STATE OF NEW JERSEY
PARTICIPATING ADDENDUM AND STANDARD TERMS AND CONDITIONS
Under
NASPO ValuePoint Contract for Wireless Data, Voice and Accessories
State of Utah Contract Ref No. MA149

This Participating Addendum (the "Pariticipating Addendum" or the "PA") is made as the last date of signature below whichever is later (the "PA Effective Date"), by and between, AT&T Corp., whose address is One AT&T Way, Bedminster, NJ 07921-0752 ("Contractor" or "AT&T"), and the State of New Jersey, Department of the Treasury, Division of Purchase and Property ("Participating Entity" or the "State") whose address is 33 West State Street, 8th Floor, P.O. Box 039, Trenton, New Jersey 08625, on behalf of the State of New Jersey and all "Purchasing Entities" or "Authorized Purchaser" (as defined below). Unless otherwise defined, capitalized terms used but not defined shall have the meaning ascribed to them in the Master Agreement. Participating Entity and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

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

WHEREAS, Contractor and the State of Utah, acting through its Department of Administration, Purchasing Division, and the participating members of the NASPO ValuePoint, a division of the National Association of State Procurement Officials ("NASPO"), are parties to that certain wireless communication services and equipment contract #MA 149, dated, December 6, 2019 (the "Contract" or "Master Agreement"); and

WHEREAS, the Master Agreement can be found at the following URL https://www.naspovaluepoint.org/portfolio/wireless-voice-data-accessories-2019-2024/att/; and

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

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

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

1.0 TERM AND EXTENSION OPTION; ORDER OF PRECEDENCE; ENTIRE AGREEMENT:

1. The term of this Participating Addendum shall be effective from the PA Effective Date through the time when the Master Agreement expires or is terminated whichever occurs first. If any of the Master Agreement's renewal options are exercised, then the State may extend the term of the Participating Addendum to coincide with the extended term of the Master Agreement. The State shall notify Contractor of its intent regarding renewal not less than ninety (90) days prior to termination of the then-current Master Agreement term. The PA may not be auto-renewed.

2. The entire agreement, and all rights and obligations between the parties, shall consist of the following documents (which shall be collectively referred to as the "Agreement"):
   a. This Participating Addendum;
   b. The Master Agreement, including its attachments, incorporated by reference herein as Exhibit C;
   c. The Solicitation incorporated by reference herein as Exhibit D;
   d. The Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State, incorporated by reference herein as Exhibit E; and; and
   e. A Purchase Order issued by an Authorized Purchaser against the Participating Addendum;

   The documents comprising the Agreement shall be read to be consistent and complimentary. In the event of any conflict between the terms of the documents comprising the Agreement, the conflict shall be resolved by giving priority to the documents in the order listed above.

3. The Agreement sets forth the entire agreement between the parties and supersedes all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof.

4. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the Agreement shall not be added to or incorporated into the Agreement by any subsequent Contractor or third party end user agreement of any type, through any medium whatsoever, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of the Agreement shall prevail and govern in the case of any such inconsistent or additional terms. The terms and conditions of the Agreement shall prevail and govern in the case of any inconsistent terms provided by Contractor, or through any third party end user agreement of any type, through any medium whatsoever. Any provisions in the applicable terms and conditions that require the State to indemnify the Contractor, or its affiliates, roaming partners, suppliers, subcontractors or third party, subject to the State to an audit, and/or governing law and jurisdiction outside of the New Jersey, are inapplicable.

5. In the event the Lead State approves Contractor to offer new or additional Products and Services under the Master Agreement after the PA Effective Date and such Products or Services incorporate any different, inconsistent, or additional terms into the Master Agreement, including, but not limited to Contractor or third-party end user agreements, such terms and conditions shall not be made part of the Agreement without a written amendment to the Participating Addendum signed by both Parties.

6. In the event that Contractor presents terms and conditions, including but not limited to Contractor or third-party end user agreements, in response to an order by a Purchasing Entity, through any medium whatsoever, that have not been previously accepted by the Division as part of this Participating Addendum, or as an amendment to this Participating Addendum, are expressly rejected and shall not become part of the Agreement.

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

2.0 SCOPE:

1. The scope of Products and Services that may be procured by Purchasing Entitys (defined in Section 6.0(1) of this Participating Addendum) shall be those Products and Service offerings available under the Master Agreement, subject to restrictions, if any, set forth in the State's Method of Operation, as may be amended from time to time and posted on the State's website.

2. Contractor shall demonstrate to the State that each Product or Service included in an order is within the scope of the Master Agreement as approved by the Lead State.

3.0 REPORTING REQUIREMENTS:

The Contractor shall deliver a copy of the detailed sales data reports described in Section 7 of the Master Agreement ("Reports") to the Procurement Specialist and State Contract Manager within ten (10) days of providing the Reports to the Lead State and NASPO ValuePoint Cooperative Development Team. The Reports may be limited to Sales made to Purchasing Entitys under this Participating Addendum.

4.0 RESTRICTIONS:

1. Any restrictions or limitations regarding the State's use of this Agreement will be set forth in the State's Method of Operation, as may be amended from time to time and posted on the State's website.

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

5.0 RESERVED

6.0 AUTHORIZED PURCHASERS

“Authorized Purchaser” under this Participating Addendum shall mean the State and the following:

1. State agencies.

2. Quasi-State Agencies - A “Quasi-State Agency” is any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member, as defined in N.J.S.A. 52:27B-56.1, provided that any sale to any such bi-state governmental entity is for use solely within the State of New Jersey.

3. Political Subdivisions, Volunteer Fire Departments And First Aid Squads, And Independent Institutions Of Higher Education - Counties, municipalities and school districts as defined in N.J.S.A. 52:25-16.1., volunteer fire departments, volunteer first aid squads and rescue squads as defined in N.J.S.A. 52:25-16.2, independent institutions of higher education as defined in N.J.S.A. 52:25-16.5, provided that each purchase by the independent institution of higher education shall have a minimum cost of $500. The extension to counties, municipalities, school districts, volunteer fire departments, first aid squads and independent institutions of higher education must be under the same terms and conditions, including price, applicable to the State.

4. State Colleges –in accordance with N.J.S.A. 18A:64-60.

5. County Colleges - in accordance with N.J.S.A. 18A:64A- 25.9.

Authorized Purchasers as defined in Section 6.0(2)-(5) are responsible for the full cost of their purchases. The State and Authorized Purchasers as defined in Section 6.0(1) are responsible for the full cost of their purchases.

N.J.A.C. 17:12-2.3(b) requires the Contractor in a cooperative “to extend the contract to all cooperative purchasing participants on the same terms and conditions as set forth in the underlying State contract.”

7.0 MODIFIED ORIGINAL MASTER AGREEMENT TERMS:

1. Notwithstanding anything to the contrary in the Master Agreement, the State does not agree to auto-renewal of maintenance, technical support, service fees, subscription fees or any other product or service requiring periodic renewal.

2. Notwithstanding anything to the contrary in the Master Agreement, the State does not agree to arbitration.

3. Notwithstanding anything to the contrary in the Master Agreement, under no circumstances will the State indemnify Contractor and any such provision in the Master Agreement shall be of no force and effect. The State of New Jersey’s obligations under the Agreement are subject to the New Jersey Tort Claims Act (<u>N.J.S.A.</u> 59:1-1 <u>et</u> <u>seq</u>.), the New Jersey Contractual Liability Act (<u>N.J.S.A.</u> 59:13-1 <u>et</u> <u>seq</u>.) and the availability of funds.

