

NASPO ValuePoint
PARTICIPATING ADDENDUM



ELECTRONIC MONITORING
PRODUCTS AND SERVICES

Led by the State of Connecticut
State of Utah Contract #: PA4418

Master Agreement #22PSX0021

Contractor: TRACK GROUP, INC.

Participating Entity: STATE OF UTAH

Participating Entity Contract #: PA4418

The following products or services are included in this contract portfolio:

Category 3 – GPS Satellite Monitoring (“GPSM”)

Participating Addendum Terms and Conditions:

1. Scope: This addendum covers **Electronic Monitoring Products and Services** led by the State of Connecticut for use by state agencies and other entities located in the State of Utah authorized by that State’s statutes to utilize State contracts with the prior approval of the State’s Chief Procurement Official. An amendment to this PA is not required when offerings are adjusted in the Master Agreement, so long as all additions remain within the master agreement’s original scope.
2. Pricing: The pricing and rates from the Master Agreement shall flow down to this PA. An amendment to this PA is not required when pricing in the Master Agreement is adjusted / updated.
3. Contract Effective Dates: This PA is effective upon final signature of both parties, and expires upon the expiration or termination of the NASPO ValuePoint Master Agreement #22PSX0021. A contract amendment is not necessary in the event of the renewal or extension of the Master Agreement, so long as such renewal/extension was originally provided within the solicitation supporting the master agreement.
4. Order of Precedence: The order of precedence as provided in the NASPO ValuePoint Master Agreement #22PSX0021 applies to this PA.
5. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Utah. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
6. Administrative Fee: One Percent (1%) and will apply per Section 54 of Attachment A.
7. Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Electronic Monitoring Products and Services by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer’s Office. The State Chief Information Officer means the individual designated by the

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state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.

8. Subcontractors: All contactors, dealers, and resellers authorized in the State of Utah, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
9. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.
10. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Matthew Swando
Address:	200 E 5 th Avenue Suite 100 Naperville, IL 60563
Telephone:	720-883-7424
Fax:	
Email:	Matthew.swando@trackgrp.com

Participating Entity

Name:	Kevin Lucus
Address:	4315 S 2700 W FL 3 Taylorsville, UT 84129-2128
Telephone:	801-957-7281
Fax:	
Email:	klucus@utah.gov

11. ADDITIONAL TERMS AND CONDITIONS

The following terms and conditions will apply to this participating addendum.

ATTACHMENT A: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS

STATE OF UTAH COOPERATIVE INFORMATION TECHNOLOGY CONTRACT

This is a State Cooperative Contract for information technology products and services. DTS policies referenced by number in this Attachment are only applicable to the Executive Branch and are available at <https://dts.utah.gov/policies>. All other policies and codes of conduct are available upon request.

1. DEFINITIONS:

- a. "Access to Secure State Facilities, Data, or Technology" means Contractor will (a) enter upon secure premises controlled, held, leased, or occupied by State of Utah or Eligible User; (b) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by State of Utah or Eligible User; or (c) have access to or receive any State Data or Confidential Information.

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- b. "Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors, or agents of Contractor who need Access to Secure State Facilities, Data, or Technology to enable the Contractor to perform its responsibilities under this Contract.
 - c. "Background IP" means intellectual property (IP) owned or controlled prior to the effective date of this Contract or that IP developed or acquired from activities independent of the services performed under this Contract, including but not limited to (a) methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services, and (b) processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible User.
 - d. "Contract" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference.
 - e. "Contract Period" means the term of this Contract, as set forth in the Contract Signature Page(s).
 - f. "Contract Signature Page(s)" means the cover page that the Division and Contractor sign.
 - g. "Contractor" means the individual or entity identified on the Contract Signature Page(s). "Contractor" includes Contractor's agents, officers, employees, partners, contractors, and Subcontractors at any level.
 - h. "Custom Deliverables" means the product that Contractor is required to design, develop, or customize and deliver to the Eligible User as specifically described under this Contract or an associated statement of work for which all interest and title shall be transferred to and owned by the Eligible User. This includes every invention, design, development, customization, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor pursuant to this Contract.
 - i. "Data Breach" means the unauthorized access or acquisition of State Data that compromises the security, confidentiality, or integrity of State Data.
 - j. "Division" means the State of Utah Division of Purchasing.
 - k. "DTS" means the Utah Department of Technology Services.
 - l. "Eligible User(s)" means the State of Utah's government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
 - m. "Federal Criminal Background Check" means a fingerprint-based, nationwide background check conducted and processed by the FBI.
 - n. "Good" means any deliverable not classified as a Custom Deliverable or Service.
 - o. "Intellectual Property Rights" means all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and other protection afforded by law to inventions, models, designs, technical information, and applications.
 - p. "Non-Public Data" means records or data that are not subject to distribution to the public. Access is restricted because it includes information that is protected by state or federal law. Non-Public Data includes, but is not limited to, a person's name; government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; or Protected Health Information.
 - q. "Protected Health Information" (PHI) is as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and its implementing regulations.

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- r. "Response" means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the State Entity's Solicitation.
 - s. "Security Incident" means the attempted unauthorized access to State Data that may result in the use, disclosure, or theft of State Data.
 - t. "Services" means the furnishing of labor, time, or effort by Contractor, and may include installation, configuration, implementation, technical support, warranty maintenance, and other support services.
 - u. "Solicitation" means an invitation for bids, request for proposals, notice of sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
 - v. "State Data" means all Confidential Information and Non-Public Data that is created, controlled, maintained, owned, or in any way originating with the State of Utah or Eligible User regardless of where such data or output is stored or maintained.
 - w. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - x. "Subcontractors" includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing goods or performing services pursuant to this Contract.

2. ESSENTIAL PROVISIONS:

- a. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed solely by the laws of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Exclusive venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- b. **LAWS:** Contractor and all Goods and Services delivered under this Contract will comply with all applicable federal and state of Utah laws, including applicable licensure and certification requirements.
- c. **SOVEREIGN IMMUNITY:** The Division and the State of Utah do not waive any protection, right, defense or immunity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 to 904, as amended, the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court.
- d. **PUBLIC INFORMATION:** This Contract and any purchase orders, invoices, pricing lists, and the Response are public records available for disclosure in accordance with the State of Utah's Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101 et seq.), except to the extent classified as protected in accordance with UCA 63G-2-309. GRAMA takes precedence over any statements of confidentiality or similar notations. Neither the Division, the Eligible User nor the State of Utah will inform Contractor of any request for a copy of this Contract, including any purchase orders, invoices, pricing lists, or the Response.
- e. **CREDITING THE DIVISION IN PUBLICITY:** Any publicity given to this Contract shall identify the Division as the managing agency and shall not be released without prior written approval from the Division.
- f. **SALES TAX EXEMPTION:** Goods, Custom Deliverables, and Services purchased by some Eligible Users are being paid from that Eligible User's funds and used in the exercise of that Eligible User's essential functions as a State of Utah governmental entity. Any such Eligible Users will provide Contractor with a copy of its sales tax exemption number upon request.
- g. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- h. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract, is within the scope/purpose of the Solicitation,

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and is attached and made part of this Contract. Automatic renewals are prohibited and are deemed void even if listed elsewhere in this Contract.

