

STATE OF VERMONT PARTICIPATING ADDENDUM # 42891
FOR NASPO VALUEPOINT PURCHASING PROGRAM: CLOUD SOLUTIONS

Led by the State of Utah

Master Agreement # AR2507

Contractor: Workday, Inc.

Contractor's NASPO ValuePoint Webpage: <https://www.naspovaluepoint.org/portfolio/cloud-solutions-2016-2026/workday-inc/>

1. **Parties.** This Participating Addendum is a contract between the State of Vermont, through its Department of Buildings and General Services, Office of Purchasing & Contracting (hereinafter “State” or “Vermont”), and the Contractor identified above. It is the Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** This Participating Addendum authorizes the purchase of Cloud Solutions from Contractor pursuant to the Master Agreement identified above, which is hereby incorporated by reference. Contractor’s awarded categories are:
 - a. **Software as a Service (SaaS):** As used in this Participation Addendum is defined as the capability provided to the consumer to use the Contractor’s applications running on a Contractor’s infrastructure (commonly referred to as ‘cloud infrastructure). The applications are accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email), or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
3. **Definitions.** Capitalized terms used, but not defined herein, have the meanings ascribed to such terms in the Master Agreement between the Lead State and the Contractor.
4. **Purchasing Entities.** This Participating Addendum may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a “State Purchaser”) according to the process for ordering and other restrictions applicable to State Purchasers set forth herein; and (b) political subdivisions of the State of Vermont and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education as authorized under 29 V.S.A. § 902 (each an “Additional Purchaser”). Issues concerning interpretation and eligibility for participation are solely within the authority of the State of Vermont Chief Procurement Officer. The State of Vermont and its officers and employees shall have no responsibility or liability for Additional Purchasers. Each Additional Purchaser is to make its own determination whether this Participating Addendum and the Master Agreement are consistent with its procurement policies and regulations.
5. **Addendum Term.** The period of this Participating Addendum shall begin on February 1, 2022 and end upon expiration of the Master Agreement, unless terminated earlier in accordance with the terms of this Participating Addendum or the Master Agreement. An amendment to this Participating Addendum shall not be necessary in the event of the renewal or extension of the Master Agreement.
6. **Available Products and Services.** All products, services and accessories listed on the Contractor’s NASPO ValuePoint Webpage may be purchased under this Participating Addendum.

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7. ***No Lease Agreements.*** Contractor is prohibited from leasing to State Purchasers under this Participating Addendum. Additional Purchasers are not subject to this prohibition and may negotiate lease agreements with Contractor if the terms of the Master Agreement permit leasing.
8. ***Orders.*** Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Participating Addendum 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.

9. ***Requirements for Ordering.***

- a. All orders placed under this Participating Addendum must be in writing and shall, at a minimum, specify the following:
- i. The product(s) being ordered;
 - ii. The professional service(s) required, the location of the services, if any services will be performed onsite, and a timeline for performance with a project start and estimated end date, to the extent applicable;
 - iii. The Purchasing Entity's billing address;
 - iv. The name and contact information for the Purchasing Entity's primary contact;
 - v. The price for the products and services being purchased and other pricing elements consistent with this Agreement;
 - vi. A maximum amount payable by the Purchasing Entity under the order;
 - vii. A unique identifier for the order; and
 - viii. The State of Vermont Participating Addendum Number.
- b. As applicable, orders for professional services shall include a specifically negotiated statement of work as necessary and mutually agreed upon for the professional services to meet the Purchasing Entity's requirements.
- c. Orders may include additional terms as necessary to comply with local, state or federal laws or regulations applicable to the Purchasing Entity.

10. ***Payment Provisions and Invoicing.***

- a. Product offerings and details of product pricing applicable to this Participating Addendum are set forth in the Price Schedule maintained on-line at Contractor's NASPO ValuePoint Webpage listed above.
- b. Purchasing Entities may solicit the Contractor for deeper discounts than the minimum contract pricing as set forth in the Price Schedule (e.g., additional volume pricing, incremental discounts, firm fixed pricing or other incentives).
- c. Retainage may be specified in an Order, in an amount mutually agreeable to the parties.
- d. Consistent with section 21 of the Master Agreement, payment terms are Net 30 days from the date the Purchasing Entity receives an error-free invoice with all necessary and complete

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supporting documentation. As applicable, a copy of the notice(s) of acceptance shall accompany invoices submitted for payment.

