STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508

Telephone: (402) 471-6500
Fax: (402) 471-2089

PAGE	ORDER DATE
1 of 2	01/23/23
BUSINESS UNIT	BUYER
9000	JOY FISCHER (AS)

CONTRACT NUMBER
15767 OC

VENDOR NUMBER: 3260939

VENDOR ADDRESS:

DELL MARKETING LP
SLG SALES
1 DELL WAY BLDG RR2W-2 STOP 2-2-V2
ROUND ROCK TX 78682-7000

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

JANUARY 23, 2023 THROUGH APRIL 24, 2027

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE MATERIALS AND/OR SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR MATERIALS AND/OR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Originally awarded from NASPO Master Agreement CTR060024

Contract to supply and deliver Software Value-added Reseller Services to the State of Nebraska for the period January 23, 2023, through April 25, 2027.

Payment: 45 days

(For the File - This RFP and Contract are bid and awarded by the State of Arizona. All backup bids, etc. are retained by the State of Arizona Procurement Office.)

(For the File: The NASPO ValuePoint/Dell Marketing L.P. contract period was effective April 25, 2022. The NASPO ValuePoint/
Dell Marketing L.P. Participating Addendum for Nebraska became effective on January 23, 2023.)

Category I – General software: This category includes all software titles except
Microsoft and Oracle. Category I has been further sub-divided into three tiers:
• Tier 1 – Key Itemized Publishers
• Tier 2 – Other Itemized Publishers
• Tier 3 – Non-Itemized Publishers
Category II – Microsoft-only software, and

Vendor Contact: Stephanie Storm
Phone: 512-720-7634
E-Mail: Stephanie.Storm@dell.com

(10/25/22 sc)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	CATEGORY I GENERAL SOFTWARE	1,000,000.0000	$	1.0000

DocuSigned by:
Joy Fischer 1/24/2023
8D62163E69CA4C2...
BUYER

DocuSigned by:
Amara Block 1/24/2023
4CFF2711162A4A2...
MATERIEL ADMINISTRATOR

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VENDOR NUMBER: 3260939

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Line	Description	Estimated Quantity	Unit of Measure	Unit Price
	TIERS 1, 2, AND 3			
2	CATEGORY II MICROSOFT - ONLY SOFTWARE	1,000,000.0000	$	1.0000

DS

BUYER INITIALS

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM

Software Value Added Reseller
Administered by the State of Arizona (hereinafter "Lead State")
Master Agreement No: CTR060024
Dell Marketing L.P. (hereinafter "Contractor")
And
State of Nebraska (hereinafter "Participating State/Entity")
Participating State Contract Number 15767 OC

1. Scope: This Participating Addendum covers the NASPO ValuePoint Software Value Added Reseller Master Agreement number CTR060024 contract led by the State of Arizona (the "Master Agreement") for use by state agencies and other entities located in the Participating Entity authorized by that state's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. The Software and Services available under this Participating Addendum include all Software and Services as specified below, for which Contractor is acting as a reseller for the Software and Services provided by the applicable Software Publishers. This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above.

   Any scope exclusions specified herein apply only to this Participating Addendum and shall not amend or affect other participating addendums or the Master Agreement itself.

   Categories included in this PA:
   - **Category I** – General software: This category includes all software titles **except** Microsoft and Oracle. Category I has been further sub-divided into three tiers:
     - **Tier 1** – Key Itemized Publishers
     - **Tier 2 –** Other Itemized Publishers
     - **Tier 3 –** Non-Itemized Publishers
   - **Category II** – Microsoft-only software

2. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Arizona and Contractor for Software Value Added Reseller (SVAR). This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. 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.

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

CONTRACTOR:

Name:	Stephanie Storm
Address:	1 Dell Way, Round Rock, TX 78682
Telephone:	512-720-7634
Email:	Stephanie.Storm@dell.com

PARTICIPATING ENTITY:

Name:	Joy Fischer
Address:	1526 K Street, Lincoln, NE 68508
Telephone:	402-471-0974
Email:	joy.fischer@nebraska.gov

5. Subcontractors: All contractors, dealers, and resellers authorized to provide sales and service support in Participating Entity's state, as shown on Contractor's NASPO ValuePoint-specific webpage, may provide sales and service support to users of this Participating Addendum. Participation of Contractor's contractors, dealers, and resellers will be in accordance with the terms and conditions set forth in the Master Agreement.