- i. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any government department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity.
 - j. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** This Contract may be terminated in whole or in part at the sole discretion of the Division or Eligible User upon thirty days written notice, if the Division or Eligible User determines that (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects the Division or Eligible User's ability to pay under this Contract. A change of available funds includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or an order of the President, the Governor, or Executive Director.

The Division or Eligible User, as applicable, will reimburse Contractor for the Goods or Services properly ordered and delivered until the effective date of said notice. The Division and Eligible User are not liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of the notice.
 - k. **ENTIRE AGREEMENT:** This Contract is the entire agreement between the parties, and supersedes any prior and contemporaneous agreements and understandings between the parties, whether oral or written.
 - l. **WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract. The Eligible User's approval, acceptance, or payment for any Goods or Services required under this Contract shall not be construed to operate as a waiver by the Eligible User of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract.
 - m. **CHANGES IN SCOPE:** Any changes in the scope of work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of work.
 - n. **TRAVEL COSTS:** Unless otherwise agreed to in the contract, all travel costs associated with the delivery of Services will be paid in accordance with the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.
3. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by an Eligible User to Contractor. These records shall be retained by Contractor for at least six (6) years after final payment (per Utah Administrative Code R33-12-605 and Utah Code 78B-2-309), or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor shall allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.
4. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
- 1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.

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- 2) Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) Contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
 - 3) Contractor's failure to comply with this section will be considered a material breach of this Contract.
 - 4) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
 5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless written disclosure has been made to the Division.
 6. **INDEPENDENT CONTRACTOR:** Contractor is an independent contractor, and not an employee or agent of the Division, the Eligible Users, or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor has no authorization, express or implied, to bind the Division, the Eligible Users, or the State of Utah to any agreements, settlements, liabilities, or understandings, and shall not perform any acts as an agent for the Division, the Eligible users, or the State of Utah. Contractor is responsible for all applicable federal, state, and local taxes and FICA contributions.
 7. **CRIMINAL BACKGROUND SCREENING:** Depending on the Eligible User's policy, each employee of Contractor and Subcontractor may be required to successfully complete a Federal Criminal Background Check, prior to being granted Access to Secure State Facilities, State Data, or Technology. Contractor or the applicable employee shall provide Eligible Users with sufficient personal information (at Contractor's expense) so that a Federal Criminal Background Check may be completed by the Eligible User, at Eligible User's expense. The Eligible User will provide Contractor with forms which must be filled out by Contractor and returned to the Eligible User. Each employee of Contractor or a Subcontractor who will have Access to Secure State Facilities, State Data, or Technology must be fingerprinted by the Eligible User or local law enforcement a minimum of one week prior to needing access. At the time of fingerprinting, said employee shall disclose all felony or misdemeanor convictions. Eligible Users may conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided and use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) at least every two years. Eligible Users may revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor and the employee or subcontractor shall immediately notify Eligible Users if an arrest or conviction for a felony or misdemeanor of any person that has Access to Secure State Facilities, State Data or Technology occurs during the Contract Period. Eligible Users will determine in its discretion if such person's Access to Secure State Facilities, State Data, or Technology shall remain in effect. Felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred. (DTS Policy 2000-0014 Background Investigations)
 8. **DRUG-FREE WORKPLACE:** Contractor shall abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.
 9. **CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor shall follow and enforce the agency applicable code of conduct. Contractor will ensure that each employee receives a copy of the policies and applicable codes of conduct. (DTS Policy 2000-0001 Code of Conduct, DTS Policy 1000-0003 Acceptable Use of Information Technology Resources)
 10. **INDEMNITY AND LIABILITY**
 - a. **Indemnity Clause:** Contractor shall fully indemnify, defend, and save harmless the Division, Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act, omission or negligence

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of Contractor, its agents, employees, officers, partners, and Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage due to the fault of the Division, the Eligible User, or the State of Utah. Any limitations of the Contractor's liability will not apply to injuries to persons, including death, or to damages to property.

- b. **Governmental Immunity Act:** In accordance with the Constitution of the State of Utah and the Governmental Immunity Act of Utah ("the Act", Utah Code §§63G-7-101 to 904, as amended), the Division and the State of Utah have no liability for the operations, acts, or omissions of the Contractor or any third party. Any indemnity obligations of the Division, Eligible Users, or the State of Utah are subject to the Constitution of the State of Utah and the Act and limited to claims that arise from and to the extent caused by the negligent acts or omissions of the Division or the Eligible Users in the performance of the Division's or the Eligible User's obligations under this Contract.
- c. **Intellectual Property Indemnification:** Contractor warrants and represents it has full ownership and clear title free of all liens and encumbrances to any Good delivered under this contract. Contractor also warrants that any Good, Custom Deliverable, or Service furnished by Contractor under this Contract, including its use by the Eligible Users in unaltered form, will not infringe any copyrights, patents, trade secrets, or other proprietary rights.

Contractor will release, indemnify, and hold the Division, the Eligible Users, and the State of Utah harmless from liability or damages of any kind or nature, including Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in Contractor's performance of this Contract. Additionally, if such a claim or liability is based upon an allegation that a Good, Custom Deliverable, or Service furnished by Contractor infringes on any right protected by any patent, copyright, trademark, trade secret, and/or proprietary right, Contractor shall indemnify and hold harmless the Division, the Eligible Users, and the State of Utah for any judgments, settlements, costs, and reasonable attorneys' fees resulting from such a claim or liability. Contractor shall defend all actions brought upon such matters to be indemnified hereunder and pay all costs and expenses incidental thereto; however, the Eligible Users shall have the right, at its option, to participate in the defense of any such action at its own expense without relieving Contractor of any obligation hereunder. If there are any limitations of liability in this Contract, such limitations will not apply to this section.

