

NASPO ValuePoint
PARTICIPATING ADDENDUM



MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE
Led by the **State of Arizona**

Master Agreement #: **CTR058809**

Georgia Statewide Contract #: 99999-SPD-T20270514-0001

Contractor: **QUADIENT, INC.**

Participating Entity: **STATE OF GEORGIA**

This Participating Addendum is entered into by Contractor and Participating Entity (collectively, the "Parties").

Scope and Participation:

1. Scope:

- ☒ This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above.
- ☐ This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above, except the following:

This is not a mandatory contract for any Purchasing Entities. The Purchasing Entities may obtain related Deliverables and Services from other sources during the term of this Participating Addendum. The Participating Entity makes no express or implied warranties whatsoever that any quantity or dollar amount of Deliverables or Services will be procured. However, all products and services offered under this Participating Addendum must meet NIST 800-53 standards.

2. Participation: This NASPO ValuePoint Participating Addendum may be used by all State of Georgia governmental entities subject to the State Purchasing Act, including but not limited to certain state offices, agencies, departments, boards, bureaus, commissioners, institutions and colleges and universities. The statewide contract(s) will also be available on a convenience basis to other governmental entities such as state authorities, local government, municipalities, cities, townships, counties and other political subdivisions of the State of Georgia. All entities authorized to utilize the resulting statewide contract(s) shall be referred to collectively as Authorized Users.

Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Term:

- ☐ This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- ☒ This Participating Addendum shall become effective as of the date of the last signature below through May 14, 2024, and coterminous with the Master Agreement term, unless terminated sooner or otherwise amended in accordance with the terms set forth herein. DOAS shall have the option, in its sole discretion, to renew the Statewide Contract for

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additional terms on a year-to-year basis by giving the Contractor written notice of the renewal decision at least sixty (60) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the State, funding, and Contractor's performance. Renewal will be accomplished through the issuance of a Notice of Award Amendment. Upon DOAS's election, in its sole discretion, to renew any part of this Statewide Contract, Contractor shall remain obligated to perform in strict accordance with this Statewide Contract unless otherwise agreed by DOAS and the Contractor. Notwithstanding the previous, in no event shall the term of the Participating Addendum exceed the term of the Master Agreement, as amended.

4. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

CONTRACTOR: Quadient, Inc.

Name:	Larry Walters
Address:	478 Wheelers Farms Rd. Milford, CT 06463
Telephone:	281-216-4596
Fax:	203-301-2600
Email:	l.walters@quadient.com

PARTICIPATING ENTITY:

Name:	State of Georgia, Mr. Jim Barnaby
Address:	200 Piedmont Avenue, SE, Suite 1804 West Tower, Atlanta, GA 30334
Telephone:	404-657-6000
Fax:	404-657-8444
Email:	Jim.barnaby@doas.ga.gov

5. Participating Entity Modifications and Additions to the Master Agreement:

☐ This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor.

☒ This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, **subject to the following limitations, modifications, or additions**:

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

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Modifications:

- A)** Paragraph 1 of the Master Agreement, entitled Definitions, is modified by adding thereto the following:
- 1.14 "Purchase Instrument"** means the documentation issued by DOAS or Purchasing Entities to the Contractor for the purchase of goods and services, in accordance with the terms and conditions of the Statewide Contract. The Purchase Instrument should reference the Statewide Contract and may include an identification of the equipment and services, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by DOAS or Purchasing Entities.
- 1.15 "Statewide Contract (SWC)" or "Contract"** means the agreement between DOAS and the Contractor as defined by the Statewide Contract Form and its incorporated documents. These documents shall be read to be consistent and complementary. The SWC is comprised of the NASPO ValuePoint Master Agreement, the lead state's solicitation, the state of Georgia's PA (inclusive of the lease and license agreements).
- B)** Paragraph 6.2 of the Master Agreement, entitled Payment, is modified as follows: by striking the second sentence regarding overdue account charges.
- C)** Paragraph 12 of the Master Agreement, entitled Indemnification, is modified as follows:
- i. By deleting "defend" in line one of subparagraph 12.1 and "defend" in line one of subparagraph 12.2 and, for both, substituting therefor "participate fully in the defense of;"
 - ii. In subparagraph 12.2.2, by deleting the third and fourth sentences.
- D)** Paragraph 13.3.1 of the Master Agreement, entitled Insurance, is modified as follows: by adding "as well as Automobile Liability with a limit of not less than \$1,000,000 Combined Single Limit." at the end of the paragraph.
- E)** Paragraph 14 of the Master Agreement, entitled General Provisions, is modified by adding thereto the following:
- Paragraph 14.12 of the Master Agreement, entitled Governing Law and Venue, is modified by adding a subparagraph 14.12.4 which shall read as follows: "In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Participating Addendum, such proceeding shall solely be brought in a state court of competent jurisdiction in Fulton County, Georgia."
- Paragraph 14.14 Contractor, its employees, agents, and subcontractors shall comply with all applicable international, federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Participating Addendum, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as

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subcontractors or contractors. Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Participating Addendum.

If the value of the Contract is \$100,000 or more and Contractor is a company that employs more than five persons, contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this contract not to engage in, a boycott of Israel as defined in O.C.G.A. § 50-5-85.

14.15 Sexual Harassment Prevention.

The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its contractors and their employees and subcontractors will interact with entities of the State of Georgia, their customers, and other contractors of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia's Statewide Sexual Harassment Prevention Policy (the "Policy"), all contractors who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

If the Contractor, including its employees and subcontractors, violates the Policy, including but not limited to engaging in sexual harassment and/or retaliation, the Contractor may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

(i) If Contractor is an individual who is regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

(a) Contractor has received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and->

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compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy;

- (b) Contractor has completed sexual harassment prevention training in the last year and will continue to do so on an annual basis; or will complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and,
 - (c) Upon request by the State, Contractor will provide documentation substantiating the completion of sexual harassment training.
- (ii) If Contractor has employees and subcontractors that are regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:
- (a) Contractor will ensure that such employees and subcontractors have received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;
 - (b) Contractor has provided sexual harassment prevention training in the last year to such employees and subcontractors and will continue to do so on an annual basis; or Contractor will ensure that such employees and subcontractors complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and
 - (c) Upon request of the State, Contractor will provide documentation substantiating such employees and subcontractors' acknowledgment of the State of Georgia's Statewide Sexual Harassment Prevention Policy and annual completion of sexual harassment prevention training.

14.16 Drug-free Workplace. Contractor hereby certifies as follows:

- a. Contractor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Participating Addendum; and

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- b. If Contractor has more than one employee, including Contractor, Contractor shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section 50-24-1 et seq., throughout the duration of this Participating Addendum; and
- c. Contractor will secure from any subcontractor hired to work on any job assigned under this Participating Addendum the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3."
- d. Evidence of Contractor's compliance programs for similar federal laws shall be deemed good faith efforts to comply with the Georgia Drug-free Workplace Act, this includes the inclusion of similar federal language in subcontracts.
- e. Contractor may be suspended, terminated, or debarred if it is determined that:
 - i. Contractor has made false certification here in above; or
 - ii. Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. Section 50-24-3(b).

6. Order of Precedence:

- a. This Participating Entity's Participating Addendum ("PA"). This Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the Terms of the NASPO ValuePoint Master Agreement. This PA includes the following documents:
 - i. The State of Georgia's Data Security Terms & Conditions, Exhibit A.
 - ii. The state of Georgia's Statewide Contract for Equipment Rental or Lease - Exhibit B (if applicable);
 - iii. The state of Georgia End User Lease Agreement - Exhibit C;
- b. NASPO ValuePoint Master Agreement Terms & Conditions, including the applicable Exhibits to the Master Agreement.
- c. The Solicitation.
- d. Contractor's response to the Solicitation, as revised and accepted by the Lead State.
- e. Supplemental Quadiant Agreements
 - Postage Meter Rental Agreement

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an Exhibit or Attachment.

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7. Price:

Pricing shall be a discount off MSRP list price, with the following exceptions:

- a. Maintenance shall be priced based on a Time and Material basis (hourly rate), Design (For Production Equipment only),
- b. Installation (Production Equipment only), and Software Consulting Services shall be provided on an hourly/daily rate basis.

Price Adjustment:

Discount percentage off of MSRP on equipment should stay firm throughout the contract term. Requests to adjust or increase the labor rates may be proposed within ninety (90) days preceding contract renewal. Adjustments may not be requested during the initial term of the contract. Requests made outside of the allotted approval period will not be considered. Requests may only be submitted once annually. The State will use the supplier's documentation and any relevant government indexes as the basis for its decision. The supplier must justify these requests with the submittal of market-related documentation. The US Bureau of Labor Statistics Producer Price Index (PPI) and Occupational Employment and Wage Statistics (OEWS) program are the preferred benchmarking tools used by DOAS to evaluate Supplier price adjustment requests for equipment and labor, respectively. The PPI and OEWS can be reviewed and downloaded from the U.S. Department of Labor's website at <http://www.bls.gov>.

8. Administrative Fees and Sales Report Submission:

Pursuant to O.C.G.A. Section 50-5-51(10), DOAS has the authority to collect monies, rebates, or commissions payable to the State that are generated by supply contracts established pursuant to O.C.G.A. Section 50-5-57. These administrative fees are used by DOAS to fund various initiatives, including the administration of existing and new statewide contracts, training, and technology. For this statewide contract, DOAS requires each Contractor to pay to DOAS an administrative fee on all sales pursuant to the resulting statewide contract. The administrative fee amount for this statewide contract is 1 percent (%). All Contractors must agree that the Fee will not be identified separately from the product and/or service pricing offered to Authorized Users wherever that pricing may appear (website, catalog, invoices, etc.). This Fee will be collected by the awarded Contractor and remitted to DOAS in accordance with the following paragraphs.

The Quarterly Sales Report must be received by DOAS twenty (20) days after the end of the Fiscal Quarter through submission within the Contractor Portal of Team Georgia Marketplace, and the Fees must be received as a response to an invoice generated by DOAS between the time of receipt of the invoice and forty-five (45) days after the end of the fiscal quarter as defined by the table below:

<i>DOAS' Fiscal Quarters</i>	<i>Months</i>	<i>Contractor's Quarterly Sales Report Due Date</i>	<i>Contractor's Payment Due Date (In Response to DOAS generated Invoice)</i>
<i>Quarter 1</i>	<i>July 1st – September 30th</i>	<i><u>October 20th</u></i>	<i><u>November 15th</u></i>

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<i>Quarter 2</i>	<i>October 1st – December 31st</i>	<i><u>January 20th</u></i>	<i><u>February 15th</u></i>
<i>Quarter 3</i>	<i>January 1st – March 31st</i>	<i><u>April 20th</u></i>	<i><u>May 15th</u></i>
<i>Quarter 4</i>	<i>April 1st – June 30th</i>	<i><u>July 20th</u></i>	<i><u>August 15th</u></i>
			<i>30 DAYS FOLLOWING TERMINATION OF SWC</i>

a. At the end of each state fiscal quarter as defined above, Contractor shall prepare the Quarterly Sales Report and submit the file through the Contractor Portal of Team Georgia Marketplace, including the Contractor's most up-to-date Invoice Contact Name (Billing Contact), Contractor Billing Address, and Contractor Billing E-Mail. In the event that no sales have occurred, the Contractor must complete and submit the Quarterly Sales Report, indicating that no sales have occurred, and submit the file through Contractor Portal of Team Georgia Marketplace. No later than the date identified above as the "Contractor's Payment Due Date" for each fiscal quarter, the Contractor shall remit a payment of fees to DOAS in response to a DOAS generated invoice, through Electronic Funds Transfer (EFT).