6. 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.

7. Pricing: Pricing to be based on the maximum markup on reseller's invoiced cost as set forth in Exhibit B, attached hereto.

8. 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, subject to the following limitations, modifications, and additions:

a. **Participating Entity supplemental terms are attached hereto as Exhibit A.**

b. The Purchasing Entity's rights to use the Software delivered by Contractor are governed by the terms of the applicable end-user license agreement, including, if applicable, when such terms are provided via an Electronic Ordering System or other online form.

c. Contractor warrants that the Software and Services will perform substantially in a manner consistent with the corresponding standard documentation issued by the applicable Publisher.

d. Contractor is acting as a reseller for the Software and Services provided by the Software Publishers (including, without limitation, any SaaS), and may not have direct access to, or control over, the operation, functionality, terms and conditions or data security of the Software or Services. The applicable Publisher and/or service provider shall remain responsible for performance of its products and services, including any data security, according to its standard terms. If requested, Contractor will reasonably cooperate with the Participating Entity and the Software Publishers as appropriate.

e. Use of purchasing-card is at time of order placement only, and not permitted for payment of invoices issued by Contractor.

f. Contractor may use affiliates or other qualified subcontractors to perform its obligations hereunder and may assign rights to payments.

g. Any preprinted terms on a Purchasing Entity purchase order shall be given no force or effect and no terms of a purchase order that conflict with this Participating Addendum shall be binding on Contractor.

h. In the event of any audit, inspections, or testing, notwithstanding any conflicting terms in the Master Agreement, Contractor agrees to grant access to Contractor's sales records only, at the expense of the Participating Entity in exercise of its rights, provided that Contractor operations are not adversely interrupted, and Contractor is not unduly burdened from the cost of such an audit, inspection, or testing. As Contractor is a reseller of third-party Software and Services, when requested, Contractor will work with the Participating Entity and such third party to reasonably assist in obtaining access to such records or testing as may be available and as applicable to the performance under this Participating Addendum.

i. If a Purchasing Entity requests removal of any of Contractor's personnel from Purchasing Entity's facilities or from further assignment Contractor will make reasonable efforts to honor such request when reasonable and commercially practicable, provided that Contractor shall maintain final authority over all personnel decisions.

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.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

PARTICIPATING ENTITY **CONTRACTOR**

Signature: DocuSigned by: Amara Block 4CFF2711162A4A2...	Signature: DocuSigned by: Katherine Castillo 8DEF23302D0B4B8...
Name: Amara Block	Name: Katherine Castillo
Title: Materiel Administrator	Title: ParaLegal Advisor
Date: 1/24/2023	Date: 1/24/2023

PARTICIPATING ENTITY SUPPLEMENTAL TERMS
EXHIBIT A

I. TERMS AND CONDITIONS

A. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state and federal laws, ordinances, rules, orders, and regulations.

B. BEGINNING OF WORK

The contractor shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

C. VENDOR PERFORMANCE REPORT(S)

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

D. NOTICE OF BREACH

If a party materially breaches the contract, the breaching party shall give prompt written notice to the non-breaching party. The notice shall explain the breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The non-breaching party may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the non-breaching party does not forfeit any rights or remedies to which it is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give prompt notice, however, may be grounds for denial of any request for a waiver of a breach.

E. BREACH

Either Party may terminate the contract, in whole or in part, if the other Party materially breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a material failure or material breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources. OR, in case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the Contractor. The State may recover from the Contractor as damages the excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

F. NON-WAIVER OF BREACH

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

G. SEVERABILITY

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

H. INDEMNIFICATION

1. PERSONNEL

The Contractor shall, at its expense, hold harmless the State from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other similar claim relating to any of the personnel, including subcontractors and their employees, provided by the Contractor.