- e. Invoices shall be sent to the address identified on the Purchasing Entity's Order and shall specify the address to which payments will be sent. The State of Vermont Participating Addendum Number and Purchasing Entity's assigned Order number, as indicated on the relevant State of Vermont ordering document, shall appear on the related invoice for all purchases placed under this Participating Addendum.
- f. Reimbursement of expenses is not authorized. All rates set forth in an Order shall be inclusive of any and all Contractor fees and expenses.

11. *Fulfillment Partners/Authorized Resellers.*

- a. Resellers (or Fulfillment Partners) are not applicable to this Participating Addendum.
- 12.** Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions set forth by this Participating Addendum. Contractor acknowledges that each and all of the promises it makes as "Contractor" in the Master Agreement and in this Participating Addendum will apply to all Products and Services provided hereunder, regardless of who is providing or licensing the Product or performing the work.
- a. Consistent with the Master Agreement, Attachment A Section 40, Contractor promises that Purchasing Entities will not be required to affirmatively accept additional terms and conditions to use or access any Product or Service purchased under this Participating Addendum, whether by electronic means (e.g., click-through) or otherwise.
 - b. To the extent Contractor resells third party products, Contractor promises that each of the third parties whose Products and/or Services are available for purchase under this Participating Addendum understand and agree that the terms and conditions applicable to their Products and/or Services are as set forth in the Master Agreement, as amended, and are subordinate to the terms of this Participating Addendum and the NASPO ValuePoint Master Agreement Terms & Conditions and associated service model Exhibits.
- 13. *Reporting.*** Contractor shall submit quarterly reports electronically in the same format as set forth under the Master Agreement, detailing the purchasing of all items under this Participating Addendum. Contractor's reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.
- a. The reports shall be an excel spreadsheet transmitted electronically to SOV.ThePathForward@vermont.gov.
 - b. Reports are due for each quarter as follows:

Reporting Period	Report Due
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31

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October 1 to December 31	January 31
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- c. Failure to meet these reporting requirements may result in suspension or termination of this Participating Addendum.
14. **Authority.** Each party to this Participating Addendum, and each individual signing on behalf of each party, hereby represents and warrant to the other that it has full power and authority to enter into this Participating Addendum and that its execution, delivery, and performance of this Participating Addendum has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
15. **Integrated Agreement; Amendment.** This Participating Addendum and Master Agreement, together with its exhibits, set forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. No changes, modifications, or amendments in the terms and conditions of this Participating Addendum shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
16. **Termination.** This Participating Addendum may be terminated by the State at any time upon 30 days prior written notice to the Contractor. Upon termination or expiration of this Participating Addendum, each party will use commercially reasonable efforts to assist the other in orderly termination of the Participating Addendum and the transfer of all assets, tangible and intangible, as may facilitate the orderly, non-disrupted business continuation of each party. This provision shall not relieve the Contractor or Purchasing Entity of the obligation to perform under any Order executed prior to the effective date of termination or other expiration of this Participating Addendum.
17. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this Participating Addendum. The primary contacts for this this Participating Addendum are as follows:
- a. **For the Contractor:**
- Name: Sherry Amos
Phone: 703/402-3476
Email: sherry.amos@workday.com
- b. **For the State:**
- Name: State of Vermont, Stephen Fazekas
Address: 109 State Street, Montpelier, VT 05633-3001
Phone: 802/828-2210
Fax: 802/828-2222
Email: Stephen.fazekas@vermont.gov
18. **Additional Terms and Conditions.**
- a. Notwithstanding any contrary language anywhere, in no event shall the terms of this contract or any document furnished by Contractor in connection with performance under this contract obligate the State to (1) defend or indemnify Contractor or any third party or (2) otherwise be liable for the expenses or reimbursement, including attorney's fees, collection costs or other