4. Notwithstanding anything to the contrary in the Master Agreement, the State shall not be responsible for the Contractor’s attorney fees and/or expenses.

5. To the extent the Master Agreement permits Contractor to conduct periodic audits of the State’s usage of the software provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

    a. AUDIT NOTICE – Notwithstanding anything to the contrary in the Master Agreement, or other contract document, in the event that the Contractor seeks to exercise a right to audit the State’s use of software, Contractor shall deliver simultaneous written notice, no less than thirty days in advance of the audit start date (unless the Contractor’s notice provides a longer notice period), to:

        1. the Director of the New Jersey Department of Treasury, Division of Purchase and Property:
Procurement Bureau, Technology Unit
P.O. Box 230
Trenton, New Jersey 08625-0230

        2. the Chief Technology Officer of the New Jersey Office of Information Technology:

Office of the Chief Technology Officer
300 Riverview Plaza
Trenton, New Jersey 08625

3. and the State Contract Manager.

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

b. AUDIT DISPUTE RESOLUTION -- If the State, in good faith, provides Contractor with written notice of an alleged error in the amount of underpaid fees due Contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the Agreement while they endeavor to resolve the dispute under this paragraph. All meetings and discussions between Representatives will be deemed confidential settlement discussions under Rule 408 of the New Jersey Rules of Evidence.

c. STATE NOT LIABLE FOR AUDIT COSTS -- Notwithstanding anything to the contrary in the Master Agreement, the State will not reimburse Contractor for any costs related to an audit.

d. NO AUDIT RIGHT CREATED -- In the event that the Master Agreement does not permit audits of the State's usage of software, this provision shall not be interpreted to provide such an audit right.

6. Section 14, *Shipping And Delivery*, of the Master Agreement is amended to , add the following sentence to the end of the paragraph: "Notwithstanding anything to the contrary in the Master Agreement, there shall be no minimum shipping requirement."

7. Section *16. Inspection And Acceptance* of the Master Agreement is deleted and replaced with the following:

a. Where the Master Agreement or an Order does not otherwise specify a process for inspection and Acceptance (as defined in the Master Agreement), this section governs. This section is not intended to limit rights and remedies under the applicable commercial code. An Order governed by this section shall not be considered complete until final approval by the State is rendered.

b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the State, or to any other authorized agent or official of the State or other Purchasing Entity in order to evaluate compliance, requirements under this Agreement. The Parties shall agree in writing on the scope of the inquiry, fees proportional to Contractor's anticipated costs for responding to the inquiry, timeframe, location (if an audit or review is to be conducted), and other terms and conditions before work to satisfy the inquiry is commenced. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the State or the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

c. If any Products or Services performed do not conform to Agreement requirements, the State or the Purchasing Entity may require the Contractor to provide the Products and/or perform the Services again in conformity with Agreement requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the State or the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to Agreement requirements;

and reduce the Agreement price to reflect the reduced value of the Products provided and/or the Services performed.

d. The warranty period shall begin upon delivery except as otherwise set forth in a statement of work. Contractor will flow-down to the State any applicable manufacturer's warranty to any Equipment sold under the Agreement, to the extent allowable under law. Contractor will remain the State's first point of contact for customer care issues related to Equipment (except iPhones) sold under the Agreement for the term of the Agreement. Contractor will remain the State's first point of contact for iPhone Equipment sold under the Agreement for the first thirty (30) days after acceptance.

e. Acceptance Testing may be explicitly set out in a Scope of Work ("SOW") to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement or SOW for ascertaining that the Product meets the standard of performance prior to Acceptance by the State or Purchasing Entity. Unless otherwise set forth in a SOW, this subsection applies to applicable Products purchased under this Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the State or Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in the Master Agreement or this Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, the State or Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the State or Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to the State or Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the State or Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

f. The equipment offered is standard, new or "like-new" equipment, with available parts regularly used for the type of equipment offered; that such parts are all in production; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice. In the event that a warranty claim occurs during the warranty period as set forth in the Original Master Agreement, warranty hardware replacement may consist of "like-new" parts. All equipment supplied under the Agreement and operated by electrical current is UL listed where applicable.

8. Section *23. Confidentiality, Non-Disclosure, And Injunctive Relief* of the Master Agreement is deleted and replaced with the following:

a. Confidentiality. The Parties acknowledge that they and their employees or agents may, in the course of performing under this Agreement, be exposed to or acquire information that is confidential or proprietary to the other Party. Any and all information of any form that is marked as confidential or proprietary or would by its nature be deemed confidential or proprietary, including, but not limited to, (1) business records, (2) personnel records, and (3) personally identifying information, shall be considered confidential or proprietary information. The State of New Jersey's confidential information shall also consist of all information or data contained in documents supplied by the State, any information or data gathered by the Contractor in fulfillment of this Agreement and any analysis thereof (whether in fulfillment of the contract or not). Any reports or other documents or items (including software) that result from the use of the confidential or proprietary information by a Party shall be treated in the same manner as the confidential or proprietary information. Confidential or proprietary information does not include information that (A) is or becomes publicly known through no act or omission of the other Party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public domain through other means, the other Party must maintain full efforts under this Agreement to keep it confidential; (B) is rightfully in a Party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (C) is disclosed with the written consent of the other Party; (D) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; or (E) is independently developed by the other Party. The State's obligation to maintain the confidentiality of Contractor's confidential or proprietary information provided to the State under the Agreement is conditioned upon and subject to the State's obligations under the New Jersey Open Public Records Act, N.J.S.A.

47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena. As used in this Section [5.17], the State shall mean the State and any Purchasing Entity. Pursuant to OPRA, the New Jersey common law right to know, or any other lawful document request or subpoena, any information or documents the State or any Purchasing Entity receives from Contractor shall be subject to disclosure, public inspection and copying. Contractor acknowledges that the State or Purchasing Entity has the duty to disclose unless a particular record falls within an exemption as determined by the State or the Purchasing Entity, as applicable. Contractor further acknowledges the terms and pricing of the Agreement are subject to disclosure under OPRA, the New Jersey common law right to know, and any other lawful document request or subpoena. Contractor may label specific documents as a "confidential" or "proprietary"; provided however, that the State shall have the right to determine whether such record falls within an exemption under OPRA. In the event of any challenge to the Contractor's assertion of confidentiality, the Contractor shall be solely responsible for defending its designation, but in doing so, all costs and expenses associated therewith shall be the responsibility of the Contractor. The State assumes no such responsibility or liability.

b. Non-Disclosure. Except as may be required by law, the Parties shall hold Confidential Information in confidence, using the same degree of care used to protect their own confidential information and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third-parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under the Agreement. The Contractor and the State and any Purchasing Entity shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist the State and any Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Upon termination of this Agreement and at a Party's request, the other Party shall turn over to the requesting Party, all documents, papers, and other matter in such Party's possession that embody Confidential Information. Notwithstanding the foregoing, a Party may keep one copy of such Confidential Information as required by law or necessary for quality assurance, audits and evidence of the performance of this Agreement.

c. Injunctive Relief. The Parties acknowledges that breach of this section, including disclosure of any Confidential Information, may cause irreparable injury to a Party and/or a Purchasing Entity that is inadequately compensable in damages. Accordingly, a Party and/or Purchasing Entity may seek injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available in a New Jersey State court of competent jurisdiction.

d. Public Disclosure Laws. These provisions shall be applicable only to the extent they are not in conflict with the applicable public records law of the Purchasing Entity.