By submission of these reports and corresponding Contractor payments, Contractor is certifying their correctness. DOAS, at its sole discretion, may also accept payment of Fees from the Contractor via electronic funds transfer (EFT).

b. Auditing and Contract Close Out. All sales reports and Fee payments shall be subject to audit by the State. Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to the State and all Fees throughout the term of the statewide contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Contractor shall permit the Auditor of the State of Georgia or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the statewide contract, wherever such records may be located during normal business hours. Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the State reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

c. In no event shall Contractor retain any amount of money in excess of the compensation to which Contractor is entitled and all Fees owed DOAS shall be paid within thirty (30) calendar days of termination of the statewide contract for any reason.

d. Modifying or Canceling the Fee. DOAS reserves the right to modify and/or cancel the Fee at any time. Contractor shall immediately amend the statewide contract pricing to reflect any modification or cancellation of the Fee by DOAS. In addition, DOAS reserves the

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right to revise collection and reporting requirements in conjunction with implementation of an on-line procurement system.

e. For the purposes of this provision, payment of the Fees shall be considered received by DOAS on (1) the date of DOAS' receipt of the EFT confirmation or (2) the date DOAS receives the envelope containing a check for the correct amount of the administrative fee. In the event the Contractor does not submit full payment of the Fees owed, interest shall only be applicable to the portion of the Fees which is outstanding. In the event the Contractor makes an error and overpays, the Contractor is responsible for alerting DOAS in writing of the Contractor's discovery of the overpayment. DOAS will confirm whether an overpayment has occurred and refund or credit the overpayment amount to the Contractor no later than thirty (30) days' following DOAS' receipt of written notice of the overpayment. DOAS will have no responsibility for interest or any other fees with respect to Contractor's overpayment of Fees.

f. Default. THE CONTRACTOR'S RESPONSIBILITY TO COLLECT AND REMIT THE ADMINISTRATIVE FEE ON BEHALF OF DOAS IS A SERIOUS RESPONSIBILITY AS THE CONTRACTOR IS HANDLING STATE FUNDS. Accordingly, failure to comply with these contractual requirements shall constitute grounds for declaring Contractor in default and recovering re-procurement costs from Contractor in addition to all outstanding Fees and interest.

9. State of Georgia Payment Methods: All purchases made by Authorized Users shall be exempt from sales tax. It is the responsibility of the Authorized User representative to provide the Authorized User's tax identification number as needed at the point of sale.

The State of Georgia provides for the use of multiple payment methods including Purchasing Card (PCard) and Automated Clearing House (ACH) transfers. DOAS will determine the most advantageous method(s) of Contractor payment. Contractors need to be prepared to accommodate any and all forms of payments.

Purchase Order Instructions. All purchase orders under this PA are to be made out to and processed by Contractor and should contain the following:

- a. Mandatory Language "PO is subject to Mailing Equipment, Supplies, & Maintenance Services SWC".
- b. Your Name, Address, Contact, & Phone-Number and;
- c. Reference to the state contract number – 99999-SPD-T20270514-0001
 - i. Purchase order shall reference the NASPO ValuePoint Contract #CTR058809, in either the attached supplemental agreement, such as a Lease Agreement, PO description section, or PO comment section.

The State of Georgia PCard may be used by authorized government employees of certain governmental entities electing to participate in the program to purchase necessary supplies.

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Contractor agrees to accept payment via PCard and shall impose no fee on either DOAS or any Authorized User for the use of the State of Georgia PCard

The Contractor shall keep P-Card information confidential and shall not disclose the State of Georgia numbers except as expressly authorized by DOAS. The Contractor represents that State of Georgia payments will be processed, transmitted and stored in compliance with the Payment Card Industry Data Security Standard. The Contractor shall provide immediate written notice to the current DOAS Contract Administrator in the event of (1) any unauthorized disclosure of State of Georgia P-Card Information or (2) Contractor's failure to maintain compliance with the Payment Card Industry Data Security Standard in the Contractor's contract performance. The Contractor agrees to cooperate with DOAS, Authorized Users, and DOAS contractual partner(s) for P-Card in resolving any issues or disputes.

DOAS has entered into a contract with its PCard provider, Bank of America, to provide the ePayables solution which will allow DOAS and certain Authorized Users to facilitate electronic payment by DOAS and Authorized Users to the Contractor. DOAS may elect in the future to utilize the ePayables solution.

The Contractor shall keep ePayables information confidential and shall not disclose the State of Georgia numbers except as expressly authorized by DOAS. The Contractor represents that State of Georgia payments will be processed, transmitted and stored in compliance with the Payment Card Industry Data Security Standard. The Contractor shall provide immediate written notice to the current DOAS Contract Administrator in the event of (1) any unauthorized disclosure of State of Georgia ePayables Information or (2) Contractor's failure to maintain compliance with the Payment Card Industry Data Security Standard in the Contractor's contract performance. The Contractor agrees to cooperate with DOAS, Authorized Users, and DOAS contractual partner(s) for ePayables in resolving any issues or disputes.

10. **Business Review Meetings:** The Contractor must participate in Business Review ("BR") meetings at DOAS' request. During the BR meetings, the Contractor will present a written and oral status to DOAS regarding all work orders/purchase orders (including date and value). The BR meeting will also focus on the status of service level agreements, marketing efforts, and key performance indicators agreed to by Contractor and DOAS. The BR meeting may involve, but not be limited to, the following: review of the Contractor's performance and submitted reports, identification of areas of improvement to be addressed, review of the previous sales statistics, strategies to grow sales volume, marketing plan, development/monitoring of a Contractor service "scorecard."
11. **Lease Agreements:** State Entities may enter into lease agreements for the products covered in the Master Agreement. Please refer to Exhibit B, and C, for all applicable Lease Agreements.
 - a. **Care, Use and Maintenance of Leased or Rented Equipment.** Purchasing Entities shall protect leased or rented equipment from deterioration, other than normal

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wear and tear, and will not use the leased or rented equipment for any purpose other than that for which it was designed. Contractor shall maintain the leased/rented equipment in good working order and will make all necessary adjustments and repairs. The Contractor shall have full and free access to the leased/rented equipment for the purpose of maintenance and repairs during the Purchasing Entities' normal business hours and subject to the Purchasing Entities' operational guidelines, including security regulations. The charge for such maintenance is included in their cost response and any final pricing documents as incorporated into the NASPO ValuePoint Master Agreement.

- b. Lease Survivability: If Purchasing Entity terminates this Lease Agreement for convenience prior to the expiration of the current fiscal year term, or if Contractor terminates this Purchasing Entity Lease Agreement as set forth in the Purchasing Entity Lease Agreement, then Purchasing Entity will be responsible for the payment of all amounts remaining in the unexpired portion of the current term, plus any unpaid invoices unless those invoices are in dispute. The termination or expiration of this agreement shall not relieve any entity from its obligations to any product lease or rental. Any underlying lease entered into during the Term of this Participation Addendum will remain throughout the lease term.
 - c. Leased/Rented Equipment Return: The Purchasing Entity shall have the option to continue with the existing lease, purchase the equipment, or present a favorable alternative upon maturity of the lease. Should the Purchasing Entity decline to exercise any of these options, Purchasing Entity shall terminate the lease, and return to the Contractor. Unless provided otherwise in the Participating Addendum, upon termination, Contractor must enter the premises of the Purchasing Entity and remove the leased/rented equipment. Contractor should arrange and confirm removal times with the Purchasing Entity during the Purchasing Entity's normal business hours and subject to the Purchasing Entity's operational guidelines, including security regulations. Contractor agrees that the cost of removal is included in the Contractor's response or other final pricing documentation as incorporated into the Statewide Contract Form.
12. Subcontractors: Contractor warrants that all persons assigned to perform services under this Statewide Contract are either lawful employees of Contractor or lawful employees of a Subcontractor authorized by DOAS as specified in the RFX. All persons assigned to perform services under this Statewide Contract shall be qualified to perform such services. Personnel assigned by Contractor shall have all professional licenses required to perform the services.
13. Orders: Any order placed by Participating Entity or a Purchasing Entity for a product or service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to the order.

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14. Public Disclosure: The Agreement is subject to public disclosure. All provisions of the Agreement regarding confidentiality or nondisclosure are subject to the Georgia Open Records Act and other applicable laws.
15. Termination:
- a. Immediate Termination. Pursuant to O.C.G.A. Section 50-5-64, any purchase made pursuant to this Statewide Contract will terminate immediately and absolutely if the Purchasing Entity determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the Purchasing Entity cannot fulfill its obligations under the Statewide Contract, which determination is at the Purchasing Entity's sole discretion and shall be conclusive. Further, either DOAS or the Purchasing Entity may terminate the Statewide Contract for any one or more of the following reasons effective immediately without advance notice:
 - i. In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Statewide Contract effective as of the date on which the license or certification is no longer in effect;
 - ii. DOAS or the Purchasing Entity determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
 - iii. The Contractor fails to comply with confidentiality laws or provisions; and/or
 - iv. The Contractor furnished any statement, representation or certification in connection with the Statewide Contract or the bidding process, which is materially false, deceptive, incorrect or incomplete.
 - b. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for DOAS or the Purchasing Entity to declare the Contractor in default of its obligations under the Statewide Contract:
 - i. The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform, to DOAS or the Purchasing Entity's satisfaction, any material requirement of the Statewide Contract or is in violation of a material provision of the Statewide Contract, including, but without limitation, the express warranties made by the Contractor.
 - ii. DOAS or the Purchasing Entity determines that satisfactory performance of the Statewide Contract is substantially endangered or that a default is likely to occur.
 - iii. The Contractor fails to make substantial and timely progress toward

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- performance of the Statewide Contract.
- iv. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DOAS or the Purchasing Entity reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law.
 - v. The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Statewide Contract.
 - vi. The Contractor has engaged in conduct that has or may expose DOAS or the Purchasing Entity or the State to liability, as determined in DOAS or the Purchasing Entity's sole discretion; or
 - vii. The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of DOAS or the Purchasing Entity, the State, or a third party.
- c. Notice of Default. If there is a default event caused by the Contractor, DOAS or the Purchasing Entity shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in DOAS or the Purchasing Entity's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, DOAS or the Purchasing Entity may:
- i. Immediately terminate the Statewide Contract without additional written notice; and/or
 - ii. Procure substitute goods or services from another source and charge the difference between the Statewide Contract and the substitute contract to the defaulting Contractor; and/or,
 - iii. Enforce the terms and conditions of the Statewide Contract and seek any legal or equitable remedies.
- d. Termination Upon Notice. Following thirty (30) days' written notice, DOA or the Purchasing Entity may terminate the Statewide Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation from the Purchasing Entity, upon submission of invoices and proper proof of claim, for goods and services provided under the Statewide Contract to the Purchasing Entities up to and including the date of termination.
- e. Termination Due to Change in Law. DOAS or the Purchasing Entity shall have the right to terminate this Statewide Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:

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- i. DOA or the Purchasing Entity S's authorization to operate is withdrawn or there is a material alteration in the programs administered by DOAS or the Purchasing Entity; and/or
 - ii. DOAS or the Purchasing Entity's duties are substantially modified.
- f. Payment Limitation in Event of Termination. In the event of termination of the Statewide Contract for any reason by the Purchasing Entity/Entities shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to the date specified in the notice of termination for which the Purchasing Entities are obligated to pay pursuant to the Statewide Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the State under the Statewide Contract in the event of termination. The State shall not be liable for any costs incurred by the Contractor in its performance of the Statewide Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Statewide Contract.
- g. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of DOAS or the Purchasing Entity, the Contractor shall:
 - i. Cease work under the Statewide Contract and take all necessary or appropriate steps to limit disbursements and minimize costs and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Statewide Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters DOAS or the Purchasing Entity may require.
 - ii. Immediately cease using and return to the State, any personal property or materials, whether tangible or intangible, provided by the State to the Contractor;
 - iii. Comply with the State's instructions for the timely transfer of any active files and work product produced by the Contractor under the Statewide Contract;
 - iv. Cooperate in good faith with DOAS, the Purchasing Entities, and their employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
 - v. Immediately return to the Purchasing Entities any payments made by the Purchasing Entities for goods and services that were not delivered or rendered by the Contractor.