2. SELF-INSURANCE

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

3. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

4. A party's duty to defend and indemnify under this Contract is contingent upon the other party: (i) sending prompt written notice of the Claim to the indemnifying party and taking reasonable steps to mitigate damages; (ii) granting to the indemnifying party the sole right to control the defense and resolution of the Claim; and (iii) cooperating with the indemnifying party in the defense and resolution of the Claim and in mitigating any damages.

I. ATTORNEY'S FEES

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all of their own expenses of such action.

J. ASSIGNMENT, SALE, OR MERGER

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld. Notwithstanding the foregoing, Contractor may assign rights to payments arising under any order without such mutual agreement.

K. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS OF THE STATE

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

L. FORCE MAJEURE

Neither Party shall be liable for any costs or damages, or for default (except payment obligations) resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party, including, but not limited to, acts of God and intervention of any governmental authority ("Force Majeure Event"). The Party so affected shall promptly make a written request for relief to the other Party and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. If such inability to perform lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, the relevant Order by giving written notice to the delayed party. Labor disputes with the impacted Party's own employees may be considered a Force Majeure Event.

M. CONFIDENTIALITY

All confidential information provided or acquired shall be handled by the Parties in accordance with this contract and federal and state law, as applicable. "Confidential Information" shall mean any information, pricing, technical data or know-how furnished in connection with the scope of this contract, whether in written, oral, electronic, website-based, or other form, by the State to Contractor or a Contractor Affiliate or vice versa and that: (i) is marked, accompanied or supported by documents clearly and conspicuously designating such documents as "confidential", "internal use" or the equivalent; (ii) is identified by the disclosing party as confidential before, during or promptly after the presentation or communication; or (iii) should reasonably be known by the receiving party to be confidential. Confidential Information does not include information that is: (a) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (b) a matter of public knowledge (or becomes a matter of public knowledge other than through breach of confidentiality by the other party); (c) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (d) independently developed by the receiving party or its Affiliates without reference to the disclosing party's Confidential Information.

Each party shall ensure that, where it or one of its Affiliates is the receiver of Confidential Information hereunder, the receiving party shall (a) use Confidential Information of the disclosing party only for the purposes of exercising rights or performing obligations in connection with this contract or any order hereunder; and (b) protect from disclosure to any third parties any Confidential Information disclosed by the disclosing party, both for a period commencing upon the date of disclosure until 3 years thereafter. Subject to the terms of this Section N, the foregoing obligations shall never expire in relation to technical information about a disclosing party's products and services or any information about possible unreleased products or services, and shall survive any termination or expiration of this Contract.

Notwithstanding the foregoing, either party may disclose Confidential Information (1) to an Affiliate, or to a subcontractor used by Contractor to provide services under this Contract, as long as the Affiliate or subcontractor has a need-to-know and complies with the foregoing; (2) to either party's directors, officers, employees, and professional advisors and those of its Affiliates, and (3) if required by law or regulatory authorities provided the receiver has given the discloser prompt notice. For the purposes of this clause, "Affiliates" of Contractor include other members of Dell Technologies group.

Should said confidentiality be breached by a Party, the Party shall notify the other Party promptly of said breach and take prompt corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The Parties agree that Contractor will not have access to any individually identifiable information as part of this contract.

N. CONTRACT CLOSEOUT

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Return to the State all of State's information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
2. Reasonably cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract;
3. Reasonably cooperate with any successor Contractor, person or entity with the transfer of information or data related to this contract; and
4. Return all of State's data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

II. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract; to the extent such damages are not caused (in part of wholly) by the State or the State's personnel.

4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims against Contractor on behalf of any person arising out of employment or alleged employment with Contractor (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees) related to Contractor's performance under this contract.

The State may request the right to approve personnel assigned to services work performed on State premises, and the State may request that Contractor reassign or remove from the project any Contractor or subcontractor employee performing services on State premises; provided such request is not illegal under the circumstances. Contractor shall honor all such requests to approve and/or remove personnel when reasonable and commercially practicable. Contractor shall maintain final authority over all personnel decisions.