e. Extension of Rights. The rights granted under this section 23 shall also extend to NASPO ValuePoint's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Agreement that identify the Participating Entity, Purchasing Entity, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to §22. To the extent permitted by law, a Party, Purchasing Entity, Participating Entity, and/or NASPO ValuePoint shall notify the affected entity of the identify of any entity seeking access to the Confidential Information described in this subsection.

f. Consents. Participating Entities are deemed to have consented to the sharing of customer proprietary network information (CPNI) and account information with the Lead State and NASPO ValuePoint as a condition of utilizing this Agreement with its associated pricing. Said information will only be used for purposes of calculating the administrative fees to which NASPO ValuePoint may be entitled for administering this contract. Where such information is required by any Participating State, which may impose its own administrative fee, such information may also only be used by it for purposes of calculating the administrative fee to which it may be entitled.

g. In the event that the State receives a request for Contractor Confidential Information related to the Agreement pursuant to a court order, subpoena, lawful document request or other operation of law, the State agrees, if not prohibited by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such request. Contractor shall take any action it deems appropriate to protect its documents and/or information. In the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if not prohibited by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such request. The State shall take any action it deems appropriate to protect its documents and/or information.

h. Notwithstanding the requirements of nondisclosure described in this Section 5.17, either Party may release the other Party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a lawfully issued subpoena or other lawful document request, (iii) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in subsection [5.17](g), or if Contractor is unsuccessful in defending its rights as described in subsection [5.17](g), or (iv) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights as described in subsection [5.17] (g), or if the State is unsuccessful in defending its rights as described in subsection 5.17 (g).

i. Except as permitted above, neither Party will use or disclose the other's Confidential Information for seven (7) years after the termination of the Agreement or such longer time period as required by applicable law.

J. Each Party shall be liable for damages arising from its breach of the confidentiality obligations of the Participating Addendum.

9. Section *28. Cancellation* of the Master Agreement is deleted and replaced with the following:

a. General. Unless otherwise stated, this Participating Addendum may be canceled by the State upon sixty (60) days' written notice prior to the effective date of the cancellation.

Further, any Purchasing Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor rights of payment for Products or Services delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit.

b. Termination/Suspension.

(i) The following additional termination and/or suspension provisions apply:

(A) Material Breach. In the event that a Purchasing Entity violates its obligations under this Agreement, Contractor may refuse to accept or process Orders from such Purchasing Entity immediately upon written notice to the State and such Purchasing Entity, until such time as Purchasing Entity submits a plan to correct such violations satisfactory to Contractor, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary, Contractor shall continue to process orders submitted by other Purchasing Entitys.

(B) Materially Adverse Impact. If Contractor revises a Service Guide, the revision has a materially adverse impact on the State or a Purchasing Entity and Contractor does not affect revisions that remedy such materially adverse impact within thirty (30) days after receipt of notice from the State or such Purchasing Entity , then the State or such Purchasing Entity may, as its sole remedy, elect to terminate the affected Service components on thirty (30) days' notice to Contractor, given not later than ninety (90) days after Participating Entity first learns of the revision to the Service Guide. "Materially adverse impacts" do not include changes to non-stabilized pricing, changes required by governmental authority, or assessment of or changes to additional charges such as surcharges or taxes.

(C) Internet Services. If Purchasing Entity fails to rectify a violation of the Acceptable Use Policy (AUP) within thirty (30) days after receiving notice from Contractor, Contractor may suspend the affected Service components of the Purchasing Entity. Contractor reserves the right, however, to suspend or terminate an Purchasing Entity immediately when: (1) Contractor's suspension or termination is in response to multiple or repeated AUP violations or complaints; (2) Contractor is acting in response to a court order or governmental notice that certain conduct must be stopped; or (3) Contractor reasonably determines that (x) it may be exposed to sanctions, liability, prosecution or other adverse consequences under applicable law if Contractor were to allow the violation to continue; (y) such violation may harm or interfere with the integrity, normal operations or security of Contractor's network or networks with which Contractor is interconnected or may interfere with another customer's use of Contractor services or the Internet; or (z) such violation otherwise presents an imminent risk of harm to Contractor, Contractor's customers or its or their respective employees.

(D) Fraud or Abuse. Contractor may terminate or suspend an affected Service or Service component if a corresponding Purchasing Entity, in the course of breaching this Agreement: (1) commits a fraud upon Contractor; (2) uses the Service to commit a fraud upon another Party; (3) unlawfully uses the Service; (4) abuses or misuses Contractor's network or Service.

(I) Contractor may terminate this Participating Addendum, or any Service or Service Component upon sixty (60) days notice, if the State is in material breach of the Agreement. Any such termination shall not affect the rights and obligations attending Orders outstanding at the time of termination, including any right of the State or any Purchasing Entity to indemnification by the Contractor, rights of payment for Products provided and accepted, data ownership, Contractor obligations regarding the State or such Purchasing Entity's data, and any responsibilities arising out of a Security Incident or Data Breach. Termination of this Agreement due to Contractor default may be immediate.

c. Effect of Termination.

(i) Termination or suspension by either Party of a Service or Service component does not waive any other rights or remedies a Party may have under this Agreement and will not affect the rights and obligations of the Parties regarding any other Service or Service component.

(ii) If a Service or Service component is terminated, the State or Purchasing Entity will pay all amounts incurred prior to the effective date of termination.

d. Termination Charges.

(i) If Lead State terminates this Master Agreement or an affected Service or Service component for cause, or for non-appropriation (under §29(b)(ii)(G)) in accordance with the Agreement then Lead State will not be liable for termination charges.

(ii) If a Participating Entity terminates its PA or an affected Service or Service component for cause or for non-appropriation (under §29(b)(ii)(G)) in accordance with the Master Agreement, then that Participating Entity and its corresponding Purchasing Entities will not be liable for termination charges.

(iii) If a Purchasing Entity terminates an affected Service or Service component for cause or for non-appropriation (under §29(b)(ii)(G)) in accordance with the Agreement, then Purchasing Entity will not be liable for termination charges.

If Contractor terminates an affected Service or Service component for cause, then the corresponding Participating Entity or Purchasing Entity (as applicable depending on which entity is financially responsible for the affected Service of Service component), shall not be liable for termination charges, but may be liable for the Services or Service Component provided prior to the date of termination.

10. Section *34 Third Party Claims* of the Master Agreement is deleted and replaced with the following:

a. Contractor's Obligations. Contractor shall at its expense indemnify, defend, save harmless and either settle, subject to subparagraph (c) below, or pay any third-party claims, demands, suits, actions, recoveries, judgments, and costs and expenses in connection therewith, against the State, and/or a Purchasing Entity, and their employees, officers, and agents:

(i) for or on account of a Product provided to the State under this Agreement or the Order that such Product infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from:
   (1) the State's and/or a Purchasing Entity's or a User's content;
   (2) modifications to a Product by the State and/or a Purchasing Entity, or combinations of the Product with any non-Contractor services or products by the State;
   (3) Contractor's adherence to the State's and/or a Purchasing Entity's written requirements; or
   (4) use of a Service in violation of this Agreement.

(ii) for or on account of the loss of life, property (not including lost or damaged data) or injury or damage to the person, body or property of any person or persons whatsoever, which as to this subparagraph (ii) only, shall arise from or result directly or indirectly from Contractor's gross negligence or willful misconduct with respect to the work and/or products supplied under the Agreement or the Order;

Any such payment for damages under this section (a) shall be either for damages that a court finally awards against such parties or that the parties agree to in settlement that contains a full release of all claims.

b. Infringing Services. Whenever Contractor is liable under §34, Contractor may at its option either procure the legal right to continue using the product, or may replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both Parties.

c. Notice and Cooperation. The State will provide notice to the Contractor promptly upon learning of any claim for which defense or indemnification may be sought. To the extent permitted by law, the State will allow the other Party to control the defense and settlement of the claim and will reasonably cooperate with the defense; provided, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld.

d. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at the State's expense. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Purchasing Entity, nor purport to act as legal representative of the State of New Jersey or any Purchasing Entity, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement;

11. Section 7.2, *Equipment Discount; Accessories*, of Attachment AA, Contractor's Special Terms and Conditions, the final sentence is replaced by the following: "The Equipment Discount will not apply to upgrade purchases, made prior to the eighteen (18) month upgrade window, and may not be combined with any other equipment offer."