- 11. **HARDWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS ALL HARDWARE PORTIONS OF ANY GOOD OR CUSTOM DELIVERABLE THAT IT DIRECTLY OR INDIRECTLY PROVIDES FOR A PERIOD OF **ONE YEAR**. ALL WARRANTIES GRANTED TO THE DIVISION AND ELIGIBLE USERS BY THE UNIFORM COMMERCIAL CODE OF THE STATE OF UTAH APPLY TO THIS CONTRACT. PRODUCT LIABILITY DISCLAIMERS AND/OR WARRANTY DISCLAIMERS FROM CONTRACTOR OR ITS SUPPLIERS ARE REJECTED. CONTRACTOR WARRANTS THAT THE HARDWARE: (A) WILL PERFORM AS SPECIFIED IN THE RESPONSE; (B) WILL LIVE UP TO ALL SPECIFIC CLAIMS LISTED IN THE RESPONSE; (C) WILL BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH THE HARDWARE IS USED; (D) WILL BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE DIVISION HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE DIVISION ABOUT THE HARDWARE IN THE RESPONSE; (E) THE HARDWARE HAS BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (F) IS FREE OF SIGNIFICANT DEFECTS.
- 12. **SOFTWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS FOR A PERIOD OF **NINETY DAYS** FROM THE DATE OF ACCEPTANCE THAT THE SOFTWARE PORTIONS OF THE GOODS AND CUSTOM DELIVERABLES THAT CONTRACTOR DIRECTLY OR INDIRECTLY PROVIDES WILL: (A) PERFORM IN ACCORDANCE WITH THE SPECIFIC CLAIMS PROVIDED IN THE RESPONSE; (B) BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH SUCH GOODS AND CUSTOM DELIVERABLES ARE USED; (C) BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE ELIGIBLE USER HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE STATE ABOUT THE GOODS OR CUSTOM DELIVERABLES; (D) HAVE BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (E) BE FREE OF SIGNIFICANT DEFECTS. CONTRACTOR SHALL PROVIDE THE ELIGIBLE USER WITH BUG FIXES, INCLUDING INFORMING THE ELIGIBLE USERS OF ANY KNOWN SOFTWARE BUGS OR SOFTWARE DEFECTS THAT MAY AFFECT THE STATE'S USE OF THE SOFTWARE.

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13. **WARRANTY REMEDIES:** Upon breach of warranty, Contractor will repair or replace (at no charge to the Eligible User) the nonconforming Goods or Custom Deliverables. If the repaired and/or replaced products are inadequate, Contractor will refund the full amount of any payments that have been made for the failed products. These remedies are in addition to any other remedies provided by law or equity.
14. **UPDATES AND UPGRADES:** Contractor grants to the Eligible User a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the Contract Period. Upgrades and updates are subject to the terms of this Contract. The Eligible User reserves the right to accept updates and upgrades at its discretion and to determine if such updates comply with the requirements in the Contract scope of work.
15. **BUG FIXING AND REMOTE DIAGNOSTICS:** Contractor shall use commercially reasonable efforts to provide work-around solutions or patches to reported software problems. With the Eligible User's prior written authorization, Contractor may perform remote diagnostics to work on reported problems. If the Eligible User declines remote diagnostics, Contractor and the Eligible User may agree to on-site technical support, subject to the terms of the Contract.
16. **TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is required by the Contract, Contractor will use commercially reasonable efforts to respond to the Eligible User in a reasonable time, and in all events, in accordance with the specific timeframes detailed in the Contract, when the Eligible User makes technical support or maintenance requests.
17. **PHYSICAL DELIVERY:** All non-electronic deliveries will be F.O.B. destination with all transportation and handling charges paid by Contractor. Contractor is responsible for including any freight charges due by the Eligible User to Contractor when providing quotes to the Eligible User. Invoices listing freight charges that were not identified in the quote will be returned to the Contractor to remove such costs. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance, when responsibility will pass to the Eligible User except as to latent defects, fraud, and Contractor's warranty obligations.
18. **ELECTRONIC DELIVERY:** Contractor may electronically deliver any Good or Custom Deliverable to the Eligible User or provide any Good and Custom Deliverable for download from the Internet, if pre-approved in writing by the Eligible User. Contractor shall ensure the confidentiality of electronic deliveries in transit. Contractor warrants that all electronic deliveries will be free of known malware, bugs, Trojan horses, etc.
19. **ACCEPTANCE PERIOD:** A Good, Custom Deliverable, or Service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the Goods and Custom Deliverables delivered do not conform to the specifications identified in this Contract and Solicitation ("Defects"), the Eligible User shall within thirty (30) calendar days of the delivery date ("Acceptance Period") notify Contractor in writing of the Defects. Upon receiving notice, Contractor shall use reasonable efforts to correct the Defects within fourteen (14) calendar days ("Cure Period"). The Eligible User's acceptance of a Good, Custom Deliverable, or Services occurs at the end of the Acceptance Period or Cure Period, whichever is later.

If after the Cure Period, a Good, Custom Deliverable, or Service still has Defects, then the Eligible User may, at its option: (a) declare Contractor to be in breach and terminate this Contract; (b) demand replacement conforming Goods, Custom Deliverables, or Services from Contractor at no additional cost to the Eligible User; or (c) continue the Cure Period for an additional time period agreed upon by the Eligible User and Contractor in writing. Contractor shall pay all costs related to the preparation and shipping of the replacement products. No products shall be deemed accepted and no invoices shall be paid until acceptance. The warranty period will begin upon the end of the Acceptance Period.

20. **SECURE PROTECTION AND HANDLING OF STATE DATA:** If Contractor is given access to State Data, the protection of State Data shall be an integral part of the business activities of Contractor, and Contractor shall ensure that there is no inappropriate or unauthorized use of State Data. Contractor shall safeguard the confidentiality, integrity, and availability of the State Data and comply with the conditions outlined below. The Eligible User reserves the right to verify Contractor's adherence to the following conditions to ensure they are met:
 - a. **Network Security:** Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection, and regular third-party penetration testing. Contractor shall maintain network security and ensure that Contractor network security policies conform to one of the following:
 - 1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy*;
 - 2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>; or

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- 3) Any generally recognized comparable standard that Contractor then applies to its own network and pre-approved by the Eligible User in writing.
- b. **State Data Security:** Contractor shall protect and maintain the security of State Data with protection that is at least as good as or better than that maintained by the State of Utah which will be provided by an Eligible User upon Contractor's request (*DTS Policy 5000-0002*). These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). The Eligible User reserves the right to determine if Contractor's level of protection meets the Eligible User's security requirements.
 - c. **State Data Transmission:** Contractor shall ensure all transmission or exchange of system application data with the Eligible User and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).
 - d. **State Data Storage:** All State Data will be stored and maintained in data centers in the United States. No State Data will be processed on or transferred to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process.
 - e. **Access:** Contractor shall permit its employees and Subcontractors to remotely access non-State Data only as required to provide technical support.
 - f. **State Data Encryption:** Contractor shall store all data provided to Contractor, including State, as well as any backups made of that data, in encrypted form using no less than 128 bit key and include all data as part of a designated backup and recovery process.
 - g. **Password Protection:** Any portable or laptop computer that has access to the Eligible User's or State of Utah networks, or stores any Eligible User data shall be equipped with strong and secure password protection.
 - h. **Confidential Information Certification:** Contractor shall sign a Confidential Information Certification form prior to being given access to confidential computerized records.
 - i. **State Data Re-Use:** All data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. No State Data of any kind may be transmitted, exchanged, or provided to other contractors or third parties except on a case-by-case basis as specifically agreed to in writing by the Eligible User.
 - j. **State Data Destruction:** Upon expiration or termination of this Contract, Contractor shall erase, destroy, and render unreadable all State Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the expiration or termination of this Contract or within seven (7) days of the request of the Eligible User, whichever shall come first, unless the Eligible User provides Contractor with a written directive. The Eligible User's written directive may require that certain data be preserved in accordance with applicable law.
 - k. **Services Shall Be Performed Within United States:** ALL OF THE SERVICES RELATED TO STATE DATA SHALL BE PERFORMED WITHIN THE BORDERS AND JURISDICTION OF THE UNITED STATES.
 - l. **User Support:** Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited by this contract.
- 21. SECURITY INCIDENT OR DATA BREACH NOTIFICATION:** Contractor shall immediately inform the Eligible User of any Security Incident or Data Breach. It is within the Eligible User's discretion to determine whether any attempted unauthorized access is a Security Incident or a Data Breach.
- a. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
 - b. **Security Incident Reporting Requirements:** Contractor shall promptly report a Security Incident to the Eligible User.