Any contract between Contractor and its subcontractor(s) shall not give the subcontractor greater rights against the State than this contract provides for Contractor.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees upon hire who will be physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract.

D. COOPERATION WITH OTHER CONTRACTORS

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to reasonably cooperate with such other contractors or individuals and shall not commit or permit any act which may materially interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information.

E. INSURANCE REQUIREMENTS

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place.

The failure of the State to require a COI, or the failure of the Contractor to provide a COI shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within three (3) years of termination or expiration of the contract, the contractor shall obtain an extended discovery or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and three (3) years following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

1. WORKERS' COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under this contract. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s) as respects insurable liabilities assumed by Contractor under this Agreement. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory**. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

REQUIRED INSURANCE COVERAGE (COVERAGES AND THE AMOUNT OF COVERAGE SHOULD BE ADJUSTED BASED ON NATURE OF THE CONTRACT / SERVICE / GOODS/ RISK	
COMMERCIAL GENERAL LIABILITY	
General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$1,000,000
Personal/Advertising Injury	$1,000,000 per occurrence
Bodily Injury/Property Damage	$1,000,000 per occurrence
Medical Payments	$10,000 any one person
Damage to Rented Premises (Fire)	$50,000 each occurrence
Contractual	Included
Independent Contractors	Included
If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.	
WORKER'S COMPENSATION	
Employers Liability Limits	$500K/$500K/$500K
Statutory Limits- All States	Statutory - State of Nebraska
Voluntary Compensation	Statutory
COMMERCIAL AUTOMOBILE LIABILITY	
Bodily Injury/Property Damage	$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability	Included
Motor Carrier Act Endorsement	Where Applicable
UMBRELLA/EXCESS LIABILITY	
Over Primary Insurance	$5,000,000 per occurrence
TECHNOLOGY E&O, INCLUDING CYBER LIABILITY	
Breach of Privacy, Security Breach, Denial of Service, Remediation, Fines and Penalties	$2,000,000

3. EVIDENCE OF COVERAGE

The Contractor shall furnish the Contract Manager via email, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

State of Nebraska
Nebraska State Purchasing Bureau
Contract #15767 OC
Attn: Joy Fischer
joy.fischer@nebraska.gov

These certificates or the cover sheet shall reference the 15767 OC contract number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

4. DEVIATIONS

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

F. ANTITRUST

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State, , but only if: (a) the compensation received by the State in settlement or judgment is directly attributable to the goods and/or services sold by Contractor to the State under this contract; (b) it was determined in the antitrust litigation (whether by judicial finding or stipulation) that the overcharge in Products and/or Services by Contractor was, in fact, passed on to the State; and (c) in calculating the amount of compensation which Contractor agrees to pass on to the State, Contractor may deduct its actual costs of suit, including attorney's fees, incurred in achieving the settlement or judgment.

G. CONFLICT OF INTEREST

By signing, contractor certifies that no relationship exists between the contractor and any person or entity which either is, or gives the appearance of, a conflict of interest related to this participating addendum.

Contractor further certifies that contractor will not employ any individual known by contractor to have a conflict of interest nor shall contractor take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, contractor shall provide a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject.

H. STATE PROPERTY

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property solely caused by the negligent acts of the Contractor; normal wear and tear is expected.

I. SITE RULES AND REGULATIONS

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

J. ADVERTISING

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

K. DISASTER RECOVERY/BACK UP PLAN

The Contractor shall have business continuity and disaster recovery plans ("BCP(s)") designed to enable Contractor to fulfill its obligations under the Contract specifically in the case of a business interruption caused by the material loss of operational resources due to a natural or man-made event. Such BCPs detail Contractor]'s plans for recovering from a business interruption and resuming normal business operations as soon as reasonably practicable. Contractor will make reasonable attempts, under the circumstances, to timely contact the State in the event of a business interruption that materially impacts State.

Due to the confidential, proprietary, and generally sensitive nature of the strategy, contact lists, succession plans, vendor lists, etc. held within Contractor's Business Continuity, Crisis Management, and Disaster Recovery plans, Contractor does not share these documents externally. Contractor will be happy to help answer State's questions about Contractor's corporate resiliency programs and recovery capabilities.