8.0 ORDERING AND BILLING:

1. All orders for State agencies shall be placed by the New Jersey Office of Information Technology (OIT), OIT Telephone Billing Section.

2. All invoices, including supporting detail, for State agencies shall be submitted to the OIT Telephone Billing Section.

3. All payments for State agency usage shall be issued by OIT Telephone Billing Section.

4. All other Purchasing Entities may place orders, receive invoices and make payment directly.

5. Call detail supporting State agency invoices shall:
   a. Be sorted by cell number;
   b. Identify the department and purchase order number;
   c. Include itemized charges and credits specific for each cell number; and

6. Supporting detail for Category 2 invoices shall include the purchase order.

7. The format for providing call detail in support of State agency invoices may be changed upon 30 days written notice to the State Contract Manager.

9.0 DELIVERY GUARANTEES:

1. Deliveries shall be made in accordance with the Master Agreement, §14, Shipping and Delivering. Notwithstanding anything to the contrary in any Agreement document, the State does shall not pay shipping charges for failure to meet a minimum shipment amount.

2. The Contractor shall be responsible for the delivery of new or "like-new" products in accordance with good commercial practice. "Like-new" products will be identified as "like-new" and will be furnished at a price discounted from the price of the equivalent new product.

3. In the event delivery of goods or services is not made within the number of days stipulated, the State shall be authorized to obtain the product or service from any available source.

10.0 RESERVED

11.0 STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS:

1. RESERVED

2. State Law Requiring Mandatory Compliance by All Contractors

The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 Business Registration

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the bidder who shall provide it to the State.

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

2.2 Anti-discrimination

All parties to any contract with the State of New Jersey agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. l0:5-1 et seq. and N.J.S.A. l0:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions Contracts (Exhibit B and Executive Order 151, August 28, 2009, attached) as appropriate.

The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.3 New Jersey Prevailing Wage Act

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The Contractor's signature on this Participating Addendum is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by this Participating Addendum has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the Contractor's signature on this Participating Addendum is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by this Participating Addendum shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 Americans with Disabilities Act

The Contractor and its Fulfillment Partners must comply with all provisions of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

2.5 MacBride Principles

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

2.6 Pay to Play Prohibitions

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for Contractor to:

A. Make or solicit a contribution in violation of the statute;
B. Knowingly conceal or misrepresent a contribution given or received;
C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or to any State or county party committee;
E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 Political Contribution Disclosure

Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the Contractor receives one or more contracts valued at $50,000.00 or more. It is the Contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at http://www.elec.state.nj.us/.

2.8 Standards Prohibiting Conflict of Interest

The following prohibitions on Contractor activities shall apply to all contracts and purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

As used below, "vendor" means any person, firm, corporation, or other entity which provides or offers or proposes to provide goods or services to or perform any contract for any State agency. As used below, "State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and, to the extent consistent with law, any interstate agency to which New Jersey is a party and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;

No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee or having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding the present or proposed relationship does not present the potential, actuality or appearance, of a conflict of interest;

No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

No vendor shall cause or influence, or attempt to cause or influence, any State officer or employees or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person; and

The provisions cited above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with the Contractor under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines in the Executive Commission on Ethical Standards, now known as the State Ethics Commission may promulgate under the provisions under paragraph 3c of Executive Order No. 189.

2.9 Set-Off for State Tax Notice

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

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

2.10 Compliance Laws

The Contractor must comply with all local, State and federal laws, rules and regulations applicable to the Agreement and to the goods delivered and/or services performed hereunder. The Contractor must comply with all State and Federal data and privacy laws, rules and regulations applicable to Contractor under the contract.

2.11 Compliance State Laws

It is agreed and understood that any contracts and/or orders placed under this contract shall be governed and construed and the rights and obligations of the parties hereto and of the Purchasing Entities shall be determined in accordance with the laws of the State of New Jersey, including without limitation, by the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., the New Jersey Contractual Liability Act, N.J.S.A., 59:13-1, et seq., without reference to conflict of laws principles, and any and all litigation arising therefrom or related thereto shall be filed in the appropriate Division of the New Jersey Superior Court.

2.12 Warranty of no solicitation on commission or contingent fee basis

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

2.13 Ownership Disclosure

Pursuant to N.J.S.A. 52:25-24.2, in the event the bidder is a corporation, partnership or limited liability company, the bidder must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to execution of the Participating Addendum. In the alternative, to comply with this section, a bidder with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.14 Prohibited Investment in Iran

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

2.15 Contractor and/or Fulfillment Partner Facilities Inspection

The State reserves the right to inspect the Contractor and/or Fulfillment Partner's establishment before making an award for the purposes of ascertaining whether the Contractor has the necessary facilities for performing the contract.

The State may also consult with clients of the Contractor to assist the State in making a contract award that is most advantageous to the State.

2.16 Request for Additional Information

The Director reserves the right to request relevant information from the Contractor which may assist him or her in making a contract award, including factors necessary to evaluate the Contractor's financial capabilities to perform the contract. Further, the Director reserves the right to request a Contractor to explain to the Director's reasonable satisfaction, how the bid price was determined.

2.17 RESERVED

2.18 RESERVED

2.19 Cash Discounts

Contractor and Fulfillment Partners are encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts.

2.20 Claims and Remedies

All claims asserted against the State by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

Nothing in this Participating Addendum shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.

In the event that the contractor fails to comply with any material contract requirements, the Director may take steps to terminate this Participating Addendum in accordance with the provisions of this Participating Addendum, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due the defaulting Contractor or being an obligation owed the State by the defaulting Contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

2.21 Announcements and/or Advertisements

A. Contractor is not permitted to issue news releases pertaining to any aspect of the products and services being provided under this Participating Addendum without the prior written consent of the Director.
B. Contractor shall not use the State's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

2.22 Organ and Tissue Donation

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

2.23 Open Public Records Act

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

3. State Law Requiring Mandatory Compliance by Contractor Under Circumstances Set Forth in Law or Based on the Type of Contract

3.1 Compliance Codes

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

3.2 Public Works Contractor Registration Act

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

3.3 Public Works Contract – Additional Affirmative Action Requirements

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of $50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

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

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

B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;

2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;

3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and

4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.4 Building Service

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

3.5 Worker and Community Right to Know Act

The provisions of N.J.S.A. 34:5A-1 et seq. which requires the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the Contractor in compliance with the provisions of the statute.

3.6 Service Performance Within the U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the Contractor or Fulfillment Partner proceeds to shift the performance of any of the services outside the United States, the Contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause, unless previously approved by the Director and the State Treasurer.

3.7 Buy American

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract, whenever available they shall be manufactured or produced in the United States.

3.8 Diane B. Allen Equal Pay Act

Pursuant to N.J.S.A. 34:11-56.14, a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see https://nj.gov/labor/equalpay/equalpay.html.