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- c. **Breach Reporting Requirements:** As required by Utah Code 13-44-202 or any other law, Contractor shall immediately notify the Eligible User of a Data Breach that affects the security of State Data.

22. DATA BREACH RESPONSIBILITIES: Contractor shall comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification (*DTS Policy 5000-0002 Enterprise Information Security Policy*). In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the Eligible User. Contractor is responsible for all notification and remedial costs and damages.

23. STATE INFORMATION TECHNOLOGY POLICIES: If Contractor is providing an Executive Branch Agency of the State of Utah with Goods or Custom Deliverables, Contractor shall comply with policies and procedures that meet or exceed those DTS follows for internally developed goods and deliverables to minimize security risk, ensure applicable Utah and Federal laws are followed, address issues with accessibility and mobile device access, and prevent outages and data breaches within the State of Utah's environment. Contractor shall comply with the following DTS Policies:

- a. **DTS Policy 4000-0001, Enterprise Application and Database Deployment Policy:** A Contractor developing software for the State to develop and establish proper controls that will ensure a clear separation of duties between developing and deploying applications and databases to minimize security risk; to meet due diligence requirements pursuant to applicable Utah and federal regulations; to enforce contractual obligations; and to protect the State's electronic information and information technology assets.
- b. **DTS policy 4000-0002, Enterprise Password Standards Policy:** A Contractor developing software for the State must ensure it complies with the password requirements of the Enterprise Password Standards Policy.
- c. **DTS Policy 4000-0003, Software Development Life Cycle Policy:** A Contractor developing software for the State shall work with DTS in implementing a Software Development Lifecycle (SDLC) that addresses key issues of security, accessibility, mobile device access, and standards compliance.
- d. **DTS Policy 4000-0004, Change Management Policy:** Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's or the State of Utah's infrastructure must be reviewed by the DTS Change Management Committee. Any outages or Data Breaches which are a result of Contractor's failure to comply with DTS instructions and policies will result in Contractor's liability for all damages resulting from or associated with the outage or Data Breach.

24. CONFIDENTIALITY: This section does not apply to records where disclosure is regulated under Federal or State laws.

GRAMA applies only to records, therefore if information (other than Non-Public Data, Public Health Information, or State Data) is disclosed orally by either party which either party wishes to remain confidential, then each party shall adhere to the following:

Each party will: (a) limit disclosure of any such information to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this Contract relates, and only for that purpose; (b) advise its Authorized Persons of the proprietary nature of the information and of the obligations set forth in this Contract and require such Authorized Persons to keep the information confidential; (c) shall keep all information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any such information received by it to any third parties, except as otherwise agreed to in writing by the disclosing party. Each party will notify the other of any misuse or misappropriation of such information that comes to said party's attention.

This duty of confidentiality shall be ongoing and survive the Contract Period.

25. Reserved

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- 26. OWNERSHIP IN INTELLECTUAL PROPERTY:** The Parties recognize that each has no right, title, or interest, proprietary or otherwise, in or to the name, logo, or intellectual property owned or licensed by the other. The Parties shall not, without the prior written consent of the other or as authorized in this Contract, use the name, logo, or intellectual property owned or licensed by the other.
- 27. OWNERSHIP IN CUSTOM DELIVERABLES:** Contractor warrants, represents and conveys full ownership, clear title free of all liens and encumbrances to any Custom Deliverable. Contractor conveys the ownership in Custom Deliverables as defined in this Attachment A to the Eligible User. All intellectual property rights, title and interest in the Custom Deliverables shall transfer to the Eligible User, subject to the following:
- Contractor has received payment for the Custom Deliverables,
 - Each party will retain all rights to Background IP, even if embedded in the Custom Deliverables.
 - Custom Deliverables, excluding Contractor's Background IP may not be marketed or distributed without written approval by the Eligible User.
- Contractor shall grant to the Eligible User a perpetual, irrevocable, royalty-free license to use Contractor's Background IP as defined above, solely for the Eligible User to use the Custom Deliverables.
- 28. LICENSE FOR GOODS:** For the Goods delivered that include Contractor's scripts and code and are not considered Custom Deliverables, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and, without the right to sublicense, for the Eligible User's internal business operation under this Contract
- 29. OWNERSHIP, PROTECTION, AND USE OF RECORDS:** The Eligible User shall own exclusive title to all information and data gathered, reports developed, and conclusions reached by the Eligible User in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached by the Eligible User in performance of this Contract without the express written consent of the Eligible User.
- 30. OWNERSHIP, PROTECTION, AND USE OF DATA:** The Eligible User shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by Contractor under this Contract. Contractor, and any Subcontractors under its control, expressly agrees not to use Non-Public Data without prior written permission from the Eligible User.
- 31. OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, UTAH, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** In the event that the Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor shall hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.
- 32. OWNERSHIP, PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION:** All documents and data pertaining to work required by this Contract will be the property of the Eligible User, and must be delivered to the Eligible User within thirty (30) working days after termination or expiration of this Contract, and without restriction or limitation to their future use. Any State Data returned under this section must either be in the format as originally provided, in a format that is readily usable by the Eligible User, or formatted in a way that it can be used. The costs for returning documents and data to the Eligible User are included in this Contract.
- 33. ORDERING AND INVOICING:** For State of Utah Executive Branch Agencies, a purchase order must be sent to the Contractor by DTS prior to any work being initiated, product shipped, or invoices cut under this contract. All orders will be shipped promptly in accordance with the delivery schedule. Contractor will promptly submit invoices (within 30 days after shipment or delivery of goods or services, with the exclusion of end of fiscal year invoicing for

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Executive Branch Agencies) to the appropriate Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by the Eligible User shall not exceed prices listed in this Contract. The Eligible User shall adjust or return any invoice reflecting incorrect pricing. For Executive Branch Agencies, Contractor must send all invoices no later than July 10, or the last working day prior, to the State for all work completed or items received during the State's fiscal year of July 1-June 30.

34. PAYMENT AND NOTICE:

- a. Payments will be made within thirty (30) days from the date a correct invoice is received. For Executive Branch Agencies, a correct invoice will contain the contract and purchase order numbers as indicated in Section 33. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to the interest rate paid by the IRS on refund claims, plus two percent, computed in accordance with Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended.
- b. The contract costs may be changed only by written amendment. All payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). The Division will not pay electronic payment fees of any kind.
- c. Any written protest of the final contract payment must be filed with the Eligible User within ten (10) working days of receipt of final payment. If no protest is received, the Eligible User, the Division, and the State of Utah are released from all claims and all liability to Contractor for fees and costs pursuant to this Contract.
- d. Overpayment: If during or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible User to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible User any such overpayments.