L. DRUG POLICY
Contractor maintains a drug free workplace environment to ensure worker safety and workplace integrity.

M. ADMINISTRATIVE FEE/REBATE
The Contractor agrees to provide a quarterly administrative fee in the form of a check. The fee will be payable to the State for an amount equal to one-quarter of one percent (0.25%) the net sales (net of any returns, credits, or adjustments) under this Addendum for the period. Payments shall be made in accordance with following schedule:

Period	**Fee Due**
October 1st - December 31st	Feb 15
January 1st - March 31st	May 15
April 1st - June 30th	Aug 15
July 1st - September 30th	Nov 15

N. ADMINISTRATIVE FEE/REBATE REMITTANCE LOCATION
All administrative fees/rebates will be sent to the following address:

State Purchasing Bureau
c/o Central Finance, Administrative Services
1526 K Street, Suite 240
Lincoln, NE 68508

O. REPORTS
The Contractor agrees to provide quarterly utilization reports, reflecting new sales to the State during the previous calendar quarter, less any credits. The report will be provided in secure electronic Excel format and submitted electronically to the State as listed below.

The Contractor shall provide to the State of Nebraska the reports containing at a minimum the following information pertaining to State of Nebraska agencies, boards, commissions, and political subdivisions utilization:

Ordering Entity
Purchase order number;
Description;
Quantity; and
Price.

Excel Quarterly Reports shall be emailed to:

Nebraska State Purchasing Bureau
Contract #15767 OC
Attn: Joy Fischer
Joy.fischer@nebraska.gov

P. WARRANTY
Despite any clause to the contrary, the Contractor warrants that its services hereunder shall be performed by sufficiently qualified personnel in a professional and workmanlike manner consistent with generally accepted industry standards. For any breach of this warranty, the State shall notify the

Contractor of any failure to so perform within 10 days after the date on which such failure first occurs. The Contractor will then use reasonable efforts to correct such failure within a reasonable period of time, at no cost to the State. If Contractor is unable to correct the deficiencies for which the Contractor is responsible after reasonable efforts, the State may terminate the affected Services for cause by providing written notice to the Contractor.

III. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Neb. Rev. Stat. §§81-2403 states, "[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency." Delivery and acceptance shall be deemed to have occurred on the date Contractor notifies the State that the software is available for electronic download.

B. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

C. INVOICES

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. All invoices should list Master Agreement CTR060024 and 15767 OC. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

D. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

E. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408).

F. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OFAPPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice 30 calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been performed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

G. RIGHT TO AUDIT (First Paragraph is Statutory)

The State may audit the Contractor's performance of this contract no more than once per year and upon a 30 days' written notice. Contractor shall utilize generally accepted accounting principles and shall maintain the applicable sales records relevant to the contract (Information) to enable the State to audit the contract, at the State's expense. (Neb. Rev. Stat. §84-304 et seq.) The State may audit, and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine and take notes on any Information relevant to this contract. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of Contractor's business operations, nor will Contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to Contractor.

The State shall pay the costs of the audit. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

Exhibit B - PRICING

NASPO VALUEPOINT SOFTWARE VALUE-ADDED RESELLER (SVAR)
STATE OF ARIZONA SOLICITATION #BPM002338
MANDATORY COST PROPOSAL FORM FOR ALL PUBLISHERS EXCEPT MICROSOFT AND ORACLE