3.9 Compliance With Accessibility Standards

The Contractor acknowledges that the State may be required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. The Contractor agrees that any information that it provides to the State or to an Purchasing Entity in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State or Purchasing Entity with technical information available to support such VPAT documentation in the event that the State or an Purchasing Entity relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. In addition, Contractor shall defend any claims against the State or an Authorized Purchaser that the Software does not meet the accessibility standards set forth in the VPAT provided by Contractor in order to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794 and will indemnify the State and Authorized Purchaser with regard to any claim made against the State or Authorized Purchaser with regard to any judgment or settlement resulting from those claims to the extent the Contractor's Software provided under this Agreement was not accessible in the same manner as or to the degree set forth in the Contractor's statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

3.10 Internet Neutrality

By executing this Participating Addendum, Contractor certifies that it adheres to the principles of internet neutrality as defined in Executive Order No. 9 (Murphy, 2018) both at the time of award and throughout the term of the contract as described in Contractor's March 30, 2018 letter to the New Jersey Office of the Attorney General, Division of Consumer Affairs, describing its understanding EO #9 and methods for complying.

A. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to the consumer; or

B. Throttle, impair or degrade lawful internet traffic based on internet content, application, or service, or use of nonharmful device, subject to reasonable network management that is disclosed to the consumer; or

C. Engage in paid prioritization; or

D. Unreasonably interfere with or unreasonably disadvantage:

    1. an end user's ability to select, access, and use broadband internet access service or lawful internet content, applications, services, or devices of their choice, or

    2. an edge provider's ability to make lawful content, applications, services, or devices available to end users; or

E. Engage in any practices that have the purpose or effect of circumventing Net Neutrality Principles.

Further, Contractor certifies that it provides to all of its customers in the State of New Jersey (including State entities) accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport).

Contractor should provide, upon request by the State, metrics of both expected and actual network performance (download/upload speed, network latency, and packet loss), should account for variations based on the geographical operating area, and should be measured during times of peak network usage.

4. Insurance

The Contractor shall secure and maintain in force for the term of this Participating Addendum insurance as provided herein. All required insurance shall be provided by insurance companies with an A- VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the Contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the Contractor to provide the same.

The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance.

The Contractor shall not begin to provide services or goods to the State or Purchasing Entity, as applicable, until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance and Audit Unit, PO Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancellation shall be emailed to the State at:

ccau.certificate@treas.nj.gov

The insurance to be provided by the Contractor shall be as follows:

A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be $1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall include the State, its officers, and employees and Purchasing Entities as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;

B. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than $1,000,000 per occurrence as a combined single limit. The State and Purchasing Entities must be included as "Additional Insureds" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property, or other Purchasing Entities behalf or on property controlled by such other Purchasing Entity, as applicable.

C. Worker's Compensation Insurance applicable under the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

   1. $1,000,000 BODILY INJURY, EACH OCCURRENCE
   2. $1,000,000 DISEASE EACH EMPLOYEE
   3. $1,000,000 DISEASE AGGREGATE LIMIT

D. Professional Liability Insurance: The Contractor shall carry Errors and Omissions, Professional Liability Insurance and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Agreement. The insurance shall be in an amount not less than $5,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of the contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage to the inception date of this Participating Addendum.

5. Terms Governing All Contracts:

5.1 Contractor is Independent Contractor

The Contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 RESERVED

5.3 RESERVED

5.4 State's Option to Reduce Scope of Work

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under the Agreement. In such an event, the Director shall provide to the Contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days' of receipt of such written notice, if either is applicable:

A. If the Contractor does not agree with the Director's proposed adjusted contract price, the Contractor shall submit to the Director any additional information that the Contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the Contractor of the final adjusted contract price.

B. If the Contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the Contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the Contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the Contractor of the compensation to be paid for such work effort.

5.5 Change in Law

Whenever a change in applicable law or regulation affects the scope of work, the Director shall provide written notice to the Contractor of the change and the Director's determination as to the corresponding adjusted change in the scope of work and corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

A If the Contractor does not agree with the adjusted contract price, the Contractor shall submit to the Director any additional information that the Contractor believes impacts the adjusted contract price with a request that the Director reconsider the adjusted contract price. The Director shall make a prompt decision taking all such information into account, and shall notify the Contractor of the final adjusted contract price.

B. If the Contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the Contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the Contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the Contractor of the compensation to be paid for such work effort.

5.6 Suspension of Work

The State may, for valid reason, issue a stop order directing the Contractor to suspend work under the Participating Addendum for a specific time. The Contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The Contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the Contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The Contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 RESERVED

5.8 Subcontracting Or Assignment

A. Subcontracting: The Contractor may not subcontract without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the Contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the Contractor uses a subcontractor to fulfill any of its obligations, the Contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and

B. Assignment: The Contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 No Contractual Relationship Between Subcontractors And State

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 Mergers, Acquisitions and Dissolutions

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

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

5.11 RESERVED

5.12 RESERVED

5.13 Governing Law; Jurisdiction

Any claims under this Participating Addendum and any and all litigation arising there from or related thereto shall be brought in State court in the State of New Jersey and governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles. The State of New Jersey's obligations under this Participating Addendum are subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the availability of funds.

5.14 RESERVED

5.15 Maintenance of Records

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

5.16 Assignment of Antitrust Claim(s)

The Contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this Participating Addendum, the Contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this Participating Addendum.

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

A. It will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder;

B. It will advise the Attorney General of New Jersey:

   1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
   2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.

C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the Contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice will be sent to the Attorney General of New Jersey; and

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

6. Terms Related to Price and Payment

6.1 Price Fluctuation During Contract

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.
In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. Director must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions may result in cancellation of contract for cause.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 Tax Exemption

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

6.3 Payment to Vendors

A. Purchasing Entities are authorized to order and the Contractor or Fulfillment Partner, as applicable, is authorized to ship only those items covered by the Agreement. If a review of orders placed by the Purchasing Entities reveals that goods and/or services other than that covered by the Agreement have been ordered and delivered, such delivery shall be a violation of the terms of the Agreement and may be considered by the Director as a basis to terminate the Agreement and/or not award the Contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the Purchasing Entity, regardless of the time between the date of delivery and discovery of the violation. In such event, the Contractor shall reimburse the State the full purchase price;

B. The Contractor must submit invoices to the Purchasing Entity with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or Purchaser Entity on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the scope of work and must be in strict accordance with the prices submitted for each task or subtask on the approved scope of work. Invoices must reference the appropriate Master Contract number and State contract number. All invoices must be approved by the State Contract Manager or Purchasing Entity before payment will be authorized;

C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by Contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and

D. As available, the Contractor shall provide, on a quarterly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Office of Diversity and Inclusion.

6.4 Optional Payment Method: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 New Jersey Prompt Payment Act

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires State agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by State agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds $5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the Agreement are not affected by the Prompt Payment Act.

6.6 Availability of Funds

The State's obligation to make payment under this Agreement is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency which is an Authorized Purchaser by the New Jersey State Legislature and made available through receipt of revenue. Notwithstanding the foregoing, the parties agree that performance under this Agreement is contingent upon the appropriation of funds.

7. Terms Relating to All Contracts Funded, In Whole or In Part, By Federal Funds

The provisions set forth in this Section 7 of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 Procurement of Recovered Materials

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
   1. Paper and paper products listed in 40 C.F.R. 247.10;
   2. Certain vehicular products as listed in 40 CFR 247.11;
   3. Certain construction products listed in 40 C.F.R. 247.12;
   4. Certain transportation products listed in 40 C.F.R. 247.13;
   5. Certain park and recreation products, 40 C.F.R. 247.14;
   6. Certain landscaping products listed in 40 C.F.R. 247.15;
   7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
   8. Other miscellaneous products listed in 40 C.F.R. 247.17.