35. CONTRACTOR'S INSURANCE RESPONSIBILITY: The Contractor shall maintain the following insurance coverage:

- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
- b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
- c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
- d. Other insurance policies specified in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence. Failure to provide proof of insurance as required will be deemed a material breach of this Contract.

Contractor's failure to maintain this insurance requirement for the Contract Period will be grounds for immediate termination.

36. ADDITIONAL INSURANCE REQUIREMENTS:

- a. Professional liability insurance in the amount as described in the Solicitation for this Contract, if applicable.
- b. Any other insurance policies described or referenced in the Solicitation for this Contract.
- c. Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any federal, Utah, or local statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

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- d. The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order. Contractor must provide proof of the above listed policies within thirty (30) days of being awarded this Contract.
- 37. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Division.
- 38. TERMINATION:** This Contract may be terminated for cause by either party upon written notice being given by the other party. The party in violation will be given ten (10) calendar days, or as otherwise agreed upon in writing, after notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience) by the Division, upon thirty (30) calendar days written termination notice being given to the Contractor. The Division and the Contractor may agree to terminate this Contract, in whole or in part, at any time by mutual written agreement.
- Contractor shall be compensated for the Services properly performed and goods properly provided pursuant to this Contract up to the effective date of termination as stated in the notice. Contractor agrees that in the event of termination for cause or without cause, Contractor's sole remedy and monetary recovery from the Division, the Eligible User, or the State of Utah is limited to payment for all work properly performed as authorized under this Contract up to the date of termination, and any reasonable pro-rated monies that may be owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract, after receipt and verification of documented evidence of those terminated contracts.
- 39. TERMINATION UPON DEFAULT:** In the event this Contract is terminated for default by Contractor, the Division may procure Goods, Custom Deliverables, or Services similar to those terminated, and Contractor shall be liable to the Division for any and all cover costs and damages.
- 40. SUSPENSION OF WORK:** The Division may suspend Contractor's responsibilities under this Contract without terminating this Contract by issuing a written notice. Contractor's responsibilities may then be reinstated upon written notice from the Division.
- 41. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract for nonperformance of contractual requirements or a material breach of any term or condition of this Contract. The Division will issue a written notice of default and may provide a fourteen (14) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the Division may exercise any remedy provided by law; terminate this Contract and any related contracts or portions thereof; (c) impose liquidated damages, if liquidated damages are listed in the contract; (d) suspend or debar Contractor from receiving future solicitations; or (e) demand a full refund of the Goods, Custom Deliverables, or Services furnished by Contractor that are defective or Services that were inadequately performed.
- 42. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond that party's reasonable control. The Division may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.
- 43. CONFLICT OF TERMS:** Contractor terms and conditions must be attached to this Contract. No other terms and conditions will apply to this Contract, including terms listed or referenced on a Contractor's website, quotation/sales order, purchase orders, or invoice. In the event of any conflict in the contract terms and conditions, the order of precedence is: (a) This Attachment A; (b) the Division's Contract Signature Page(s); (c) State of Utah's Additional Terms and Conditions, if any; and (d) Contractor Terms and Conditions, if any. Attachment A will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.
- 44. SURVIVORSHIP:** The contractual provisions that will remain in effect after expiration or termination of this Contract are: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c) Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, Utah, or Local Government Internal Business Processes, including residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or

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Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration, completion, or termination of this contract.

45. RELEVANT STATE AND FEDERAL LAWS

- a. **Conflict of Interest with State Employees:** Contractor shall comply and cooperate in good faith with all conflict of interest and ethic laws, including Section 63G-6a-2404, Utah Procurement Code, as amended.
- b. **Procurement Ethics:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6a-2304.5, Utah Procurement Code, as amended).
- c. **Contact Information:** Per Utah Code §§63G-6a-110 and 35A-2-203, the State shall make Contractor's contact information available to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may post information regarding Contractor's job vacancies on its website.
- d. **Employment Practices:** Contractor shall abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor shall abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.
- e. **Compliance with Accessibility Standards:** Contractor shall comply with the Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractor shall comply with Utah Administrative Code R895-14-3(3), which states that contractors developing new websites or applications for State agencies are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency. Contractor shall comply with Utah Administrative Code R895-14-4(2), which states that contractors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.

46. RIGHT TO MONITOR PERFORMANCE AND AUDIT

- a. **Audit:** Contractor shall, upon written notification permit the Division, or a third party designated by the Division, to perform an assessment, audit, examination, or review of all of Contractor's sites and environments - including physical, technical, and virtual sites and environments - in order to confirm Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel; physical premises; records; technical and physical infrastructures; and any other person, place, or object which may assist the Division or its designee in completing such assessment. Upon request, Contractor shall provide the results of any audit performed by or on behalf of Contractor that would assist the Division or its designee in confirming Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards.
- b. **Monitor Performance:** The Division and Eligible Users reserve the right to monitor Contractor's performance, perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. This includes Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.

- 47. TIME IS OF THE ESSENCE:** The Services shall be completed and Goods and Custom Deliverables delivered by any applicable deadline stated in this Contract. Time is of the essence.

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- 48. STANDARD OF CARE:** For Services of Contractor which require licenses and certifications, such Services shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract.
- 49. LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
- 50. ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.
- 51. INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
- 52. QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.
- 53. ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.
- 54. REPORTS AND FEES:**
- Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be the amount listed in the Solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
 - Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.
 - Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Reports Due</u>
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31
 - Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
- 55. Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
- 56. ANTI-BOYCOTT ACTIONS:** In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any "economic boycott" nor a "boycott of the State of Israel" as those terms are defined in Section 102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in writing.

(Revision Date: 7/20/2023)

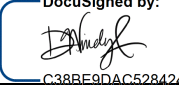
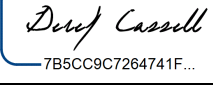
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IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of Utah	Contractor: Track Group
Signature:  C38BE9DAC528424	Signature:  7B5CC9C7264741F...
Name: D windy Aphayrath	Name: Derek Cassell
Title: Chief Procurement Officer	Title: CEO
Date: 1/19/2024	Date: 1/16/2024

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Tia Snyder
Telephone:	406-430-2260
Email:	tsnyder@naspo.org

**Please email fully executed PDF copy of this document
to
PA@naspovaluepoint.org
to support documentation of participation and posting
in appropriate data bases.**



**Master Agreement Number:
22PSX0021**

Electronic Monitoring Products and Services

**State of Connecticut
AND
Track Group, Inc.**

Master Agreement 22PSX0021

This contract (the "Master Agreement") is made by and between, **Track Group, Inc.** (the "Contractor") and the State of Connecticut, acting by its Department of Administrative Services ("DAS") in accordance with sections 4a- 2, 4a-51 and 4d-2 of the Connecticut General Statutes, and acting in connection with the NASPO ValuePoint cooperative contract consortium of the National Association of State Procurement Officers.