16. Data Security Terms: Refer to Exhibit A - STATE OF GEORGIA DEPARTMENT OF ADMINISTRATIVE SERVICES DATA SECURITY TERMS AND CONDITIONS.

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17. Software Terms: Software subscription terms and Software license terms and conditions shall be mutually agreed upon in writing by the purchasing entity's authorized individual and Quadient, Inc. at point of sale, and Quadient, Inc. shall ensure that all such terms and conditions comply with the "Contracting with State Entities" document located at <https://doas.ga.gov/assets/State%20Purchasing/Stage%203%20Documents/SPD-SP060ContractingwithStateEntities.pdf> and any successor document.

17. Insurance: Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements. Contractor shall furnish to DOAS copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to DOAS. Failure to provide evidence of coverage may result in termination of this Participating Addendum.

Additional Insured: The vendor shall add the "State of Georgia, its officers, employees and agents" as an additional insured under the commercial general, automobile and umbrella liability policies.

18. Specific State Entity Requirements: Contractor's access to State Entity facilities and resources shall be properly authorized by State personnel, based on business need and will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures of that State Entity. Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor

19. Choice of Law & Choice of Forum. Both the rights and obligations of the Parties and this Agreement as well as any dispute, claim, or controversy arising out of or relating to this Agreement shall, in all respects, be established, interpreted, construed, enforced and governed by and under the laws of the State of Georgia, without regard to any provision governing conflicts of law. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia.

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This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.

20. Subject to Applicable Law: This Agreement is entered into pursuant to O.C.G.A. § 50-5-50 et seq. As a public entity, all of Purchasing Entity's obligations are subject to any applicable laws.

21. DOAS Participation in Contract Disputes: Consistent with its statutory authority, DOAS is acting solely in a representative capacity and on behalf of Purchasing Entities. Accordingly, DOAS is not a party to any Agreements entered into by the Purchasing Entities with the contractor pursuant to this agreement, unless DOAS itself makes a purchase pursuant to the Agreement. DOAS need not be joined as a party to any dispute that may arise out of this Agreement. With regard to any Agreements entered into by the Purchasing Entities with the contractor pursuant to this agreement, the officers, agents and employees of DOAS are acting solely in their official capacity and need not be joined as a party to any dispute that may arise out of that agreement.

22. Notices: In addition to any other obligations the parties may have regarding notice, all notices or other communications regarding termination, material breach, modification, or audit of this Agreement, or a license covered by this Agreement shall be copied to DOAS at the following address.

Attn: State Purchasing Division – IT and Services Group
Georgia Department of Administrative Services
200 Piedmont Ave SE
Suite 1308, West Tower Atlanta, GA 30334

23. Third Party Beneficiary: This Agreement is made solely and specifically among and for the benefit of the Parties hereto (including Purchasing Entities), and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

24. Assignment: Except as set forth below, neither party may assign or transfer this Agreement, or any rights regarding either, without the prior mutual written consent of DOAS and CONTRACTOR. Reference Georgia Procurement Manual Section

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7.6.4. Any attempted assignment, delegation or transfer in derogation of this Paragraph shall be null and void.

If a Purchasing Entity is reorganized such that certain operations or functions are transferred from Purchasing Entity to a different governmental entity, then in connection with such reorganization, Purchasing Entity may, upon written notice to Contractor, transfer licenses to another governmental entity provided that the transferee is performing some substantially similar business and/or operational functions as the original Purchasing Entity. Both entities shall execute such paperwork as Contractor may reasonably require.

25. Headings: The headings contained in this Agreement are for the purposes of convenience only and are not intended to define or limit the contents of this Agreement.
26. Publicity: Contractor agrees not to refer to DOAS or Purchasing Entities in such a manner as to state or imply that its services, products or software is endorsed or preferred by Purchasing Entities, the State of Georgia, or any unit of either. The foregoing shall not prohibit Contractor from identifying a Purchasing Entity as a customer in a customer list.
27. Relationship Among Public Entities: Each Purchasing Entity's obligations and liabilities are independent of every other Purchasing Entities' obligations and liabilities. Termination of one Purchasing Entity does not constitute grounds for termination of a different Purchasing Entity.
28. Survival of Obligations: The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this Agreement shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by clauses relating to: Indemnification, Limitation of Recovery, Audit, and Bankruptcy.
29. Waiver & Modification: No waiver of any default by either party shall act as a waiver of a subsequent or different default. Except for updates to Addendum 1 (E300) of the License and Services Agreement No.318314, the provisions of this Agreement may not be modified or waived except by another agreement in writing executed by authorized representatives. A Purchasing Entity and Contractor may modify the provisions of the agreement only to the extent applicable to said Purchasing Entity's purchase. Additional terms and conditions as may be contained in any Purchasing Entity's purchase order or document shall not be applicable unless specifically agreed to in writing and signed by both parties.

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30. Debarred, Suspended, and Ineligible Status: Contractor certifies that, at the time of execution of this agreement, Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the State of Georgia or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch. I Subpart 9.4.
31. Certification Regarding Sales and Use Tax: By executing the Contract, Contractor certifies it is either:
- (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a "retailer" as defined in O.C.G.A. Section 48-8-2. Contractor also acknowledges that the State may declare the Contract void if the above certification is false. Contractor also understands that fraudulent certification may result in the DOAS or its representative filing for damages for breach of contract.
32. Compliance with O.C.G.A. § 50-5-85: Contractor certifies that Contractor is not currently engaged in and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. § 50-5-85. IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

ENTIRE AGREEMENT.

This Participating Addendum, including all Exhibits and documents incorporated hereunder, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. No amendment to this Agreement shall be valid unless made in a writing of equal dignity and signed by both parties. No representation, request, instruction, directive or order, made or given by any official of Purchasing Entity or of any agency of the State of Georgia, whether verbal or written, shall be effective to amend this Purchasing Entity Lease Agreement or excuse or modify performance hereunder unless reduced to a formal amendment and executed as set forth above. Contractor shall not be entitled to rely on any such representation, request, instruction, directive or order and shall not, under any circumstances whatsoever, be entitled to additional compensation, delay in performance, or other benefit claimed for relying upon or responding to any such representation, request, instruction, directive or order.

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

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PARTICIPATING ENTITY

CONTRACTOR

Signature: Jim Barnaby	Signature: John Tartaro
Name: Mr. Jim Barnaby	Name: John Tartaro
Title: Deputy Commissioner, State Purchasing	Title: Deputy, CFO
Date: 12/30/2022	Date: 12/30/2022

[Removable Instruction: Additional signatures may be added if required by the Participating Entity.]

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at info@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.



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Exhibit A
STATE OF GEORGIA
DEPARTMENT OF ADMINISTRATIVE SERVICES
DATA SECURITY TERMS AND CONDITIONS

A. DEFINITIONS AND GENERAL INFORMATION

1. Definitions. The following words shall be defined as set forth below:

- (i) **"Authorized Persons"** means Contractor and its employees, subcontractors, or other agents to the extent necessary for such persons to access Sensitive State Data to enable Contractor to perform the services under this Agreement.
- (ii) **"Data Breach"** means a security-relevant event in which the security of a system or procedure used to create, obtain, transmit, maintain, use, process, store, or dispose of data is breached and Sensitive State Data is exposed to unauthorized access, use, disclosure, alteration, or theft.
- (iii) **"Personally Identifiable Information"** includes, but is not limited to, personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; Personal Information as defined in O.C.G.A. 10-1-911 and/or any successor laws of the State of Georgia; Personally Identifiable Information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; Medical Information as defined in Georgia Code Section 32.1-127.1:05; Protected Health Information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; Nonpublic Personal Information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.
- (iv) **"Personal Data"** as defined in O.C.G.A. § 10-1-911 means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:
 - a. Social security number;

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- b. Driver's license number or state identification card number;
 - c. Account number, credit card number, or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes, or passwords;
 - d. Account passwords or personal identification numbers or other access codes; or
 - e. Any of the items contained in subparagraphs (A) through (D) of this paragraph when not in connection with the individual's first name or first initial and last name, if the information compromised would be sufficient to perform or attempt to perform identity theft against the person whose information was compromised.
- (v) **“Sensitive State Data”** means all Personally Identifiable Information and other information that is not intentionally made available by the State on public websites or publications, including but not limited to business, administrative, and financial data, intellectual property, and patient, student, and personnel data and records not required to be publicly disclosed under the Georgia Open Records Act , O.C.G.A. § 50-18-72 et seq., including any plan, blueprint, or material which if made public would compromise security. Sensitive State Data includes data created or in any way originating with or on behalf of the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State’s hardware, Contractor’s hardware or exists in any system owned, maintained or otherwise controlled by the State or Contractor.
- (vi) **“Security Incident”** means the potentially unauthorized access by non-Authorized Persons to Sensitive State Data Contractor believes could reasonably result in the use, disclosure, alteration, or theft of the Sensitive State Data within the possession or control of Contractor or any cyber-attack, data breach, or identified use of malware that may create a life-safety event, substantially impair the security of data or information systems, or affect critical systems, equipment, or service delivery. A security incident may or may not turn into a Data Breach.

B. Data Ownership and Protection

1. **Data Ownership.** The State will own all right, title and interest, including all intellectual property rights, in its data that is related to the services provided under this Agreement. Contractor shall not access Sensitive State Data, except 1) in the course of data center operations, 2) in response to service or technical issues, 3) as required by Contractor to perform the services covered by this Agreement or 4) at the State’s request. Contractor has a limited, non-exclusive license to use Sensitive State Data solely for the purpose of performing its obligations under this Agreement.

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- 2. Data Protection.** Protection of personal privacy and data shall be an integral part of the business activities of Contractor and designed to ensure that there is no inappropriate or unauthorized access to or use of Sensitive State Data at any time. To this end, Contractor shall safeguard the confidentiality, integrity, and availability of Sensitive State Data and comply with the following conditions:
- (i) Contractor shall maintain appropriate administrative, physical, and technical security measures to safeguard against unauthorized access, use, disclosure, alteration, or theft of Sensitive State Data. Such security measures, for such applicable products, shall be in accordance with current NIST 800-53 standards commensurate with the FISMA data classification specified by the State. If no data classification is specified by the State, in accordance with the measures applicable to the FISMA moderate classification.
 - (ii) Contractor shall use industry best practices and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services under this Agreement.
 - (iii) Where the security objectives of confidentiality, authentication, non-repudiation, or data integrity are categorized FISMA compliance level moderate or higher, all electronic Sensitive State Data shall be encrypted at rest on portable devices controlled by Contractor and in transit across public networks with controlled access. Unless otherwise provided in the Agreement, Contractor is responsible for encryption of the Sensitive State Data.
 - (iv) Unless otherwise provided in the Agreement Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of Sensitive State Data to that which is absolutely necessary to perform job duties.
 - (v) Contractor shall not disclose Sensitive State Data to any third party without the prior written consent of the State except as otherwise provided by the Agreement or required by law. Contractor shall ensure that its employees and agents who will have potential access to Sensitive State Data have passed appropriate, industry standard background screening and possess the qualifications and training to comply with the terms of this Agreement. Contractor shall promote and maintain an awareness of the importance of securing Sensitive State Data among Contractor's employees and agents.
- 3. Data Location.** Contractor shall provide its services to the State solely from location(s) or data centers in the U.S. and Contractor shall notify State of such locations. Storage of Sensitive State Data at rest shall be located solely in location(s) or data centers in the U.S.