B. As defined in 40 CFR 247.3, “recovered material” means:
   1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
   2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
      a. Postconsumer materials such as --
         i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
         ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
      b. Manufacturing, forest residues, and other wastes such as --
         i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
         ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
         iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
         iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
         v. Fibers recovered from waste water which otherwise would enter the waste stream.

C. For contracts in an amount greater than $ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed is subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

7.2 Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

    Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246

of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.3 Davis-Bacon Act, 40 U.S.C. 3141-3148, As Amended

When required by Federal program legislation, all prime construction contracts in excess of $ 2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

7.4 Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of $ 100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by

Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7.5 Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.6 Clean Air Act, 42 U.S.C. 7401-7671Q, and the Federal Water Pollution Control Act, 33 U.S.C. 1251-1387, as amended

Contracts and subgrants of amounts in excess of $ 150,000 must contain a provision that requires the non-Federal awardee to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations arising from the work under the Agreement must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7.7 Debarment and Suspension (Executive Orders 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

7.7 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding $ 100,000 must file the required certification. 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 must 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 non-Federal award.

12.0 MISCELLANEOUS

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

2. **Dispute Resolution –** The State and Contractor will attempt to resolve any dispute through face-to-face negotiation with persons fully authorized to resolve the dispute or through non-binding mediation utilizing a mediator agreed to by the parties, rather than through litigation. No formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such persons conclude, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely.

3. **Arbitration or Mediation –** Any provision regarding arbitration or binding mediation within the Agreement is deleted in its entirety.

4. **Buy American Certification** - Contractor represents that it does not have U.S.manufactured items or farm products available to provide under this Participating Addendum.

13. CUSTOM PLANS

The Contractor's Custom Plans are set forth on Exhibit F.

14.0 THE STATE OF NEW JERSEY MANDATORY CERTIFICATION REQUIREMENTS:

The following are New Jersey procurement requirements that Contractor agrees to fulfill prior to the Effective Date. Some Purchasing Entities may have additional requirements when placing an order and Contractor shall comply with same as necessary.

1. New Jersey Business Registration (N.J.S.A. 52:32-44);
2. Ownership Disclosure (N.J.S.A. 52:25-24.2);
3. Disclosure of Investment Activities in Iran (N.J.S.A. 52:32-55 et seq.)
4. Executed MacBride Principles (N.J.S.A. 52:34-12.2);
5. Completed Contractor Certification and Disclosure of Political Contributions (N.J.S.A. 19:44A-20:13 et. seq.);
6. Disclosure of Investigations and Actions Involving Bidder
7. Vendor Certification (P.L. 2005, c.271);
8. Source Disclosure Certification (N.J.S.A. 52:34-13.2);
9. Proof of insurance as specified herein;
10. Proof of compliance with New Jersey Affirmative Action requirements (N.J.A.C. 17:27-1.1 et. seq.)
    a. New Jersey Form AA-302 Affirmative Action Employee Information Report; or
    b. New Jersey Affirmative Action Certificate; or
    c. Federal Affirmative Action Approval Letter.

15.0 PRIMARY CONTACTS:

The primary participating entity contacts for this Participating Addendum are as follows:

Name:	Rebecca McCormack
Title:	Procurement Specialist
Participating Entity Name:	Division of Purchase and Property, Department of the Treasury State of New Jersey
Address:	33 West State Street, 8th Floor PO Box 230 Trenton, New Jersey 08625-0230
Telephone:	609-331-5939
Fax:	(609) 292-5170
E-mail:	Rebecca.mccormack@treas.nj.gov

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

Name:	Bethani Cross
Title:	Client Solutions Executive
Contractor:	AT&T Corp.
Address:	311 S Akard St. Dallas, TX 75202
Telephone:	(214) 679-9053
E-mail:	bethani.cross@att.com

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

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

AT&T Corp.

Mark Flister

Signature

02/17/2022

Date

Mark Flister, Sr. Contract Manager

Print Name and Title

State of New Jersey - Department of the Treasury

DocuSigned by:

Maurice Griffin

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2/18/2022

Maurice Griffin

Acting Director, Division of Purchase and Property

Date

Approved as to Form:
Matthew J. Platkin, Acting Attorney General of the State of New Jersey

Aimee Manocchio Nason

Signature

02/17/2022

Date

Aimee Manocchio Nason, Deputy Attorney General

Print Name and Title

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

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

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase an Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase an Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **N.J.A.C. 17:27-1 et seq.**

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.S.A. 10:5-39 et. seq. (P.L. 1983, c. 197)
N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

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

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of $250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contactor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at http://NJ.gov/http://NJ.gov/JobCentralNJ;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

<u>This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B</u>.

EXHIBITS
Incorporated by reference

Exhibit C: Master Agreement #MA149-1 located at:
https://s3-us-west-2.amazonaws.com/naspovaluepoint/1583253609_MA149%20ATT%20MA.pdf

Exhibit D: State of Utah Solicitation Number CJ18012 located at:
https://www.naspovaluepoint.org/portfolio/wireless-voice-data-accessories-2019-2024/

Exhibit E: Contractor's response to Solicitation CJ18012 located at:
https://naspovaluepoint.org/portfolio/wireless-voice-data-accessories-2019-2024/

EXHIBIT F - STATE OF NEW JERSEY CUSTOM OFFERS

Section 13. Custom FirstNet Mobile Plans – Agency Paid.

Provided Participating Entity remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding conditions set forth in this §13 (including all sub-sections and Tables), AT&T will provide Participating Entity and its eligible CRUs the custom FirstNet Mobile Plans described in §13 (the "Custom FirstNet Mobile Plans"). The Custom FirstNet Mobile Plans are available for the term of the Agreement. The corresponding CRU must be eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Plan. The Custom FirstNet Mobile Plans are not available to IRUs or to individuals eligible to purchase the subscriber paid versions of FirstNet Mobile Plans. In accordance with the Agreement, the Custom FirstNet Mobile Plans are subject to the applicable, standard FirstNet Mobile-Pooled and Mobile-Unlimited Plans' corresponding Sales Information, which are incorporated herein by reference. To the extent of any material conflict between the terms and conditions of this §13 and the applicable Sales Information, this §13 will control. Notwithstanding the foregoing, the Custom FirstNet Mobile Plans will be provided only if Participating Entity's account is active and in good standing with respect to the applicable CRU. The Custom FirstNet Mobile Plans are NOT eligible for the Service Discount, any other discount provided under the Agreement, nor any other discounts or promotions otherwise available to AT&T's customers. For all Custom FirstNet Mobile Plans, the corresponding Plan's Monthly Service Charge will appear on the invoice at the standard price set forth in the Sales Information, but the customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice. The term "MSC" in the tables below means "Monthly Service Charge."