The Contractor and the State agree as follows:

1. Definitions

The following definitions apply in this Master Agreement, except to the extent modified in Exhibit A, Deliverables Document, in which case Exhibit A, Deliverables Document controls.

a. Acceptance

Determination made by the Purchasing Entity upon successful User Acceptance Test that the Deliverable has satisfied the Acceptance Criteria itemized in the SOW, performs to the Specifications, and fulfills the business and technical requirements of the Master Agreement.

b. Acceptance Criteria

Client Agency requirements for Deliverable Acceptance.

c. Acceptance Date

The date the Purchasing Entity accepts a Deliverable or System in accordance with this Master Agreement.

d. Administrator

A designated Purchasing Entity representative who is responsible for managing the Purchasing Entity's User access to the Hosting Environment. The Administrator shall be responsible for implementing a role-based security policy process for access to the Hosting Environment.

f. Business Day

A day of the week recognized by the Purchasing Entity as a workday, exclusive of Saturdays, Sundays and any Lead State or federal holiday.

g. Claims

All actions, suits, claims, demands, investigations, and proceedings of any kind, open, pending, or threatened, whether mature, un-matured, contingent, known or unknown, at law or in equity in any forum.

h. Confidential Information

Any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number and residential address, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique

Master Agreement 22PSX0021

biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Lead State classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

i. Confidential Information Breach

Generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the Purchasing Entity, the Contractor, or State.

j. Contractor IP

Contractor's materials and other intellectual property (1) in existence prior to this Master Agreement, (2) created, developed or acquired during the Term but not exclusively for the State, or (3) identified as Contractor IP in the applicable SOW; or (4) otherwise developed or acquired independent of this Master Agreement and employed by the Contractor in connection with the Deliverables.

k. Contractor Parties

Contractor's members, principals, directors, officers, shareholders, partners, managers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity or with whom Contractor contracts to Perform under this Master Agreement in any capacity.

l. Corrective Action Plan, or CAP

A detailed written plan produced by Contractor at the request of the Purchasing Entity to correct or resolve a Breach identified by the Purchasing Entity in accordance with the Breach section of this Master Agreement.

m. Deliverable

Each (1) Good, Service, Maintenance Services, Improvement, Material, Documentation, System, process or information of any type, whether stand-alone or intended as part of the integration of the System with existing hardware or software of the State, and whether or not used for administrative, maintenance, consulting, training, data warehousing, operations, support, hosting, or fulfillment of Performance; and (2) warranty of a Deliverable(s) that is listed in the Pricing Schedule or provided by Contractor as an element of Contractor's overall approach and solution to the requirements of this Master Agreement. Any one of them or a combination of any of them may be developed or produced by Contractor or by a third party as a supplier or subcontractor to Contractor.

n. Deliverables Document

Exhibit A which sets forth and describes the Deliverables that are to be provided or made available to the State and Participating Entities under this Master Agreement or in a Statement of

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Work, as applicable, and the specific requirements and terms applicable to those Deliverables.

o. Documentation

All Specifications; all technical, systems and user reference manuals; all System documentation related to each component of the System, Deliverables and processes; and any Improvements to any of them.

p. Reserved

q. Force Majeure Event

Strikes, lockouts, riot, sabotage, rebellion, insurrection, acts of war, acts of terrorism, failure of or inadequate permanent power, fire, flood, earthquake, epidemics, natural disasters, and acts of God.

r. Goods

All things which are movable, including, but not limited to, electronic monitoring devices, supplies, materials, equipment, hardware, software, specially manufactured things, a component incorporated into another thing and things that are attached to real property and that may be severed from the real property without material harm to the things.

s. Goods or Services

Goods, Services or both, as specified in the Solicitation and set forth in Exhibit A, Deliverables Document.

t. Go-Live Date

The date of Participating Entity or Purchasing Entity's access to and use of the System, upon and after which the System must Perform in accordance with the Documentation, as the date may be extended from time to time in accordance with the Participating Addendum, Purchase Order, or Statement of Work applicable to the installation.

u. Hosting Environment

Collectively the platform, environment, and conditions on, in, or under which the Licensed Software is intended to be installed and operate, as set forth in this Master Agreement, including such structural, functional and other features, conditions and components as hardware, operating software, System architecture and configuration.

v. Hosted Services

The provision, management, operation, support, warranty and maintenance of the Licensed Software within the Contractor's setting or location including Contractor's services identified in Exhibit A, Deliverables Document.

w. Improvement

Any Contractor changes, patches, corrections, repairs, replacements, additions, modifications, enhancements, updates, releases, revisions, error fixes, bug fixes or any new versions of Deliverables, or any combination of the foregoing, that are to be or may be provided as a Deliverable from time to time. An Improvement may serve any purpose. Improvements do not

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include upgrades to software for which Contractor charges its customers, or upgrades by a Licensor that is charging Contractor for such upgrade.

x. Reserved

y. Reserved

z. Lead State

The State of Connecticut, acting by the DAS.

aa. Licensed Software

The commercial, off-the-shelf product provided by Contractor in connection with the Deliverables, for which the Purchasing Entity or the Lead State acquires a, personal, non-exclusive, non-transferable license to access and use, but does not acquire the Licensor's title to, such computer program(s).

bb. Licensor

The party who licenses all or any part of a Deliverable either to the Participating Entity or Purchasing Entity, in the case of the Contractor, or to the Contractor, in the case of a third party provider.

cc. Maintenance Services

The software and process support services described in this Master Agreement, a Participating Addendum, or a Statement of Work, as applicable.

dd. Reserved

ee. Materials

Collectively, software programs, literary works, other works of authorship, documented specifications, designs, analyses, processes, methodologies, concepts, inventions, know-how, programs, program listings, program tools, Documentation, reports, drawings, data bases, spreadsheets, machine readable text, models and work product, whether tangible or intangible.

ff. NASPO ValuePoint:

A division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation through which NASPO administers the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities, the District of Columbia, and territories of the United States.

gg. Participating Addendum ("PA")

A bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific terms, language or other requirements, such as ordering procedures specific to the Participating Entity.

hh. Participating Entity

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A state, or other legal entity, that enters into a Participating Addendum.

ii. Perform

All acts and things of the Contractor and Contractor Parties, severally and collectively, that are necessary or appropriate to fulfill or accomplish this Master Agreement fully, including the Deliverables and all other Master Agreement obligations. The word "Perform" includes all parts of speech.

jj. Performance Criteria

Operation of the Deliverables in compliance with all Specifications and Documentation and complying with the requirements of this Master Agreement, a Participating Addendum, and a Statement of Work, as applicable.

kk. Price Schedule

Exhibit B to this Master Agreement which when read in conjunction with Exhibit A, Deliverables Document, lists the Deliverables available under this Master Agreement and establishes the components, unit pricing and price schedules for each Deliverable.