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and Contractor shall notify State of such locations. Contractor shall not allow its personnel or Authorized Persons to store Sensitive State Data on portable devices, including personal computers, except for devices that are used and kept only at U.S. location(s) or data centers. Contractor shall permit its personnel and consultants to access Sensitive State Data remotely only as required to perform services under this Agreement.

C. Security Incident and Data Breach Responsibilities. Contractor shall inform the State of any Security Incident or Data Breach.

- 1. Incident Response.** Contractor may need to communicate with outside parties regarding a Security Incident or data Breach, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the Agreement. Discussing security incidents with the State should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes as mutually agreed upon, defined by law, or contained in the Agreement. Any contacting of law enforcement on matters regarding State systems or data must be followed by a report to the Georgia Information Sharing and Analysis Center (GISAC) at (404) 561-8497.
- 2. Security Incident Reporting Requirements.** Contractor shall report a Security Incident to the appropriate State identified contact within 24 hours of discovery or such time as required by applicable law with the following exception: for our Parcel Lockers the notice shall be within 48 hours and for our WTS & Smart products the notice shall be within 72 hours or such time as required by applicable law.
- 3. Breach Reporting Requirements.** Upon becoming aware of a Data Breach or Security Incident, Contractor shall
 - (i) Promptly notify the State identified contact within 24 hours of discovery or sooner, unless shorter time is required by the Agreement or applicable law;
 - (ii) Fully investigate the incident and cooperate fully with the State's investigation of and response to the incident. Except as otherwise required by law, Contractor shall not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the State;
 - (iii) promptly implement necessary remedial measures as provided by USPS Handbook AS-805-I:USPS Information Security Requirements for Suppliers. <https://about.usps.com/handbooks/as805i/welcome.htm> and report back to DOAS all measures taken.
 - (iv) document responsible actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary

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D. Liability.

1. If Contractor will under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of Sensitive State Data known as Personally Identifiable Information, the following provisions apply: In addition to any other remedies available to the State under law or equity, Contractor shall reimburse the State in full for all costs incurred by the State in investigation and remediation of any Data Breach or Security Incident caused by Contractor, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; a website or toll-free number and call center for affected individuals required by law, providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Data Breach or Security Incident.
2. If Contractor will NOT under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of Sensitive State Data known as Personally Identifiable Information, the following provisions apply: In addition to any other remedies available to the State under law or equity, Contractor will reimburse the State in full for all costs reasonably incurred by the State in investigation and remediation of any Data Breach or Security Incident caused by Contractor.

E. Security

1. **Data Center Audit.** If applicable in the performance of the services covered by this Agreement, Contractor shall ensure an independent audit or provide ISO 27001 certification of its data centers at least annually at its expense and provide a copy of the audit report upon request. A Service Organization Control (SOC) 2 audit report or approved equivalent (the ISO 27001 certification) sets the minimum level of a third-party audit.
2. **Security Processes.** Contractor shall disclose its non-proprietary security processes and technical limitations to the State such that adequate protection and flexibility can be attained between the State and Contractor.
3. **Encryption of Data at Rest.** For data categorized as moderate or high in Federal Information Processing Standard 199, Contractor shall ensure confidentiality and integrity of information at rest consistent with security control SC-28, Protection of Information at Rest, in NIST Special Publication 800-53

F. Response to Legal Orders, Demands, or Requests for Data

1. Except as otherwise expressly prohibited by law, Contractor shall:

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- (i) immediately notify the State of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking Sensitive State Data;
 - (ii) consult with the State regarding its response;
 - (iii) cooperate with the State's reasonable requests in connection with efforts by the State to intervene and quash or modify the legal order, demand or request; and
 - (iv) upon the State's request, provide the State with a copy of its response.
2. If the State receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Georgia Open Records Act) or request seeking Sensitive State Data maintained by Contractor, the State shall promptly provide a copy to Contractor. Contractor shall promptly supply the State with copies of data required for the State to respond and shall cooperate with the State's reasonable requests in connection with its response.

G. Termination Obligations.

Upon termination or expiration of the Agreement, Contractor shall implement In the State's sole discretion, a secure, orderly (1) destruction of, or (2) return of Sensitive State Data in the format and at a time specified by State. Transfer to State or a third party designated by State shall occur without significant interruption of service and, to the extent technologically feasible, State shall have access to Sensitive State Data during the transfer. Following such transfer, Contractor shall securely destroy Sensitive State Data in its possession or control. Contractor shall not destroy any Sensitive State Data that has not been returned to State in the event of ongoing contract or other disputes between the parties or for so long as amounts remain payable by State.

Destroyed Sensitive State Data shall be permanently deleted and shall not be recoverable according to National Institute of Standards and Technology (NIST) approved methods. Certificates of destruction shall be provided to the State. Contractor may retain a copy of Sensitive State Data if necessary to comply with law or its applicable professional standards.

H. Compliance

1. Contractor shall comply with all applicable laws and industry standards in performing services under this agreement. Any Contractor personnel visiting the State's facilities will comply with all applicable State policies regarding access to, use of, and conduct within such facilities. The State shall provide copies of such policies to Contractor upon request.
2. Contractor warrants that the service it will provide to the State is fully compliant with relevant laws, regulations, and guidance that may be applicable to the service, such as: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA),

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Federal Export Administration Regulations, and Defense Federal Acquisitions Regulations, as applicable to each product that processes and stores protected data.

3. If the Payment Card Industry Data Security Standards (PCI-DSS) are applicable to the service provided to the State, Contractor shall, upon written request, furnish proof of compliance with PCI-DSS within 10 business days of the Request.

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Exhibit B

STATE OF GEORGIA

DEPARTMENT OF ADMINISTRATIVE SERVICES

Contract Terms and Conditions for Equipment Rental or Lease

A. DEFINITIONS AND GENERAL INFORMATION

1. Definitions. The following words shall be defined as set forth below:

- (i) **"Agency"** means the Department of Administrative Services of the State of Georgia.
- (ii) **"Awarded Item Schedule"** means the summarizing document, if any, listing the equipment to be purchased, leased or rented and any ancillary services as awarded and may also denote the Contractor providing such equipment and services.
- (iii) **"Contractor"** means the provider(s) of the equipment and the identified ancillary services under the Statewide Contract.
- (iv) **"Purchase Instrument"** means the documentation issued by DOAS or Purchasing Entities to the Contractor as payment in accordance with the terms and conditions of the Statewide Contract. The Purchase Instrument should reference the Statewide Contract and may include an identification of the equipment and services, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by DOAS or Purchasing Entities.
- (v) **"Response", "Contractor's Response" or "Final Response"** means the Contractor's submitted response to the RFX, including any modifications or clarifications accepted by DOAS or the Purchasing Entity.

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- (vi) **"RFX"** means the Request for Proposal, Request for Bid, or other solicitation document (and any amendments or addenda thereto) specifically identified in the Statewide Contract Form that was issued by the Lead State to solicit the equipment and services that are subject to the Statewide Contract.
- (vii) **"State"** means the State of Georgia, DOAS, Purchasing Entities, and any other authorized state entities issuing Purchase Instruments against the Contract.
- (viii) **"Statewide Contract" or "Contract"** means the agreement between Purchasing Entity and the Contractor as defined by the Statewide Contract Form and its incorporated documents.
- (ix) **"Statewide Contract Form"** means the document that contains basic information about the Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFX, Contractor's Response to the RFX, the final pricing documentation for the equipment and services and any mutually agreed clarifications, modifications, additions and deletions resulting from final contract negotiations. No objection or amendment by a Contractor to the RFX requirements or the Contract shall be incorporated by reference into this Contract unless DOAS or the Purchasing Entity has accepted the Contractor's objection or amendment in writing. The Statewide Contract Form is defined separately and referred to separately throughout the Statewide Contract as a means of identifying the location of certain information. For example, the initial term of the Contract is defined by the dates in the Statewide Contract Form.
- (x) **"Purchasing Entity" or "Purchasing Entities"** means any offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the State of Georgia entitled to or required to make purchases from this Statewide Contract.
- (xi) **"Purchasing Entity Lease"** shall mean the standard lease template attached to this Statewide Contract, which shall be used by the Contractor to lease or rent any equipment to Purchasing Entities pursuant to this Statewide Contract.

2. **Certified Source of Equipment and Ancillary Services.** Pursuant to Section 50-5-57 of the Official Code of Georgia Annotated (O.C.G.A.), DOAS hereby certifies the Contractor as a source of supply to the

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Purchasing Entities of the equipment and the services identified in this Statewide Contract. Orders shall be placed individually and from time to time by the Purchasing Entities. The execution of this Statewide Contract only establishes the Contractor as an authorized source of supply by DOAS and creates no financial obligation on the part of DOAS or the Purchasing Entity.

3. **Priority of Contract Provisions.** Any pre-printed contract terms and conditions included on Contractor's forms or invoices shall be null and void.
4. **Reporting Requirements.** Contractor shall provide all reports required by the RFX. In addition, unless otherwise provided in the RFX, Contractor shall keep a record of the payments made pursuant to the Statewide Contract and shall submit a quarterly written report to the DOAS.

B. DURATION OF CONTRACT

1. **Contract Term.** The Statewide Contract shall begin and end on the dates specified in the Statewide Contract Form unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 50-5-64, this Contract shall not be deemed to create a debt of the State for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.
2. **Contract Renewal.** DOAS and the Purchasing Entity shall have the option, in its discretion, to renew the Statewide Contract for additional terms on a year-to-year basis by giving the Contractor written notice of the renewal decision at least sixty (60) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the State, funding, and Contractor's performance. Renewal will be accomplished through the issuance of a Notice of Award Amendment. Upon DOAS or the Purchasing Entity's election, in its discretion, to renew any part of this Statewide Contract, Contractor shall remain obligated to perform in strict accordance with this Statewide Contract unless otherwise agreed by the Purchasing Entity and the Contractor.
3. **Contract Extension.** In the event that this Statewide Contract shall terminate or be likely to terminate prior to the making of an award for a

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new contract for the identified equipment and ancillary services, DOAS or the Purchasing Entity may, with the written consent of Contractor, extend this Statewide Contract for such period as may be necessary to permit the State's continued use of the rented or leased equipment and receipt of ancillary services.

C. DESCRIPTION OF EQUIPMENT AND SERVICES

- 1. Specifications in Bidding Documents.** The Contractor shall provide all equipment, services, and other deliverables required in the RFX that comply with the specifications contained in the RFX and the terms of the Statewide Contract, plus those equipment, services and deliverables as may additionally be described in the Response. Any equipment provided hereunder shall be new equipment unless provided otherwise in the RFX.
- 2. Product Shipment and Delivery.** All equipment and any other products shall be shipped F.O.B. destination. Destination shall be the location(s) specified by the Purchasing Entity. All items shall be at the Contractor's risk until they have been delivered and accepted by the receiving entity. All items shall be subject to inspection on delivery. Hidden damage will remain the responsibility of the Contractor to remedy without cost to the Purchasing Entities, regardless of when the hidden damage is discovered.
- 3. Title to Leased or Rented Equipment.** Unless provided otherwise in the RFX, leased or rented equipment is and shall at all times remain the sole property of the Contractor unless the Purchasing Entity exercises an option to purchase as permitted by the Purchasing Entity Lease.
- 4. Care, Use and Maintenance of Leased or Rented Equipment.** Purchasing Entities shall protect leased or rented equipment from deterioration, other than normal wear and tear, and will not use the leased or rented equipment for any purpose other than that for which it was designed. Contractor shall maintain the leased/rented equipment in good working order and will make all necessary adjustments and repairs. The Contractor shall have full and free access to the leased/rented equipment for the purpose of maintenance and repairs during the Purchasing Entities' normal business hours and subject to the Purchasing Entities' operational guidelines, including security regulations. The charge for such maintenance is included in the Response and any final pricing documents as incorporated into the Statewide Contract Form.