	PUBLISHERS	MAXIMUM MARKUP ON RESELLER'S INVOICED COST
	Tier I Publishers (Key Itemized Publishers)	
1	ADOBE	0.95%
2	CA TECHNOLOGIES	2.45%
3	CISCO	1.25%
4	COMMVAULT	1.25%
5	IBM	1.25%
6	RED HAT	2.45%
7	SPLUNK	1.25%
8	TABLEAU	1.25%
9	VEEAM	1.25%
10	VMWARE	3.25%
	Tier II Publishers (Other Itemized Publishers)	
11	AUTODESK	2.45%
12	BARRACUDA NETWORKS	2.45%
13	BMC SOFTWARE	2.45%
14	CHECK POINT SOFTWARE	1.25%
15	CHERWELL	1.25%
16	CITRIX	2.45%
17	CPI	1.25%
18	CROWDSTRIKE	1.25%
19	DELL	3.25%
20	DELPHIX	1.25%
21	DOCUSIGN	1.25%
22	DYNATRACE	1.25%
23	FORCEPOINT	1.25%
24	FORTINET	1.25%
25	GOOGLE	2.45%
26	INFORMATICA	1.25%
27	IVANTI	1.25%
28	KNOWBE4	1.25%
29	MCAFEE	2.45%
30	MICRO FOCUS	1.25%
31	MULESOFT	1.25%
32	NETMOTION	1.25%
33	OKTA	1.25%

34	OPENTEXT	1.25%
35	PROGRESS SOFTWARE	1.25%
36	PROOFPOINT	1.25%
37	QUEST SOFTWARE	2.45%
38	RAPID7	1.25%
39	RSA SECURITY	1.25%
40	SALESFORCE	1.25%
41	SAP	1.25%
42	SOLARWINDS	1.25%
43	SOPHOS	1.25%
44	SPILLMAN	1.25%
45	SYMANTEC	2.45%
46	TENABLE	1.25%
47	TREND MICRO	1.25%
48	VARONIS	1.25%
49	VERITAS	1.25%
50	ZOHO	1.25%
	Non-itemized Publishers	
51	All other publishers	2.25%
		HOURLY RATE
52	**Reseller Services**	
53	- Asset management	$300.00
54	- Solutions architect	$284.00
55	- Senior solutions architect	$300.00
56	- Program engagement manager	$372.00
57	- Project leader	$330.00
58	- Project manager	$273.00
59	- Senior project manager	$301.00

NASPO VALUEPOINT SOFTWARE VALUE-ADDED RESELLER (SVAR)
STATE OF ARIZONA SOLICITATION #BPM002338
OPTIONAL SERVICES COST PROPOSAL FORM FOR ALL PUBLISHERS EXCEPT MICROSOFT AND ORACLE

	OPTIONAL SERVICES	HOURLY RATE
	VMware-specific services rates	
6	Senior Architect	$328.00
7	Enterprise Architect	$359.88
8	Inside Project Manager	$177.13
9	Program Manager	$297.13
10	Associate Consultant	$147.25
11	Consultant	$223.25
12	Senior Consultant	$249.25
13	Consulting Architect	$307.25

NASPO VALUEPOINT SOFTWARE VALUE-ADDED RESELLER (SVAR)
STATE OF ARIZONA SOLICITATION #BPM002338
MANDATORY COST PROPOSAL FORM FOR MICROSOFT ONLY

	SUBCATEGORY	MAXIMUM MARKUP ON RESELLER'S INVOICED COST (may be negative if sold at loss)
	Itemized Microsoft Offerings	
1	EMS E5	0.13%
2	G1	0.13%
3	G2	0.13%
4	G3	0.13%
5	G5	0.13%
6	Govt E4	0.13%
7	Advanced Threat Protection	0.13%
8	Power BI	0.13%
9	Exchange Online	0.13%
10	Kiosk F3 Now	0.13%
11	Dynamics	0.13%
12	PowerApps	0.13%
13	Project Online	0.13%
14	Azure	0.13%
	All Other Microsoft Offerings	
15	SaaS	0.13%
16	On-Premise	0.13%
	Resold In-scope Professional Services	
17	- Ongoing maintenance & support services not included in software license agreement	0.00%
18	- Deployment services	0.00%
19	- Architectural design services	0.00%
20	- Training deployment services	0.00%
21	All other resold in-scope professional services	0.00%
		HOURLY RATE
	In-scope Reseller Services	
22	- Asset management	$300.00
23	- Solutions architect	$284.00
24	- Senior solutions architect	$300.00
25	- Program engagement manager	$372.00
26	- Project leader	$330.00
27	- Project manager	$273.00
28	- Senior project manager	$301.00