II. Reserved

mm. Purchase Order

A written or electronic document that the Purchasing Entity issues for one or more Deliverables in accordance with the terms of this Master Agreement.

nn. Purchasing Entity

A Participating Entity, or a city, county district, or other political subdivision of the Participating Entity, or a nonprofit organization authorized under a Participating Addendum, who issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

oo. Purchasing Entity Data

Any data or information of the Purchasing Entity that Contractor receives or creates by any means and in any form in connection with this Master Agreement, Deliverables or Performance, including data and information with respect to any one or more of the following: databases, systems, operations, facilities, and regulatory compliance.

pp. Records

All working papers and such other information and materials furnished or prepared by the Contractor in Performing including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

qq. Replacement Deliverable

Any new Deliverable that replaces a previously accepted Deliverable.

rr. Services

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The labor or work, necessary or appropriate for the Contractor to Perform.

ss. Service Level Agreement (“SLA”)

Exhibit C which sets forth and describes the service level and maintenance and support agreement or those performance standards, response times and associated obligation between the parties, that may be set forth in this Master Agreement, in a Participating Addendum or in a Statement of Work, as applicable.

tt. Site

Location(s) specified by the Purchasing Entity where Deliverables are to be installed, Services rendered, or materials furnished.

uu. Solicitation

The Lead State's request, in whatever form issued, inviting bids, proposals or quotes for Deliverables, typified by, but not limited to, an invitation to bid, request for proposal, requests for information or request for quotes. The Solicitation and this Master Agreement shall be governed by the statutes, regulations and procedures of the Lead State. The Solicitation is incorporated into and made a part of this Master Agreement as if it had been fully set forth in it if, but only if, the Solicitation is in the form of an invitation to bid, request for information or request for quotes. A Solicitation in the form of a request for proposal is not incorporated into this Master Agreement in its entirety, but, rather, it is incorporated into this Master Agreement only to the extent specifically stated in Exhibit A, Deliverables Document.

vv. Solicitation Response

A submittal in response to a Solicitation.

ww. Specifications

Contractor's published technical and non-technical detailed descriptions of each Deliverable's capabilities, or intended use or both, as more fully set forth in this Master Agreement, a Participating Addendum, or a Statement of Work, as applicable.

xx. Statement of Work (“SOW”)

Statement issued in connection with a Purchase Order for a Deliverable available under this Master Agreement which sets forth all work and payment requirements for Contractor's Performance in connection with said Purchase Order.

yy. System

Contractor furnished or otherwise supplied Deliverables that collectively and in an integrated fashion fulfill the Performance Criteria and the business and technical requirements of this Master Agreement, a Participating Addendum, or SOW, as applicable.

zz. Term

The original term of this Master Agreement plus any extensions exercised under this Master Agreement.

aaa. Termination

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An end to this Master Agreement prior to the end of its Term.

bbb. Title

All ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Deliverable.

ccc. Reserved

ddd. Upgrade

A change to the primary version number of the Licensed Software, generally providing additional features or functionality.

eee. Update

A change to the Licensed Software to correct bugs or defects, patches or changes to enable the Licensed Software to operate on new or upgraded operating platforms.

fff. User

A Purchasing Entity representative that may access the System. User access will be subject to role-based security implemented by the Purchasing Entity's Administrator.

ggg. User Acceptance Test

Those procedures that permit the Purchasing Entity to authenticate and test the functionality of a Deliverable with real world scenarios to determine if the Deliverable performs in accordance with this Contract.

hhh. Warranty Period

The twelve (12) month period commencing upon the Acceptance Date for the System or Deliverable.

2. Term of Master Agreement; Master Agreement Extension

This Master Agreement will be in effect from the date that the Connecticut Attorney General's Office approves it (the "Effective Date") and will continue for three (3) years. The parties, by mutual agreement, may extend this Master Agreement for additional terms beyond the Term, prior to Termination or expiration, one or more times for a combined total period not to exceed the complete length of the original Term, but only in accordance with the Section in this Master Agreement concerning Master Agreement amendments.

3. Deliverables

Contractor shall sell, transfer, convey and license, as appropriate, to the Purchasing Entity each Deliverable and Perform in accordance with this Master Agreement, applicable Participating Addendum, and the SOW, as applicable. The Deliverables are set forth in accordance with Exhibit A, Deliverables Document and shall be acquired through duly issued Purchase Orders.

- a. Any Purchase Order accepted by Contractor is subject to the terms of this Master Agreement and the applicable Participating Addendum and shall remain in effect until Purchasing Entity Accepts

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full Performance of all Deliverables contained in the applicable Purchase Order, unless terminated sooner under the terms of this Master Agreement and the applicable Participating Addendum. Neither party shall be bound by any additional substantive terms that may appear in any Purchase Order. If a Purchase Order includes any such terms, then they shall be void ab initio and have no effect.

- b. Notwithstanding any other provision of this Master Agreement, Contractor shall not make any material change to the Deliverables that alters the nature or scope of the Deliverables or their intended use without the prior written consent of the Purchasing Entity. The Purchasing Entity shall not give its consent unless the changed Deliverables are of a similar nature and have a similar use as the original Deliverables.
- c. No additions to or reductions in the Deliverables and prices for work completed in the Performance of any Purchase Order shall be permitted unless the Purchasing Entity issues a change order in accordance with this Master Agreement.
- d. Purchasing Entity shall issue a Purchase Order when acquiring any Deliverable or Service available under this Master Agreement and, if appropriate, a SOW mutually acceptable to the Purchasing Entity and the Contractor.

e. PARTICIPATION AND PAYMENTS:

The terms of this Master Agreement are applicable to any Purchase Order issued by a Purchasing Entity, except to the extent altered, modified, supplemented or amended by an applicable Participating Addendum. Any alterations, modifications, supplements or amendments to the terms of the Master Agreement as they apply to a Participating Entity and any Purchasing Entity ordering under the Participating Entity's Participating Addendum must be addressed in the Participating Addendum. Such alterations, modifications, supplements or amendments in a Participating Addendum apply only to the Participating Entity and Purchasing Entities ordering under said Participating Addendum. With the consent of the Participating Entity and Contractor, alterations, modifications, supplements or amendments to the terms of the Master Agreement and applicable Participating Addendum as they apply to a Purchasing Entity may be included in the Purchasing Entity's Purchase Order. Such alterations, modifications, supplements or amendments in a Purchase Order apply only to the Purchasing Entity.

Use of this Master Agreement is subject to the approval of the respective state's chief procurement official, or their designee. Subject to applicable law, issues of interpretation and eligibility for participation are solely within the authority of the respective state's chief procurement official, or their designee.

This Master Agreement and the Participating Addendum are binding only upon the Contractor and the corresponding Participating Entity or Purchasing Entity or both. The financial obligations of any Purchasing Entity are limited to those obligations set forth in the Purchase Orders that such particular Purchasing Entity issues. The terms of a Participating Addendum or other participating addenda do not and will not be construed to amend the terms of this Master Agreement between the Lead State and Contractor.