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5. **Leased/Rented Equipment Return.** Unless provided otherwise in the RFX, upon termination of the Purchasing Entity Lease, Contractor must enter the premises of the Purchasing Entity and *remove* the leased/rented equipment. Contractor should arrange and confirm removal times with Purchasing Entities during the Purchasing Entities' normal business hours and subject to the Purchasing Entities' operational guidelines, including security regulations. Contractor agrees that the cost of removal is included in the Contractor's response or other final pricing documentation as incorporated into the Statewide Contract Form.
6. **Non-Exclusive Rights.** The Statewide Contract is not exclusive. DOAS or the Purchasing Entity reserves the right to select other contractors to provide equipment and services similar to the equipment and services described in the Statewide Contract during the term of the Statewide Contract. Purchasing Entities may obtain similar equipment and services from other contractors upon prior approval of DOAS, which approval shall be made at the sole discretion of DOAS when it is deemed to be in the best interests of the State and shall be conclusive.
7. **No Minimums Guaranteed.** The Statewide Contract does not guarantee any minimum *level* of purchases or any minimum time period for rental or lease of the equipment

D. COMPENSATION

1. **Pricing and Payment.** The Contractor will be paid for the purchase, rental or lease of its equipment and services provided pursuant to the Statewide Contract in accordance with the RFX and final pricing documents as incorporated into the Statewide Contract Form and the terms of the Statewide Contract. Unless clearly stated otherwise in the Statewide Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. Purchasing Entities are solely and individually financially responsible for their respective purchases.
2. **Billings.** If applicable, and unless the RFX provides otherwise, the Contractor shall submit, on a regular basis, invoices for all of the equipment rentals, leases, sales and services supplied to the Purchasing Entities under the Statewide Contract at the billing addresses specified in the Purchase Instruments or Statewide Contract. Invoices shall

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comply with all applicable rules concerning payment of such claims. Purchasing Entities shall pay all approved invoices in arrears and in accordance with applicable provisions of State law.

Unless otherwise agreed in writing by DOAS or the Purchasing Entity and the Contractor, the Contractor shall not be entitled to receive any other payment or compensation from the Purchasing Entities for any equipment or services provided by or on behalf of the Contractor under the Statewide Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Statewide Contract.

3. **Delay of Payment Due to Contractor's Failure.** If the Purchasing Entity in good faith determines that the Contractor has failed to perform or deliver any service or equipment or failed to maintain or repair the equipment as required by the Statewide Contract, the Contractor shall not be entitled to any compensation under the Statewide Contract until such service is performed or such equipment is delivered, maintained or repaired. In this event, the Purchasing Entities may withhold that portion of the Contractor's compensation which represents payment for services not performed or equipment not delivered or properly maintained and repaired. To the extent that the Contractor's failure to provide services or deliver equipment in a timely manner causes the Purchasing Entities to incur costs, the Purchasing Entities may deduct the amount of such incurred costs from any amounts payable to Contractor. The Purchasing Entities' authority to deduct such incurred costs shall not in any way affect DOAS's sole authority to terminate the Statewide Contract.
4. **Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the Purchasing Entity any sum under the terms of the Statewide Contract, pursuant to any judgment, or pursuant to any law or the Purchasing Entity must obtain substitute performance, the Purchasing Entity may set off the sum owed to the Purchasing Entity against any sum owed by the Purchasing Entity to the Contractor in DOAS and the Purchasing Entity's discretion.

E. TERMINATION

1. **Immediate Termination.** Pursuant to O.C.G.A. Section 50-5-64, any lease, rental or purchase made pursuant to this Statewide Contract will

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terminate immediately and absolutely if the Purchasing Entity determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the Purchasing Entity cannot fulfill its obligations under the Statewide Contract, which determination is at the Purchasing Entity's sole discretion and shall be conclusive. Further, DOAS or the Purchasing Entity may terminate the Statewide Contract for any one or more of the following reasons effective immediately without advance notice:

- (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing the equipment, goods and services, the revocation or loss of such license or certification may result in immediate termination of the Statewide Contract effective as of the date on which the license or certification is no longer in effect;
- (ii) DOAS or the Purchasing Entity determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification in connection with the Statewide Contract or the bidding process, which is materially false, deceptive, incorrect or incomplete.

- 2. Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for DOAS or the Purchasing Entity to declare the Contractor in default of its obligations under the Statewide Contract:

- i) The Contractor fails to deliver or has delivered nonconforming equipment, goods or services or fails to perform, to DOAS or the Purchasing Entity's satisfaction, any material requirement of the Statewide Contract or is in violation of a material provision of the Statewide Contract, including, but without limitation, the express warranties made by the Contractor;

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- ii) DOAS or the Purchasing Entity determines that satisfactory performance of the Statewide Contract is substantially endangered or that a default is likely to occur;
 - iii) The Contractor fails to make substantial and timely progress toward performance of the Statewide Contract;
 - iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DOAS or the Purchasing Entity reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Statewide Contract;
 - vi) The Contractor has engaged in conduct that has or may expose DOAS, Purchasing Entity, or the State to liability, as determined in DOAS's sole discretion; or
 - vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of DOAS, or the Purchasing Entity, the State, or a third party.
- 3. Notice of Default.** If there is a default event caused by the Contractor, DOAS or the Purchasing Entity shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, DOAS or the Purchasing Entity may:
- (i) Immediately terminate the Statewide Contract without additional written notice; and/or
 - (ii) Procure substitute goods or services from another source and

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charge the difference between the Statewide Contract and the substitute contract to the defaulting Contractor; and/or,

- (iii) Enforce the terms and conditions of the Statewide Contract and seek any legal or equitable remedies.

4. **Termination Upon Notice.** Following thirty (30) days' written notice, DOAS may terminate the Statewide Contract in whole or in part. If Purchasing Entity terminates this User Agency Lease Agreement for convenience prior to the expiration of the current fiscal year term, then User Agency will be responsible for the payment of all amounts remaining in the unexpired portion of the current term, plus any unpaid invoices unless those invoices are in dispute.
5. **Termination Due to Change in Law.** DOAS or the Purchasing Entity shall have the right to terminate this Statewide Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:
 - (i) DOAS or the Purchasing Entity's authorization to operate is withdrawn or there is a material alteration in the programs administered by DOAS or the Purchasing Entity; and/or
 - (ii) DOAS or the Purchasing Entity 's duties are substantially modified.
6. **Payment Limitation in Event of Termination.** In the event of termination of the Statewide Contract for any reason by DOAS or the Purchasing Entity, the Purchasing Entities shall pay only those amounts, if any, due and owing to the Contractor for equipment and services actually provided up to the date specified in the notice of termination for which the Purchasing Entities are obligated to pay pursuant to the Statewide Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the State under the Statewide Contract in the event of termination. The State shall not be liable for any costs incurred by the Contractor in its performance of the Statewide Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Statewide Contract.

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7. **The Contractor's Termination Duties.** Upon receipt of notice of termination or upon request of DOAS or the Purchasing Entity, the Contractor shall:
- (i) Cease work under the Statewide Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Statewide Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters DOAS or the Purchasing Entity may require;
 - (ii) Immediately cease using and return to the State, any personal property or materials, whether tangible or intangible, provided by the State to the Contractor;
 - (iii) Comply with the State's instructions for the timely transfer of any active files and work product produced by the Contractor under the Statewide Contract;
 - (iv) Cooperate in good faith with DOAS, the Purchasing Entities, and their employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
 - (v) Immediately return to the Purchasing Entities any payments made by the Purchasing Entities for equipment and services that were not delivered or rendered by the Contractor.

F. CONFIDENTIAL INFORMATION

1. **Access to Confidential Data.** The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the State to the extent necessary to carry out the Contractor's responsibilities under the Statewide Contract. The Contractor shall presume that all information received pursuant to the Statewide Contract

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is confidential unless otherwise designated by the State. If it is reasonably likely the Contractor will have access to the State's confidential information, then:

- (i) The Contractor shall provide to the State a written description of the Contractor's policies and procedures to safeguard confidential information;
- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
 - 1. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Statewide Contract; and
 - 2. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Statewide Contract.

The private or confidential data shall remain the property of the State at all times. Some services performed for DOAS and/or the Purchasing Entities may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Statewide Contract.

- 2. **No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Statewide Contract shall be disseminated except as authorized by law and with the written consent of the State, either during the period of the Statewide Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the State. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Statewide Contract, in whatever form it is maintained, promptly at the request of the State.

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3. **Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the State and cooperate with the State in any lawful effort to protect the confidential information.
4. **Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the State any unauthorized disclosure of confidential information.
5. **Survives Termination.** The Contractor's confidentiality obligation under the Statewide Contract shall survive termination of the Statewide Contract.

G. INDEMNIFICATION

1. **Contractor's Indemnification Obligation.** The Contractor agrees to indemnify, hold harmless, and fully cooperate in any defense of the State and State officers, employees, agents, and volunteers (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:
 - (i) Any breach of the Statewide Contract;
 - (ii) Any negligent, intentional or wrongful act or omission of the Contractor or any employee, agent or subcontractor utilized or employed by the Contractor;
 - (iii) Any failure of equipment and services to comply with applicable specifications, warranties, and certifications under the Statewide Contract;
 - (iv) The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the equipment or any parts thereof provided under the Statewide Contract;
 - (v) Claims, demands, or lawsuits that, with respect to the

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equipment or any parts thereof, allege product liability, strict product liability, or any variation thereof;

- (vi) The Contractor's performance or attempted performance of the Statewide Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;
 - (vii) Any failure by the Contractor to comply with the "Compliance with the Law" provision of the Statewide Contract;
 - (viii) Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Georgia or the United States;
 - (ix) Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
 - (i) Any failure by the Contractor to adhere to the confidentiality provisions of the Statewide Contract.
- 2. Duty to Reimburse State Tort Claims Fund.** To the extent such damage or loss as covered by this indemnification is covered by the State of Georgia Tort Claims Fund ("the Fund"), the Contractor (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of the State and the terms of the Fund, the Contractor and its insurers waive any right of subrogation against the State, the Indemnified Parties, and the Fund and insurers participating thereunder, to the full extent of this indemnification.
- 3. Litigation and Settlements.** The Contractor shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnified Parties. No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Contractor unless approved in writing by Contractor. No settlement or compromise of any claim, loss or damage entered into by Contractor shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties.
- 4. Patent/Copyright Infringement Indemnification.** Contractor shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit instituted against the State and indemnify the State

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against any award of damages and costs made against the State by a final judgment of a court of last resort in such suit insofar as the same is based on any claim that any of the provided equipment and services constitutes an infringement of any United States Letters Patent or copyright, provided the State gives the Contractor immediate notice in writing of the institution of such suit, permits Contractor to fully participate in the defense of the same, and gives Contractor all available information, assistance and authority to enable Contractor to do so. Subject to approval of the Attorney General of the State of Georgia, DOAS or the Purchasing Entity (as applicable) shall tender defense of any such action to Contractor upon request by Contractor. Contractor shall not be liable for any award of judgment against the State reached by compromise or settlement unless Contractor accepts the compromise or settlement. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement shall be binding upon the State unless approved by the State.

In case any of the provided equipment and services is in any suit held to constitute infringement and its use is enjoined, Contractor shall, at its option and expense:

- (i) Procure for the Purchasing Entity the right to continue using the equipment and services;
- (ii) Replace or modify the same so that it becomes non-infringing; or
- (iii) Remove the same and cancel any future charges pertaining thereto.

