 FREEDOM OF INFORMATION ACT: This participating addendum and all related public records maintained by, provided to or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) (50 ILCS 140) notwithstanding any provision to the contrary that may be found in this participating addendum.

5.6.25 SCHEDULE OF WORK: Any work performed on State premises shall be done during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.

5.6.26 WARRANTIES: Vendor warrants that the supplies furnished under this contract will comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies; be of good title and be free and clear of all liens and encumbrances and; not infringe any patent, copyright or other intellectual property rights of any third party.

5.6.26.1 Vendor shall ensure that all manufacturers' warranties are transferred to the State and shall provide to the State copies of such warranties. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.

5.6.26.2 Vendor warrants that all services will be performed to meet the requirements of this contract in an efficient and effective manner by trained and competent personnel. Vendor shall monitor performances of each individual and shall immediately reassign any individual who does not perform in accordance with this contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the contract or State policies.

5.6.26.3 VENDOR DOES NOT GUARANTEE THAT (i) THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED OR THAT VENDOR WILL CORRECT ALL SERVICES ERRORS, (ii) THE SERVICES WILL OPERATE IN COMBINATION WITH PURCHASING ENTITY'S CONTENT OR ITS APPLICATIONS, OR WITH ANY OTHER HARDWARE OR SOFTWARE SYSTEMS, SERVICES, OR DATA NOT PROVIDED BY VENDOR, AND (iii) THE SERVICES WILL MEET PURCHASING ENTITY'S REQUIREMENTS, SPECIFICATIONS, OR EXPECTATIONS. PURCHASING ENTITY SCKNOWLEDGES THAT VENDOR DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MA BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS

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FACILITIES. VENDOR IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. VENDOR IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION, OR SECURITY OF THE SERVICES THAT ARISE FROM PURCHASING ENTITY'S CONTENT, ITS APPLICATIONS, OR THIRD-PARTY CONTENT. VENDOR WARRANTIES WILL NOT APPLY IF THERE HAS BEEN MISUSE, MODIFICATION, DAMAGE NOT CAUSED BY VENDOR, FAILURE TO COMPLY WITH INSTRUCTIONS PROVIDED BY VENDOR, OR IF OTHERWISE STATED IN AN ATTACHMENT OR TD. NON-VENDOR SERVICES ARE SOLD UNDER THE AGREEMENT AS-IS, WITHOUT WARRANTIES OF ANY KIND. THIRD PARTIES MAY PROVIDE THEIR OWN WARRANTIES.

a. FOR ANY BREACH OF SERVICES WARRANTY, PURCHASING ENTITY'S EXCLUSIVE REMEDY AND VENDOR'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF VENDOR CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, PURCHASING ENTITY MAY END THE DEFICIENT SERVICES AND VENDOR WILL REFUND TO PURCHASING ENTITY THE FEES PAID FOR THE DEFICIENT SERVICES FOR THE PERIOD OF TIME DURING WHICH THE SERVICES WERE DEFICIENT.

b. TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.6.27 REPORTING, STATUS AND MONITORING SPECIFICATIONS: Contractor shall immediately notify the State of any event that may have a material impact on Contractor's ability to perform this participating addendum.

5.6.28 EMPLOYMENT TAX CREDIT: Contractors who hire qualified veterans and certain ex-offenders may be eligible for tax credits. 35 ILCS 5/216, 5/217. Please contact the Illinois Department of Revenue (telephone #: 217-524-4772) for information about tax credits.

5.6.28.1 The Illinois Office of Comptroller does not consent to be governed by the laws of any state other than Illinois;

5.6.28.2 The Illinois Office of Comptroller does not consent to be represented in any legal proceeding by any person or entity other than the Illinois Attorney General or his or her designee;

CLOUD SOLUTIONS 2016-2026

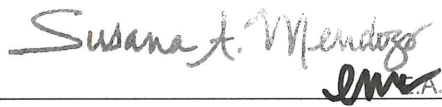
Led by the State of Utah

5.6.28.3 The Illinois Office of Comptroller shall not be bound by the terms and conditions contained in any click-wrap agreement, click-wrap license, click-through agreement, click-through license, end user license agreement or any other agreement or license contained or referenced in the software or any quote provided by Contractor.

5.6.28.4 The Illinois Office of Comptroller shall not indemnify Contractor or its subcontractors (including any equipment manufacturers or software companies);

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

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

Participating Entity: Illinois Office of Comptroller 325 W. Adams St. Springfield, IL 62704	Contractor: Kyndryl, Inc. 1 Vanderbilt Avenue New York, NY 10017
Signature: 	Signature: 
Name: Ellen Andres	Name: Jeanie LaPack
Title: Assistant Comptroller	Title: Partner, Sales
Date: <i>2-10-2022</i>	Date: February 22, 2022

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AGENCY USE ONLY

NOT PART OF CONTRACTUAL PROVISIONS

Agency Reference #:

Project Title:

Contract #:

Procurement Method (IFB, RFP, Small Purchase, etc.): RFP

IPB Reference #:

IPB Publication Date:

Award Code: M (30 ILCS 525/2)

Subcontractor Utilization? ☐ Yes ☒ No

Subcontractor Disclosure? ☐ Yes ☐ No

Funding Source:

Obligation #:

Small Business Set-Aside? ☐ Yes ☒ No

Percentage:

Minority Owned Business? ☐ Yes ☒ No

Percentage:

Women Owned Business? ☐ Yes ☒ No

Percentage: 6%

Persons with Disabilities Owned Business? ☐ Yes ☒ No

Percentage:

Veteran Owned Small Business? ☐ Yes ☒ No

Percentage:

Other Preferences? Not Applicable