TABLE 13.1
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR SMARTPHONES

	Add-a-Line	2GB	5GB	50GB	100GB	500GB	1000GB
For use with an unsubsidized device	$15.88 MSC	$24.62 MSC	$36.12 MSC	$207.24 MSC	$378.80 MSC	$1,762.04 MSC	$3,385.84 MSC
For use with a subsidized device	$35.88 MSC	$44.62 MSC	$56.12 MSC	$227.24 MSC	$398.80 MSC	$1,782.04 MSC	$3,405.84 MSC

TABLE 13.2
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR FEATURE PHONES

Add-a-Line For use with an unsubsidized device	$10.99 MSC
Add-a-Line For use with a subsidized device	$22.99 MSC

TABLE 13.3

	Add-a-Line	2GB	5GB	50GB	100GB	500GB	1000GB
For use with an unsubsidized device	$10.24 MSC	$15.99 MSC	$22.99 MSC	$201.60 MSC	$371.80 MSC	$1,756.40 MSC	$3,380.20 MSC
For use with a subsidized device	$20.24 MSC	$25.99 MSC	$32.99 MSC	$211.60 MSC	$381.80 MSC	$1,766.40 MSC	$3,390.20 MSC

CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR DATA-ONLY DEVICES

TABLE 13.4
CUSTOM FIRSTNET MOBILE-UNLIMITED PLANS

	Unlimited Enhanced for Smartphones	Unlimited Standard for Smartphones	Unlimited for Data Only
Monthly Service Charge	$44.99	$39.99	$36.99

TABLE 13.5
CUSTOM FIRSTNET ENHANCED PTT ONLY PLANS

Unlimited FirstNet Enhanced PTT Only Plan for use with an unsubsidized, compatible Feature Phone	$9.99 MSC
Unlimited FirstNet Enhanced PTT Only Plan for use with a subsidized, compatible Feature Phone	$17.99 MSC

TABLE 13.6
CUSTOM FIRSTNET ENHANCED PTT BOLT-ON PLAN

Unlimited FirstNet Enhanced PTT Bolt-On Plan for use with eligible, compatible Smartphones, Feature Phones and Tablets	$2.00 MSC

TABLE 13.7
CUSTOM FIRSTNET MACHINE-TO-MACHINE POOLED PLANS

	2MB	**5MB**	**10MB**	**50MB**
Monthly Service Charge	$2.00	$3.49	$4.00	$7.29

TABLE 13.8
CUSTOM FIRSTNET MACHINE-TO-MACHINE ROIP FOR LMR INTEROP PLAN

FirstNet Machine-to-Machine RoIP Plan	$36.99 MSC

Section 14. **Custom FirstNet Mobile Plans – Subscriber Paid.** In addition to FirstNet Mobile Plans available to Participating Entity and its CRUs, AT&T offers a subscriber paid version of such plans to eligible individuals associated with a Primary User Public Safety Entity. Participating Entity hereby authorizes AT&T to provide such individuals with the discounts set forth in §14 (the "Custom FirstNet Mobile Subscriber Paid Plans"). Participating Entity must remain eligible for the Custom FirstNet Mobile Plans described in §13 for the Custom FirstNet Mobile Subscriber Paid Plans to apply. The corresponding subscriber must be eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Subscriber Paid Plan. The Custom FirstNet Mobile Subscriber Paid Plans are not available to Participating Entity, its CRUs, or its IRUs. For all Custom FirstNet Mobile Subscriber Paid Plans, the corresponding Plan's Monthly Service Charge will appear on the invoice at the standard price set forth in the Sales Information, but the customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice.

TABLE 14.1
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID PLANS – RESPONDER PLANS

	For use with Smartphone 2GB	**For use with Smartphone 5GB**	**For use with Feature Phone 100MB**	**For use with Tablet 2GB**	**For use with Tablet 5GB**
Monthly Service Charge	$24.62	$36.12	$10.99	$15.99	$22.99

TABLE 14.2
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID – RESPONDER UNLIMITED PLANS

	Unlimited Standard for Smartphone Plan	**Unlimited Enhanced for Smartphone Plan**	**Unlimited Data Only Plan**
Monthly Service Charge	$39.99	$44.99	$36.99

Section 15. **Custom Offers.** Provided Participating Entity remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding conditions set forth in this §15 (including all sub-sections and Tables), AT&T will provide Participating Entity and its eligible CRUs the following custom offers: (a) the spare or replacement devices offer described in §15.1 herein (the "Spare or Replacement Devices"); (b) the custom Business Pooled Nation plans with unlimited data described in §15.2 herein (the "Custom Business Pooled Nation Plans with Unlimited Data") (c) the custom Business Pooled Nation plans with tethering described in § 15.3 herein (the "Custom Business Pooled Nation Plans with Tethering"); (d) the custom Business Pooled Nation unlimited data integrated plans with tethering described in §15.4 herein (the "Custom Business Pooled Nation Unlimited Data Integrated Plans"); (e) the custom Business Pooled Nation Voice Only plans described in §15.5 herein (the "Custom Business Pooled Nation Voice Only Plans"); (f) the custom Business National Flat Rate plan described in §15.6 herein (the "Custom Business National Flat Rate Plan"); (g) the custom pooled Data Connect plan described in §15.7 herein (the "Custom Pooled Data Connect Plan"); (h) the custom unlimited data only plan for laptops and tablets described in §15.8 herein (the "Custom Unlimited Data Only Plan for Laptops and Tablets"); (i) the custom unlimited data only plan for Mifi and aircards described in §15.9 herein (the "Custom Unlimited Data Only Plan for Mifi and Aircards"); (j) the custom

State of New Jersey Region plans described in §15.10 herein (the "Custom State of New Jersey Region Plans"); and (k) the custom machine to machine pooled plans described in §15.11 herein (the "Custom Machine To Machine Pooled Plans") (the offers described in this §15 (a)-(k) are, at times, referred to together herein as the "Custom Offers"). The Custom Offers are available for the term of the Agreement. The Custom Offers are not available to IRUs. For all Custom Offers, the corresponding CRU must be eligible to activate Service on the underlying, non-customized version of the Plan or offer. In accordance with the Agreement, each of the Custom Offers is subject to its underlying offer's corresponding Sales Information, which is incorporated herein by reference. To the extent of any material conflict between the terms and conditions of this §15 and the applicable Sales Information, this §15 will control. Notwithstanding the foregoing, Custom Offers will be provided only if Participating Entity's account is active and in good standing with respect to the applicable CRU. The Custom Offers are NOT eligible for the Service Discount, any other discount provided under the Agreement, nor any other discounts or promotions otherwise available to AT&T's customers.

15.1 Spare or Replacement Devices. As needed, AT&T will provide spare or replacement devices for up to a maximum one percent (1%) of current CRU subscribers as measured on a date no more than 90 days following signature of the contract and annually thereafter. Such replacement devices are available to the State each year in case of emergency, loss, stolen or damage outside of manufacturer's warranty. As an example, if the State has 5,000 CRU subscribers with AT&T, AT&T will provide up to fifty (50) spare or replacement devices. Spare or replacement devices will be from refurbished stock when possible, and at AT&T's sole discretion as available. Alternate devices will not be provided.

15.2 Custom Business Pooled Nation Plans with Unlimited Data. The Custom Business Pooled Nation Plans with Unlimited Data do not allow tethering, and are further described in Table 15.2.

TABLE 15.2
CUSTOM BUSINESS POOLED NATION PLANS WITH UNLIMITED DATA

	Business Pooled Nation AAL	Business Pooled Nation 300 Plan	Business Pooled Nation 450 Plan
Monthly Service Charge	**$35.99**	**$47.00**	**$49.99**
Anytime Minutes	N/A	300	450
Voice Overage Rate	$0.25	$0.25	$0.25
Included Nights & Weekend Minutes	Unlimited	Unlimited	Unlimited
Included Mobile to Mobile Minutes	Unlimited	Unlimited	Unlimited
Domestic Long Distance	N/A	Included	Included
Domestic Roaming	N/A	Included	Included
Monthly Service Charge Discount	N/A	N/A	N/A
Rollover Minutes	N/A	N/A	N/A
Included Domestic Data Access	N/A	Unlimited	Unlimited
Unlimited Text	N/A	Yes	Yes
AAL requires 1:1 with minimum Business Pooled Nation 450 Plan. **Tethering & Mobile Hotspot:** Includes up to 10GB per line per month. After 10GB, tethering speed will be slowed to a max of 128Kbps for the rest of the bill cycle (except for these products: Connected Cars, Hot Spots, and Wireless Home Phone and Internet)			

15.3 Custom Business Pooled Nation Plans with Tethering. The Custom Business Pooled Nation Plans with Tethering are further described in Table 15.3.