Contractor, however, shall have no liability to the State if any such patent, or copyright infringement or claim thereof is based upon or arises out of:

- (i) Compliance with designs, plans or specifications furnished by or on behalf of DOAS or the Purchasing Entity as to the equipment;
- (ii) Use of the equipment in combination with apparatus or devices not supplied by Contractor;

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- (iii) Use of the equipment in a manner for which the same was neither designed nor contemplated; or
- (iv) The claimed infringement of any patent or copyright in which DOAS or any affiliate or subsidiary of DOAS has any direct interest by license or otherwise.

5. **Survives Termination.** The indemnification obligation of the Contractor shall survive termination of the Statewide Contract.

H. INSURANCE

Contractor shall provide all insurance as required by the RFX.

I. WARRANTIES

1. **Construction of Warranties Expressed in the Contract with Warranties Implied by Law.** All warranties made by the Contractor and/or subcontractors in all provisions of the Statewide Contract and the Contractor's Response, whether or not the Statewide Contract specifically denominates the Contractor's and/or subcontractors' promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the equipment, goods and services to be provided, or by provision of samples to the State shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Statewide Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the equipment and services provided by the Contractor. The provisions of this section apply during the term of the Statewide Contract and any extensions or renewals thereof.
2. **Warranty - Nonconforming Goods.** All goods delivered by Contractor to the State shall be free from any defects in design, material, or workmanship. If any goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, the Purchasing Entities shall have the option of returning,

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repairing, or replacing the defective equipment at Contractor's expense. Payment for the use of the equipment shall not constitute acceptance. Acceptance by the Purchasing Entity shall not relieve the Contractor of its warranty or any other obligation under the Statewide Contract.

3. **Compliance with Federal Safety Acts.** Contractor warrants and guarantees to the State that the goods provided under the Statewide Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.

4. **Originality and Title to Concepts, Materials, and Goods Produced.** Contractor represents and warrants that all the concepts, materials, goods and services produced, or provided to the State pursuant to the terms of the Statewide Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Contractor represents and warrants that the concepts, materials, goods and services and the State's use of same and the exercise by the State of the rights granted by the Statewide Contract shall not infringe upon any other work, other than material provided by the Statewide Contract to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods and services contemplated by the Statewide Contract.

5. **Conformity with Contractual Requirements.** The Contractor represents and warrants that the equipment and services provided in accordance with the Statewide Contract will appear and operate in conformance with the terms and conditions of the Statewide Contract.

6. **Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into the Statewide Contract and

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that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the State.

7. **Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Statewide Contract are or will be fully satisfied by the Contractor so that the State will not have any obligations with respect thereto.
8. **Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to the State is good and that transfer of title or license to the State is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Title to any supplies, materials or equipment shall remain in the Contractor until fully paid for by the Purchasing Entities.
9. **Industry Standards.** The Contractor represents and expressly warrants that all aspects of the equipment and services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Statewide Contract, which shall take precedence.
10. **Contractor's Personnel and Staffing.** Contractor warrants that all persons assigned to perform services under this Statewide Contract are either lawful employees of Contractor or lawful employees of a Subcontractor authorized by DOAS as specified in the RFX. All persons assigned to perform services under this Statewide Contract shall be qualified to perform such services. Personnel assigned by Contractor shall have all professional licenses required to perform the services.
11. **Use of State Vehicles.** Contractor warrants that no State vehicles will be used by Contractor for the performance of services under this Statewide Contract. Contractor shall be responsible for providing transportation necessary to perform all services.

J. PRODUCT RECALL

In the event that any of the goods are found by the Contractor, the State,

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any governmental agency, or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to DOAS and the Purchasing Entity and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude DOAS or the Purchasing Entity from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and the Purchasing Entity shall agree to the performance of such repairs by the Purchasing Entity upon mutually acceptable terms.

K. CONTRACT ADMINISTRATION

- 1. Order of Preference.** In the case of any inconsistency or conflict among the specific provisions of the Statewide Contract Terms and Conditions (including any amendments accepted by both the Purchasing Entity and the Contractor attached hereto), the RFX (including any subsequent addenda and written responses to bidders' questions), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:
 - (i)** First, by giving preference to the specific provisions of the Statewide Contract Terms and Conditions.
 - (ii)** Second, by giving preference to the specific provisions of the RFX.
 - (iii)** Third, by giving preference to the Purchasing Entity Lease.
 - (iv)** Fourth, by giving preference to the specific provisions of the Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by DOAS in writing shall not be included in this Statewide Contract and shall be given no weight or consideration.
- 2. Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as stated in the RFX and the

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Contractor's Response. The failure of the parties to make reference to the terms of the RFX or the Contractor's Response in this document shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFX and the Contractor's Response. The contractual obligations of the Purchasing Entity cannot be implied from the Contractor's Response.

- 3. Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Statewide Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Statewide Contract. Contractor and Contractor's personnel shall also comply with all State, Agency and Purchasing Entity policies and standards in effect during the performance of the Statewide Contract, including but not limited to DOAS and Purchasing Entities' policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. Section 45-10-20 et seq. have not and must not be violated under the terms of this Statewide Contract. If the value of this Contract is \$100,000 or more and Contractor is a company that employs more than five persons, Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. §50-5-85.
- 4. Amendments.** The Statewide Contract may be amended in writing from time to time by mutual consent of the parties and upon approval by DOAS. All amendments to the Statewide Contract must be in writing and fully executed by duly authorized representatives of all the parties.
- 5. Third Party Beneficiaries.** There are no third-party beneficiaries to the Statewide Contract. The Statewide Contract is intended only to benefit the State, and the Contractor.
- 6. Choice of Law and Forum.** The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Statewide Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Statewide Contract, such proceeding shall solely be

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brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.

- 7. Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation.** In addition to any dispute resolution procedures otherwise required under this Statewide Contract or any informal negotiations which may occur between the parties, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Statewide Contract may be commenced without first giving fourteen (14) calendar days written notice to the other party of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either party may elect to submit the matter for mediation. Either party may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Atlanta, Georgia; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs;

provided, however that the cost to Agency shall not exceed five thousand dollars (\$5,000.00).

All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Inadmissibility notwithstanding, all written documents shall nevertheless be subject to the Georgia Open Records Act O.C.G.A. Section 50-18-70 et. seq.

No party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, forty-five (45) calendar days after the date of filing the written request for mediation with the mediator or mediation service, or sixty (60) calendar days after the delivery of the written demand for mediation, whichever occurs first. Mediation may continue after the commencement

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of a civil action, if the parties so desire.

- 8. Assignment and Delegation.** The Statewide Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of DOAS. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.
- 9. Use of Third Parties.** Except as may be expressly agreed to in writing by DOAS and the Purchasing Entity, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than Contractor or Contractor's personnel to perform any of Contractor's obligations under this Statewide Contract or any of the work subsequently assigned under this Statewide Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Statewide Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Statewide Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Statewide Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of DOAS and the Purchasing Entity. DOAS or the Purchasing Entity shall have the right to request the removal of a subcontractor from the Statewide Contract for good cause.
- 10. Integration.** The Statewide Contract represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Statewide Contract.
- 11. Headings or Captions.** The paragraph headings or captions used in the Statewide Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- 12. Not a Joint Venture.** Nothing in the Statewide Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for goods and services and acting toward the mutual benefits expected to be derived therefrom. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of

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the State. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Statewide Contract.

- 13. Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Statewide Contract, and for any default of activities and obligations.
- 14. Supersedes Former Contracts or Agreements.** Unless otherwise specified in the Statewide Contract, this Statewide Contract supersedes all prior Contracts or Agreements between the Purchasing Entity and the Contractor for the goods and services provided in connection with the Statewide Contract.
- 15. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Purchasing Entity and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Statewide Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- 16. Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person who signed the Statewide Contract on behalf of the party at the address identified in the Statewide Contract Form. Each such notice shall be deemed to have been provided:
 - (i)** At the time it is actually received; or,
 - (ii)** Within one (1) day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

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- (iii) Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

- 17. **Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in the Statewide Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.
- 18. **Severability.** If any provision of the Statewide Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Statewide Contract. Further, if any provision of the Statewide Contract is determined to be unenforceable by virtue of its scope but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of the parties to amend, modify, eliminate, or otherwise change any part of this Statewide Contract shall not affect any other part of this Statewide Contract, and the remainder of this Statewide Contract shall continue to be of full force and effect.
- 19. **Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Statewide Contract. Contractor shall ensure that all personnel providing goods and services to the State are responsive to the State's requirements and requests in all respects.
- 21. **Authorization.** The persons signing this Statewide Contract represent and warrant to the other parties that:
 - (i) It has the right, power and authority to enter into and perform its obligations under the Statewide Contract; and

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- (ii) It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Statewide Contract and the Statewide Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 22. Successors in Interest.** All the terms, provisions, and conditions of the Statewide Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 23. Record Retention and Access.** The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the State throughout the term of the Statewide Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Georgia or any authorized representative of DOAS, or the Purchasing Entity, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the Statewide Contract, wherever such records may be located during normal business hours. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the State reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.
- 24. Solicitation.** The Contractor warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Statewide Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.
- 25. Public Records.** The laws of the State of Georgia, including the Georgia Open Records Act, as provided in O.C.G.A. Section 50-18-70 et seq., require procurement records and other records to be made public unless

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otherwise provided by law.

26. **Clean Air and Water Certification.** Contractor certifies that none of the facilities it uses to produce goods provided under the Statewide Contract are on the Environmental Protection Agency (EPA) List of Violating Facilities. Contractor will immediately notify DOAS and the Purchasing Entity of the receipt of any communication indicating that any of Contractor's facilities are under consideration to be listed on the EPA List of Violating Facilities.
27. **Debarred, Suspended, and Ineligible Status.** Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the State of Georgia or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify DOAS and the Purchasing Entity if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.
28. **Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, State trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the State.
29. **Taxes.** Purchasing Entities are exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. Purchasing Entities are exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Contractor or an authorized subcontractor has provided DOAS and the Purchasing Entity with a sworn verification regarding the filing of unemployment taxes or persons assigned by Contractor to perform services required in this Statewide Contract, which verification is incorporated herein by reference.
30. **Certification Regarding Sales and Use Tax.** By executing the Statewide Contract, the Contractor certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a "retailer" as defined in O.C.G.A. Section 48-8-2. The Contractor also acknowledges that the State may declare the Statewide Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Purchasing Entity or its representative filing for damages for breach of contract.
31. **Delay or Impossibility of Performance.** Neither party shall be in default under the Statewide Contract if performance is delayed or made impossible by an act of God. In each such case, the delay or impossibility

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must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Statewide Contract.

- 32. Limitation of Contractor's Liability to the State.** Except as otherwise provided in this Statewide Contract, Contractor's liability to the State for any claim of damages arising out of this Statewide Contract shall be limited to direct damages and shall not exceed the total amount paid to Contractor for the performance under this Statewide Contract.

No limitation of Contractor's liability shall apply to Contractor's liability for loss or damage to State equipment or other property while such equipment or other property is in the sole care, custody, and control of Contractor's personnel. Contractor hereby expressly agrees to assume all risk of loss or damage to any such State equipment or other property in the care, custody, and control of Contractor's personnel. Contractor further agrees that equipment transported by Contractor personnel in a vehicle belonging to Contractor (including any vehicle rented or leased by Contractor or Contractor's personnel) shall be deemed to be in the sole care, custody, and control of Contractor's personnel while being transported. Nothing in this section shall limit or affect Contractor's liability arising from claims brought by any third party.