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- costs of Contractor or any third party. For the avoidance of doubt, the foregoing shall not be perceived as a waiver by Contractor of any damages deemed recoverable by a court of competent jurisdiction.
- b. If required by an order made by a State Purchaser under this Participating Addendum, the parties agree that a Business Associate Agreement mutually acceptable to the parties shall be negotiated and made applicable to the Order. This provision shall not apply to Additional Purchasers.
 - c. **Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** Consistent with the Master Agreement, Attachment A Section 34.a (Governing Law and Venue), this Participating Addendum will be governed by the laws of the State of Vermont. Consistent with the Master Agreement, Attachment A Section 34.b (Governing Law and Venue), venue for any non-federal claim, dispute, or action concerning this Participating Addendum or any Order placed by a State Purchaser under this Participating Addendum shall be in the Superior Court of the State of Vermont, Civil Division, Washington Unit. Contractor agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.
 - d. **Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State's sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State's immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State's entry into this Participating Addendum.
 - e. **False Claims Act:** Contractor acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* Contractor's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Contractor's liability.
 - f. **Whistleblower Protections:** Contractor shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, Contractor shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to Contractor or its agents prior to reporting to any governmental entity and/or the public.
 - g. **Fair Employment Practices and Americans with Disabilities Act:** Contractor agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Contractor shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by Contractor under this Agreement.
 - h. **Set Off:** The State may set off any taxes which Contractor owes the State against any sums due Contractor under this Agreement in accordance with the procedures set forth in 32 V.S.A. § 3113(d).

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- i. **Taxes Due to the State:** Contractor certifies under the pains and penalties of perjury that, as of the date this Participating Addendum is signed, Contractor is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- j. **Taxation of Purchases:** To the extent a valid exemption has been provided to Contractor, all State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.
- k. **Certification Regarding Debarment:** Contractor certifies under pains and penalties of perjury that, as of the date that this Participating Addendum is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds. Contractor further certifies under pains and penalties of perjury that, as of the date that this Participating Addendum is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>
- l. **Confidentiality:** Contractor acknowledges and agrees that this Participating Addendum and any and all information obtained by the State from the Party in connection with this Participating Addendum are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.
- m. **Marketing:** Contractor shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.
- n. **Non-Appropriation:** Each payment obligation of the State is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Participating Addendum, the Participating Addendum may be terminated by the State at the end of the period for which the funds are available. The State shall notify the Contractor in writing at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any unfunded future payments due or for any damages as a result of termination under this section. Upon request by Contractor, the State shall identify to Contractor the extent to which funds have been allocated for individual Order Forms.
- o. **Continuity of Performance:** In the event of a dispute between Contractor and the State, each party will continue to perform its obligations under this Participating Addendum during the resolution of the dispute until this Participating Addendum is terminated in accordance with its terms.
- p. **State Facilities:** If the State makes space available to Contractor in any State facility during the term of this Participating Addendum for purposes of Contractor's performance under this Participating Addendum, Contractor shall only use the space in accordance with all policies

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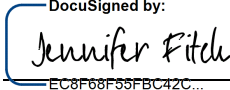
and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

- q. **SOV Cybersecurity Standard 19-01:** All products and service provided to or for the use of the State Purchasers under this Participating Addendum shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- r. **State of Vermont - Federal Terms Supplement 2020 Pandemic/Covid-19.** When specified in an Order made by a State Purchaser under this Participating Addendum, the terms and conditions set forth in "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic," as are attached to this Participating Addendum, shall apply to the products or services provided to the State Purchaser. For clarification purposes, under Orders in which subcontractors will not be used, the Byrd Amendment shall apply solely to Contractor, as Contractor does not subcontract its subscription service.

By signing below Contractor agrees to offer the products and services on the Master Agreement at prices equal to or lower than the prices listed on the Master Agreement.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

Date: 2/15/2022Signature:  EC8F68F55FBC42C...Name: Jennifer M.V. FitchTitle: Commissioner - Buildings and General Services

By Workday, Inc.

Date: Jan 6, 2022Signature:  Michael Magaro (Jan 6, 2022 12:18 PST)Name: Michael MagaroTitle: Senior Vice President, Business Finance

Approved as to Legal Form by:

Rick Oleka

STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)
for all Contracts and Purchases
of Products and Services Connected with 2020 Pandemic

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more certify that each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the recipient who in turn will forward the certification(s) to the awarding agency

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, to the extent applicable to the products procured thereunder, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired:

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
4. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

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5. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
6. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor shall be handled in accordance with the applicable terms and conditions of the NASPO Master Agreement and the exhibits thereto. Contractor may be liable for the Purchasing Entity's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the Purchasing Entity's review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the Purchasing Entity provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

[end of STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)]