TABLE 15.3
CUSTOM BUSINESS POOLED NATION PLANS WITH TETHERING

	Business Pooled Nation AAL	Business Pooled Nation 300 Plan	Business Pooled Nation 450 Plan
Monthly Service Charge	**$47.99**	**$59.00**	**$61.99**
Anytime Minutes	N/A	300	450
Voice Overage Rate	$0.25	$0.25	$0.25
Included Nights & Weekend Minutes	Unlimited	Unlimited	Unlimited
Included Mobile to Mobile Minutes	Unlimited	Unlimited	Unlimited
Domestic Long Distance	N/A	Included	Included
Domestic Roaming	N/A	Included	Included
Monthly Service Charge Discount	N/A	N/A	N/A
Rollover Minutes	N/A	N/A	N/A
Included Domestic Data Access	N/A	5GB	5GB
Data Overage	$10/GB	$10/GB	$10/GB
Unlimited Text	N/A	Yes	Yes

AAL requires 1:1 with minimum Business Pooled Nation 450 Plan. **Tethering & Mobile Hotspot:** Includes up to 10GB per line per month. After 10GB, tethering speed will be slowed to a max of 128Kbps for the rest of the bill cycle (except for these products: Connected Cars, Hot Spots, and Wireless Home Phone and Internet)

15.4 Custom Business Pooled Nation Unlimited Data Integrated Plans with Tethering. The Custom Business Pooled Nation Unlimited Data Integrated Plans with Tethering are further described in Table 15.4.

TABLE 15.4
CUSTOM BUSINESS POOLED NATION UNLIMITED DATA INTEGRATED PLANS WITH TETHERING

	Business Pooled Nation AAL	Business Pooled Nation 300 Plan	Business Pooled Nation 450 Plan
Monthly Service Charge	**$52.75**	**$58.75**	**$64.75**
Anytime Minutes	N/A	300	450
Voice Overage Rate	$0.25	$0.25	$0.25
Included Nights & Weekend Minutes	Unlimited	Unlimited	Unlimited
Included Mobile to Mobile Minutes	Unlimited	Unlimited	Unlimited
Domestic Long Distance	N/A	Included	Included
Domestic Roaming	N/A	Included	Included
Monthly Service Charge Discount	N/A	N/A	N/A
Rollover Minutes	N/A	N/A	N/A
Included Domestic Data Access	Unlimited	Unlimited	Unlimited
Data Overage	N/A	N/A	N/A
Unlimited Text	Yes	Yes	Yes
AAL requires 1:1 with minimum Business Pooled Nation 450 Plan. **Tethering & Mobile Hotspot:** Includes up to 10GB per line per month. After 10GB, tethering speed will be slowed to a max of 128Kbps for the rest of the bill cycle (except for these products: Connected Cars, Hot Spots, and Wireless Home Phone and Internet)			

15.5 Custom Business Pooled Nation Voice Only Plans. The Custom Business Pooled Nation Voice Only Plans are further described in Table 15.5.

TABLE 15.5
CUSTOM BUSINESS POOLED NATION VOICE ONLY PLANS

	Business Pooled Nation AAL	Business Pooled Nation 300 Plan	Business Pooled Nation 450 Plan
Monthly Service Charge	**$15.99**	**$21.99**	**$27.99**
Anytime Minutes	N/A	300	450
Voice Overage Rate	$0.25	$0.25	$0.25
Included Nights & Weekend Minutes	Unlimited	5000	Unlimited
Included Mobile to Mobile Minutes	Unlimited	Unlimited	Unlimited
Domestic Long Distance	N/A	Included	Included
Domestic Roaming	N/A	Included	Included
Monthly Service Charge Discount	N/A	N/A	N/A
Rollover Minutes	N/A	N/A	N/A
Included Domestic Data Access	N/A	5GB	5GB
Unlimited Text	N/A	Yes	Yes

15.6 Custom Business National Flat Rate Plan. Except as otherwise provided herein, the rates, terms and conditions set forth in AT&T's Business National Flat Rate Plan Sales Information apply to the Custom Business National Flat Rate Plan.

TABLE 15.6
CUSTOM BUSINESS NATIONAL FLAT RATE PLAN

Monthly Service Charge	$5.00
Home Airtime Rate	$0.05 per minute
Nationwide Long Distance	Included
Domestic Roaming	Included
Mobile-to-Mobile Minutes	250
Night / Weekend Minutes	250
Enhanced Push To Talk	Included

15.7 Custom Pooled Data Connect Plan. Contractor will provide Participating Entities and their qualified CRUs with the standard AT&T Pooled Data Connect 5GB Plan (the "Standard Pooled Data Connect 5GB Plan") for a Monthly Service Charge of $35.99. The Custom Pooled DataConnect Plan is NOT eligible for the Service Discount.

15.8 Custom Unlimited Data Only Plan for Laptops and Tablets. Contractor will provide Participating Entities and their qualified CRUs with the standard Unlimited Data Throttle Plan for Government for use with laptops and tablets (the "Unlimited Data Only Plan for Laptops and Tablets") for a Monthly Service Charge of $39.99. The Unlimited Data Only Plan is NOT eligible for the Service Discount.

15.9 Custom Unlimited Data Only Plan for Mifi and Aircards. Contractor will provide Participating Entities and their qualified CRUs with the standard Unlimited Data Throttle Plan for Government for use with Mifi and aircards (the "Unlimited Data Only Plan for Mifi and Aircards") for a Monthly Service Charge of $36.99. The Unlimited Data Only Plan is NOT eligible for the Service Discount.

15.10 Custom State of New Jersey Region Plans. The Custom State of New Jersey Region Plans do not allow tethering, and are further described in Table 15.10.

TABLE 15.10
CUSTOM STATE OF NEW JERSEY REGION POOLED VOICE PLANS

	AAL	Feature Phone Plan	Smartphone Plan With Unlimited Data	Smartphone Integrated Plan with Tethering
Monthly Service Charge	**$14.99**	**$19.99**	**$39.99**	**$51.99**
Anytime Minutes	N/A	300	300	300
Voice Overage Rate	N/A	$0.25	$0.25	N/A
Included Nights & Weekend Minutes	1000	1000	1000	1000
Included Mobile to Mobile Minutes	1000	1000	1000	1000
Domestic Long Distance	N/A	Included	Included	Included
Domestic Roaming	N/A	Included	Included	Included
Monthly Service Charge Discount	N/A	N/A	N/A	N/A
Rollover Minutes	N/A	N/A	N/A	N/A
Included Domestic Data Access	N/A	N/A	Unlimited	5GB
Domestic Data Overage Charge	N/A	N/A	N/A	$10/GB
Text Messaging	200	Unlimited	Unlimited	Unlimited

15.11 Custom Machine to Machine Pooled Plans. The Custom Machine to Machine Pooled Plans are further described in Table 15.11

TABLE 15.11
CUSTOM MACHINE-TO-MACHINE POOLED PLANS

	2MB	5MB	10MB	50MB
Monthly Service Charge	$2.00	$3.49	$4.00	$7.29