- 33. Obligations Beyond Contract Term.** The Statewide Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Statewide Contract. All obligations of the Contractor incurred or existing under the Statewide Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Statewide Contract.
- 34. Counterparts.** The parties agree that the Statewide Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.
- 35. Further Assurances and Corrective Instruments.** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Statewide Contract.
- 36. Transition Cooperation and Cooperation with other Contractors.**

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Contractor agrees that upon termination of this Statewide Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to the State or another contractor. The Contractor shall provide full disclosure to the State and the third-party contractor about the equipment, software, or services required to perform services for the State. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the services to the State or to another contractor.

Further, in the event that the State has entered into or enters into agreements with other contractors for additional work related to services rendered under the Statewide Contract, Contractor agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.

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Exhibit C

STATE OF GEORGIA
 DEPARTMENT OF ADMINISTRATIVE SERVICES
 The state of Georgia End User Lease Agreement

PURCHASING ENTITY LEASE AGREEMENT	
Contractor's Full Legal Name:	Quadient, Inc.
Contractor's Statewide Contract#:	99999-SPD-T20271514-0001
Cooperative Contract Reference #	NASPO ValuePoint Contract #CTR058809
Purchasing Entity Name:	
Purchasing Entity Billing Address:	

WHEREAS, the Georgia Department of Administrative Services ("DOAS") on behalf of the State of Georgia (the "State") established the above referenced Statewide Contract by and between DOAS and Contractor;

WHEREAS, the Purchasing Entity desires to lease equipment from Contractor in accordance with the terms of the Statewide Contract and this Purchasing Entity Lease Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. EQUIPMENT AND SERVICES. Pursuant to the terms and conditions of

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the Statewide Contract, Contractor agrees to lease to Purchasing Entity the Equipment identified in the Equipment Schedule attached hereto as Attachment 1 and incorporated herein by reference (collectively and individually, the "Equipment"). The Equipment Schedule may be amended to include any additional Equipment added hereto by written agreement of both parties. In addition, Contractor agrees to provide to the Purchasing Entity the installation and maintenance and other services described in the Statewide Contract.

2. **TERM AND RENEWAL.** The initial term of this Purchasing Entity Lease Agreement shall begin on the Effective Date and end on June 30th of the then-current State fiscal year (July 1 - June 30). Thereafter, the Purchasing Entity Lease Agreement may be renewed at the sole discretion of the Purchasing Entity on a year- to-year basis (one renewal term at a time) for the period of time identified in Attachment 1. Purchasing Entity may, at its sole option, renew as to all of the Equipment and services to be provided hereunder or as to only selected Equipment and services. The terms and conditions of this Purchasing Entity Lease Agreement shall apply during any and all renewals.
3. **SHIPPING AND DELIVERY.** Contractor shall pay for packing, crating, and shipping of the Equipment to and from the Purchasing Entity and shall install the Equipment at the Purchasing Entity's premises at no cost to the Purchasing Entity. Shipment/Delivery shall be FOB: Destination.
4. **PAYMENT AND ACCEPTANCE.** Purchasing Entity agrees to pay Contractor in arrears for all undisputed amounts within thirty (30) days of receipt of an undisputed invoice, provided that the Equipment and Services have been accepted by the Purchasing Entity as hereinafter provided. Contractor shall not invoice Purchasing Entity in advance of Contractor's deliverance/performance of the items and/or services that are the subject of the invoice. Contractor shall deliver the Equipment and/or perform any services in accordance with the schedule set forth in the Statewide Contract or the time specified in Attachment 1 (whichever is later). Unless otherwise agreed to by Contractor and the Purchasing Entity, Contractor shall provide written notification of completion of the delivery, installation and any other required services to the Purchasing Entity ("Delivery/Installation Notice"). Purchasing Entity shall have thirty (30) days from the date of receipt of the Delivery/Installation Notice to provide Contractor with written notification of acceptance or rejection due to unsatisfactory performance ("Acceptance Period"), and in the event of acceptance by the Purchasing Entity, the obligation to pay shall be effective on the first (1st) day of the Acceptance Period. The failure of the Purchasing Entity to issue an acceptance or rejection notice on or before the end of the

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Acceptance Period shall be deemed an acceptance of the Equipment or services. In the event Purchasing Entity issues a rejection notice, Supplier shall, as quickly as is practicable, correct at its expense all deficiencies caused by Contractor. Purchasing Entity shall not unreasonably withhold or delay such acceptance or rejection.

5. TERMINATION. Termination of this Purchasing Entity Lease Agreement shall be governed by the following provisions_:

- a. Each party has the right to terminate this Purchasing Entity Lease Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within thirty (30) days after receipt of notice of such default (or such additional cure period as the non-defaulting party may authorize). Contractor shall provide prompt written notice to DOAS of any and all default notices sent to a Purchasing Entity.
- b. Provided that Contractor is in default of this Purchasing Entity Lease Agreement, Purchasing Entity may terminate this Purchasing Entity Lease Agreement, in whole or in part, by written notice to Contractor if Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.
- c. Purchasing Entity may terminate this Purchasing Entity Lease Agreement, in whole or in part, immediately, without notice, if: (i) Purchasing Entity deems that such termination is necessary to prevent or protect against fraud or otherwise protect Purchasing Entity's personnel, facilities or services; or (ii) Contractor is debarred or suspended from performing services on any public contract(s).
- d. If Purchasing Entity terminates this Purchasing Entity Lease Agreement for convenience prior to the expiration of the current fiscal year term, or if Contractor terminates this Purchasing Entity Lease Agreement as set forth in subsection (a) above, then Purchasing Entity will be responsible for the payment of all amounts remaining in the unexpired portion of the current term, plus any unpaid invoices unless those invoices are in dispute.

6. EQUIPMENT RETURN. Upon termination of the Purchasing Entity Lease,

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Contractor must coordinate with the Purchasing Entity to enter the premises of the Purchasing Entity and *remove* the leased/rented equipment. Contractor should arrange and confirm removal times with Purchasing Entities during the Purchasing Entities' normal business hours and subject to the Purchasing Entities' operational guidelines, including security regulations. Contractor agrees that the cost of removal is included in the Contractor's response or other final pricing documentation as incorporated into the Statewide Contract Form.

7. **FUNDING.** The parties acknowledge that institutions of the State of Georgia are prohibited from pledging the credit of the State. If the source of payment for the charges payable hereunder no longer exists or is determined to be insufficient, this Purchasing Entity Lease Agreement shall terminate without further obligation of the Purchasing Entity as of that moment. The determination of the Purchasing Entity as to the occurrence of the events stated herein shall be conclusive; Purchasing Entity represents, however, that it will use reasonable care that the termination of this Purchasing Entity Lease Agreement will not be frivolous, but rather will result from a reduction of funding.
8. **PURCHASE OPTION.** Purchasing Entity, at its sole discretion, shall have the option to purchase leased equipment at pricing mutually agreeable to Purchasing Entity and Contractor.
9. **TAXES.** All fees payable to Contractor hereunder shall be net of any and all taxes that the Contractor may be required by law to collect in connection with the provision of the Services hereunder. Contractor shall be solely responsible for the payment of any and all taxes lawfully imposed upon it, including but not limited to taxes on property owned, leased or used by Contractor; franchise or privilege taxes on Contractor's business; gross receipts taxes to which Contractor is subject; and income taxes. By this paragraph, neither DOAS nor the Purchasing Entity makes any representation whatsoever as to the liability or exemption from liability of Contractor to any tax imposed by any governmental entity. Upon request, Purchasing Entity will provide a certificate of tax exemptions which apply to this Purchasing Entity Lease Agreement.
10. **ASSIGNMENT.** Contractor shall not assign or subcontract the whole or any part of this Purchasing Entity Lease Agreement.
11. **WAIVER AND SEVERABILITY.** The waiver by Purchasing Entity of any breach of any provision contained in this Purchasing Entity Lease Agreement shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision contained in this



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Purchasing Entity Lease Agreement. Any such waiver must be in writing in order to be effective, and no such waiver or waivers shall serve to establish a course of performance between the parties contradictory to the terms hereof. All provisions of this Purchasing Entity Lease Agreement are severable, and the unenforceability or invalidity of any of the provisions will not affect the validity or enforceability of the remaining provisions. The remaining provisions will be construed in such a manner as to carry out the full intention of the parties. Section titles or references used in this Purchasing Entity Lease Agreement have no substantive meaning or content and are not a part of this Purchasing Entity Lease Agreement.

12. APPLICABLE LAW AND VENUE. This Purchasing Entity Lease Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia, U.S.A., without regard to its conflict of laws principles. Any lawsuit or other action based on a claim arising from this Agreement shall be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia.

13. NOTICES. All notices, requests, or other communications excluding invoices hereunder shall be in writing and either transmitted via overnight courier, electronic mail, hand delivery or certified or registered mail, postage prepaid and return receipt requested to the parties at the following addresses. Notices will be deemed to have been given when received.

PURCHASING ENTITY	CONTRACTOR
Name:	Name:
Title:	Title:
Address:	Address:
Email Address:	Email Address:

14. TITLE AND RISK OF LOSS. Any leased Equipment is and shall at all times remain the sole property of the Contractor, and the Purchasing Entity shall have or acquire no right, title or interest therein. All risk of loss or damage to the Equipment, including risk of transit, shall remain with the Contractor until it is accepted by Purchasing Entity in accordance with Section 4 "Payment and Acceptance". Insurance during shipment and until the Equipment is accepted by Purchasing Entity is the responsibility of the Contractor.

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15. ENTIRE AGREEMENT. This Purchasing Entity Lease Agreement, including all Exhibits and documents incorporated hereunder, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. No amendment to this Agreement shall be valid unless made in a writing of equal dignity and signed by both parties. No representation, request, instruction, directive or order, made or given by any official of Purchasing Entity or of any agency of the State of Georgia, whether verbal or written, shall be effective to amend this Purchasing Entity Lease Agreement or excuse or modify performance hereunder unless reduced to a formal amendment and executed as set forth above. Contractor shall not be entitled to rely on any such representation, request, instruction, directive or order and shall not, under any circumstances whatsoever, be entitled to additional compensation, delay in performance, or other benefit claimed for relying upon or responding to any such representation, request, instruction, directive or order.

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Supplemental Quadient Agreements

POSTAGE METER RENTAL AGREEMENT

1. Postage Meter Rental. In this Postage Meter Rental Agreement (the “Rental Agreement”), the words “You” and “Your” mean the customer named on the Postage Meter Rental Agreement order form (“Order Form”). “We,” “Us” and “Our” mean Quadient, Inc. You agree to rent from Us the postage meter identified on the Order Form, as well as any other products listed on the Order Form, together with all existing accessories, embedded software programs, attachments, replacements, additions and repairs, (the “Postage Meter”) upon the terms stated herein.

2. Provisions as to Use and Notice of Reused Components. You acknowledge that: (i) as required by United States Postal Service regulations, the Postage Meter(s) is being rented to You and that it is Our property; (ii) the Postage Meter will be surrendered by You upon demand by Us; (iii) You are responsible for the control and use of the Postage Meter; (iv) You will comply with all applicable laws regarding Your use or possession of the Postage Meter; (v) the use of the Postage Meter is subject to the conditions established from time to time by the United States Postal Service; and (vi) the Postage Meter is to be used only for generating an indicia to evidence the prepayment of postage and to account for postal funds. It is a violation of Federal law to misuse or tamper with the Postage Meter and, if You do so, We may terminate this Rental Agreement upon notice to You. GUIDED BY QUADIENT, INC.’S SUSTAINABLE DESIGN AND RESPONSIBLE MANUFACTURING POLICY, THE PRODUCTS MAY CONTAIN REUSED COMPONENTS. For more information visit <https://www.quadient.com/about-us/sustainable-design-and-manufacturing>.

3. Rental Fee, Payment and Term. The initial rental term for the Postage Meter is set forth on the Order Form (“Initial Term”). The rental fee for the Initial Term is also set forth on the Order Form. The Initial Term of this Rental Agreement will begin on the earlier of either the date the Postage Meter is installed or five (5) days after the Postage Meter is shipped by Us. You promise to pay to Us the amounts shown on the Order Form in accordance with the payment schedule set forth thereon, plus all other amounts stated on the Order Form or in this Rental Agreement. You shall make all payments to the address indicated on Our invoice within thirty (30) days of the date of Our invoice. If You are using Quadient postage funding, You also agree to pay all setting fees and charges incurred in connection with the download of funds to the Postage Meter. The Postage Meter rental fee does not include the cost of consumable supplies. A customer Purchase Order (PO) is all that is needed for enrollment in QPF. Credit prescreen processes and rules will apply. Accounts will have 45 days to pay and will not be assessed fees.

4. Return of Postage Meter and Products. If at the end of the Initial Term or any renewal terms, you fail to surrender possession of the Postage Meter in accordance with Section 11(a) of the Participating Addendum, within thirty (30) days, then You will pay a postage meter replacement fee of one thousand dollars (\$1,000).

5. Postage Meter Maintenance, Inspections, and Location. We will keep the Postage Meter in good working condition during the term of this Rental Agreement. The United States Postal Service regulations may require Us to periodically inspect the Postage Meter. You agree to cooperate with Us regarding such inspections. We may, from time to time, access and download information from Your Postage Meter to provide Us with information about Your

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postage usage, including postage volume, amounts, and classes used, and We may share that information with Our distributors and other third parties and You hereby authorize Us to do so. You agree to promptly update Us whenever there is any change in Your name, address, telephone number, the licensing post office, or the location of the Postage Meter.

6. Loss; Damage; Insurance. You shall: (i) except to the extent caused by Quadient bear the risk of loss and damage to the Postage Meter and shall continue performing all of Your other obligations hereunder even if the Postage Meter becomes damaged or there is a loss, (ii) keep the Postage Meter insured against all risks of loss and damage in an amount at least equal to its full replacement cost.

7. Postage Advances. We do not sell postage. In the event You require an emergency advance for postage, We, at Our sole discretion, may advance You money to reset the Postage Meter. If We do provide such an advance, You agree to repay Us within thirty five (5 30) days from the time of such advance: (i) the amount of the emergency advance; and

(ii) the then-current advance fee.

8. Default. In the event You fail to perform in accordance with the terms set forth in this Rental Agreement, or any other Agreement with Us or any of Our affiliates, including, but not limited to Quadient Finance USA, Inc., then We may, without notice: (i) repossess the Postage Meter(s); (ii) disable the Postage Meter; (iii) immediately terminate this Rental Agreement; and (iv) pursue any remedies available to Us at law or in equity..

9. Rate Updates.

A. Maintenance of Postal Rates. It is Your sole responsibility to ensure that correct amounts are applied as payment for mailing and shipping services. We shall not be responsible for returns for delivery delays, refusals, or any other problems caused by applying the incorrect rate to mail or packages.

B. Rate Updates with Online Services. If the Order Form indicates that You are enrolled in Our Online Services program, then We will make available periodic updates for Your covered products and/or Postage Meter, including updates to maintain accurate USPS rates for the USPS services that are compatible with such products or Postage Meter. **The rate updates that are offered with Our Online Services program are only available for products that are Integrated (as defined below) into Your mailing machine.**

For the purposes of this section, "Integrated" means that the covered hardware cannot properly operate on a stand-alone basis and it has been incorporated into the mail machine. Products that are not Integrated including, but not limited to, all Software and scales with "ST-77," or "SE" in the model number will not receive updated rates as part of Our Online Services program (collectively "Excluded Products").

C. Rate Updates with Rate Change Protection and Software Advantage. If You have any of Our Excluded Products, You may have elected to purchase Rate Change Protection ("RCP") from Us for Your hardware products or Software Advantage for Your Software. If the Order Form indicates that You have selected RCP or Software Advantage, We will make available the following updates for Your covered products or Software: (i) updates to maintain accurate rates for the services offered by the USPS and other couriers that are compatible with Your covered

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product or Software; and (ii) updates for major zip or zone changes that are compatible with Your covered product or Software. If any reprogramming is required because You have moved the products or Postage Meter to a new location, none of the services described in this Section cover the cost to do so. Customers with an outstanding Accounts Receivable balance may not receive a rate update until the open balance is resolved.

10. United States Postal Service Acknowledgement of Deposit Requirement. By signing this Postage Meter Rental Agreement, You acknowledge and agree that You have read the United States Postal Service Acknowledgement of Deposit (the "Acknowledgement") and will comply with its terms and conditions, as it may be amended from time to time.

11. Additional United States Postal Service Terms.

A. By signing this Postage Meter Rental Agreement, You acknowledge that You are also entering into an Agreement with the United States Postal Service ("USPS") in accordance with the Domestic Mail Manual ("DMM") 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (collectively, "Postage Evidencing Systems" or "PES") and accept responsibility for control and use of the PES contained therein.

B. You also acknowledge You have read the DMM 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (Postage Evidencing Systems) and agree to abide by all rules and regulations governing its use.

C. Failure to comply with the rules and regulations contained in the DMM or use of the PES in any fraudulent or unlawful scheme or enterprise may result in the revocation of this Rental Agreement.

D. You further acknowledge that any use of this PES that fraudulently deprives the USPS of revenue can cause You to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false, fictitious or fraudulent statement can result in imprisonment of up to five (5) years and fines of up to \$10,000 (18 U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (3 U.S.C. 3802).

E. You further understand that the rules and regulations regarding use of this PES as documented in the USPS Domestic Mail Manual may be updated from time to time by the USPS and it is Your obligation to comply with any current or future rules and regulations regarding its use.

F. You are responsible for immediately reporting (within seventy-two hours or less) of knowledge of the theft or loss of the postage meter that is subject to this Rental Agreement. Failure to comply with this notification provision in a timely manner may result in the denial of refund of funds remaining on the postage meter at the time of the loss or theft.

12. Taxes. State of Georgia Agencies will pay taxes lawfully imposed upon State Entities related to the sale or rental of any products or Postage Meter to You, as well as any taxes applicable to Your possession, and/or use of the products and/or Postage Meter. State Entities are exempt from most taxes, including but not limited to sales tax.

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13. Limitation of Liability. The applicable limitations of liability are set forth in the Participating Addendum.

14. Assignment. No right or interest in this Rental Agreement may be assigned by You, without our prior written consent.

15. Integration. There are no unwritten oral agreements between You and Us. This Rental Agreement can be changed only by a signed, written agreement between You and Us.

16. Severability. In the event any provision of this Rental Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision.

17. Waiver or Delay. A waiver of any default hereunder or of any term or condition of this Rental Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition, but shall apply solely to the instance to which such waiver is directed. We may accept late payments, partial payments, checks or money orders marked "payment in full," or with a similar notation, without compromising any rights under this Rental Agreement.

18. Choice of Law; Venue; and Attorney's Fees. This Rental Agreement shall be governed under the laws of the State of Georgia Connecticut, without regard to conflicts of law, and jurisdiction shall lie exclusively in Superior Court Fulton County, Georgia

POSTAGE FUNDING ACCOUNT AGREEMENT

1. Incorporation of Certain Terms. You acknowledge that You have entered a Postage Meter Rental Agreement with Quadient, Inc. (the "Rental Agreement"). If you have an eligible Postage Meter, then you will have access to a postage funding account and this Postage Funding Account Agreement ("Account Agreement") shall govern Your use of such account. Any defined terms in the Rental Agreement shall have the same meanings in this Account Agreement, except that "We," "Us," and "Our," refer to Quadient Finance USA, Inc., an affiliate of Quadient, Inc. Sections 10 through 19 of the Rental Agreement are hereby incorporated into this Account Agreement except that any reference in those sections to the "Rental Agreement" refers to this Account Agreement.

2. Establishment and Activation of Account. You hereby authorize Us, to establish an account in Your name ("Account") for funding the purchase of postage from the United State Postal Service ("USPS") for use in the Postage Meter. Your Account may also be used to purchase items offered under the contract, per the Master Agreement, such as; supplies, pay for the Postage Meter rental, and obtain certain other products and services from Quadient Inc. available under the Statewide Contract. The establishment of Your Account shall be subject to Our approval of Your creditworthiness. Any issuance of a Purchase Order utilizing the Account shall constitute Your acceptance of all the terms and conditions of this Account Agreement and all other documents executed in connection with the Account. The Account may not be used for personal, family, or household purposes.

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3. Operation of Account. Each time an employee or agent of Yours with the express, implied, or apparent authority to do so (each an “Authorized User”) uses the Account to receive a postage meter reset or obtain other products or services that Quadient, Inc. is authorized to provide, Quadient, Inc. will notify Us of the amount to be applied to Your Account balance. If the Account is used to obtain postage, then We will transfer the requested amount of postage to the USPS on Your behalf and Your Account will be charged for the amount of postage requested and any related fees, if applicable. You can continue to pre- pay the USPS for postage and understand that pre-paid postage funds will be used first to pay for any postage meter resets. You further understand that the Account will provide additional available postage funds when Your pre-paid account balance is zero (\$0). When You request a Postage Meter reset, if You have the funds on account with the USPS, those funds automatically will be withdrawn first to pay for postage, and any additional amounts due for postage and related fees will be billed through the Account under the terms and conditions of this Account Agreement. If the Account is used to acquire products or services that Quadient Inc. is authorized to provide, then We shall pay the applicable amount to Quadient, Inc. and add such amount to Your Account balance.

4. Payment Terms. You will receive a billing statement for each billing cycle in which You have any activity on Your Account. Payments are due on the due date shown on Your billing statement. You may pay the entire balance due or a portion of the balance, provided that You pay at least the minimum payment amount shown on Your statement. However, if You have exceeded the Account Limit, then You must pay the entire amount of any overage, as well as the minimum payment amount shown on Your statement.

5. Account Limit and Account Fees. You agree that We will establish a credit limit on Your Account (the “Account Limit”). The exact amount of the Account Limit will be indicated on Your invoice. We may, in Our sole discretion, allow Your balance to exceed the Account Limit.

6. Cancellation and Suspension. We may at any time close or suspend Your Account or temporarily refuse to allow further charges to Your Account. You can cancel Your Account at any time by notifying Us in writing at the address provided on Your Account statement of Your desire to do so. No cancellation or suspension will affect Your obligation to pay any amounts You then owe under this Account Agreement. We will notify You of the Account balance in the event of any termination and all outstanding obligations will survive the termination of this Account Agreement by either party.

7. Default. We may declare You in default if You: (i) have made any material misrepresentations to Us; (ii) at any time, have done or allowed anything that indicates to Us that You may be unable or unwilling to repay the balance of Your Account as required under this Account Agreement; or (iii) are in default under this Account Agreement or any lease, rental, or other agreement with Us, Quadient, Inc., or their affiliates. If You are in default, or upon any cancellation of Your Account, We shall not be obligated to continue to provide the Account service or extend further credit under this Account Agreement.

8. Remedies. If We have declared that You are in default under this Account Agreement, then We may: (i) declare all agreements You have with Us in default and due and payable at once without notice or demand; (ii) refuse to make further advances on Your behalf to reset Your Postage Meter; and (iii) exercise any other rights that We may have.

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9. Amendments.

10. Notice: Any notice required to be given under this Account Agreement by either party hereto shall be given if to You, at the address shown on Your Order Form, and if to Us at 478 Wheelers Farms Road, Milford, CT 06461.

11. Miscellaneous. This Account Agreement shall be governed by and construed in accordance with the laws of the State of Georgia Texas, without reference to its conflict-of-laws rules, and any applicable federal laws. The sole jurisdiction and venue for actions related to the subject matter hereof shall be in Superior Court Fulton County, Georgia.