Entities who are not states may sign their own Participating Addendum if and to the extent that the appropriate procurement official of the state where the Participating Entity is located (or such other approval as may be required by law) gives prior approval of such participation in writing. A chief procurement official's approval to a non-state entity to participate through execution of a Participating Addendum is not a determination that the non-state entity has the necessary or appropriate authority to enter into the Participating Addendum. Prior to executing a Participating Addendum, each Participating Entity must ensure that it has the requisite authority to execute a Participating Addendum under its applicable laws and regulations.

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Payment for all Accepted Deliverables are due within forty-five (45) days after Acceptance of the Deliverables. The Contractor shall submit an invoice to the Purchasing Entity for the Performance. The invoice shall include detailed information for Deliverables, delivered and Performed, as applicable, and Accepted. Any late payment charges shall be calculated in accordance with Purchasing Entity's applicable law.

4. Payments and Credits

- a. The Purchasing Entity shall pay for Deliverables only upon Acceptance pursuant to this Master Agreement, the applicable Participating Addendum, and a SOW, as applicable, and receipt of a properly documented invoice from the Contractor. At the Purchasing Entity's request, Contractor shall submit to the Purchasing Entity such documentation as the Purchasing Entity deems it to be necessary or appropriate to justify and support the Performance detailed in any invoice, prior to the Purchasing Entity approving the invoice for payment.
- b. The Purchasing Entity shall pay Contractor upon Acceptance within net forty-five (45) days after each calendar month end and receipt of Contractor's properly documented invoice and supporting detail, whichever is the later date.
- c. Contractor shall furnish separate invoices for each Purchase Order and shall itemize each charge included in each invoice as a separate line item.
- d. Contractor may supplement Exhibit B, Price Schedule to make additional services and related terms available to Participating Entities. The supplement will only be deemed to be accepted by the Lead State if the latter issues an Addendum to the Master Agreement indicating its concurrence with the supplement.
- e. No additions to or reductions in the Deliverables and prices for work completed in the Performance of any Purchase Order shall be permitted unless the Purchasing Entity issues a change order in accordance with the provisions of Section 11.

5. Order and Delivery

The Contractor shall Perform in accordance with Exhibit A, Deliverables Document and at the prices set forth in Exhibit B, Price Schedule. Except as it may otherwise be set forth in Exhibit A, Deliverables Document or Exhibit B, Price Schedule, as applicable, the Contractor shall deliver the Goods F.O.B. wherever specified by the Purchasing Entity in its Purchase Order or in another communication to Contractor. The administration and Performance of this Contract are facilitated by and in accordance with certain provisions of the NASPO ValuePoint cooperative contract consortium of the National Association of State Procurement Officers. Those provisions are set forth in Exhibit D, NASPO ValuePoint Provisions.

6. Purchase Orders

- a. This Master Agreement itself is not an authorization for the Contractor to begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued Purchase Order against this Master Agreement and an applicable Participating Addendum for Performance.
- b. The Purchasing Entity shall issue a Purchase Order against a Participating Addendum incorporating this Master Agreement directly to the Contractor and to no other party.
- c. All Purchase Orders shall be in written or electronic form, bear the Master Agreement number and Participating Addendum number (if any) and comply with all other Participating Entity and Purchasing Entity requirements, particularly the Purchasing Entity's requirements concerning

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procurement. Purchase Orders issued in compliance with such requirements shall be deemed to be duly issued.

- d. A Contractor Performing without a duly issued Purchase Order in accordance with this Section does so at the Contractor's own risk and does not impose on a Purchasing Entity any corresponding obligation.
- e. The Purchasing Entity may, in its sole discretion, deliver to the Contractor any or all duly issued Purchase Orders via electronic means only, such that the Purchasing Entity shall not have any additional obligation to deliver to the Contractor a "hard copy" of the Purchase Order or a copy bearing any hand-written signature or other "original" marking.

7. Time of the Essence

Time is of the essence with respect to all provisions of this Master Agreement that specify a time for Performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Master Agreement.

8. Waiver

- a. No waiver of any Breach of this Master Agreement shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in this Master Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided in this Master Agreement or at law or in equity. Any waiver by the Lead State, a Participating Entity, or a Purchasing Entity must be in writing.
- b. A party's failure to insist on strict performance of any provision of this Master Agreement shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.

9. Deliverable Evaluation, Acceptance and Ownership

- a. Any Deliverable furnished by Contractor under the terms of this Master Agreement will be subject to Acceptance Testing. User Acceptance Testing (UAT) for each Deliverable begins as of the date the Purchasing Entity notifies the Contractor in writing that the Deliverable provided for UAT has successfully met the Acceptance Criteria, successfully delivered and/or installed in the development and testing computer environment and is ready for UAT. The following procedures will apply during UAT:
 - 1. The Purchasing Entity shall provide Contractor with (a) written notice of Acceptance of the Deliverable or (b) a written statement which identifies in reasonable detail, with references to the applicable requirements, the deficiencies preventing Acceptance.
 - 2. Contractor shall have five (5) Business days, or such other period mutually agreed upon by the parties in writing, from the date it receives the notice of deficiencies to complete corrective actions to make the Deliverable conform in all material respects to the applicable Specifications. The Purchasing Entity shall review the corrected Deliverable and notify Contractor in writing of acceptance or rejection in accordance with the foregoing provisions of this Section.
 - 3. The Acceptance Date for a Deliverable shall be the date of written notice of Acceptance of the Deliverable from Purchasing Entity to Contractor.
- b. If UAT for the System is successfully completed, the Purchasing Entity shall in writing notify the

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Contractor of the Purchasing Entity's Acceptance of the System, and the date of such notice will be the Acceptance Date for the System.

- c. If requested by Contractor, Purchasing Entity shall complete Contractor's acceptance certificate, in a form reasonably acceptable to Purchasing Entity, so long as such certificate does not amend, alter or modify in any way the terms of this Master Agreement.
- d. A Purchasing Entity shall own all Deliverables provided to it by Contractor under this Master Agreement, subject to subparagraph e) below.
- e. The Purchasing Entity shall have a nonexclusive, nontransferable license to access and use, alter, modify, create derivative works (without the right to sublicense) and copy Contractor IP in connection with the Purchasing Entity's business needs and operations if Contractor IP is provided to the Purchasing Entity by Contractor in order to Perform any Services or provide any Deliverables required under this Master Agreement. Nothing in this provision shall be construed as transferring to the Lead State, Participating Entity, or Purchasing Entity any ownership interest or rights to Contractor IP.
- f. If any Deliverable becomes the actual or prospective subject of any patent, copyright, license or proprietary rights claim or proceeding, Contractor shall do one or more of the following at the option of Contractor:
 - 1. Modify the Deliverable or substitute another equally suitable Deliverable (provided that the function of the modified or substitute Deliverable equals or exceeds that of the original Deliverable);
 - 2. Obtain for the Purchasing Entity the right to continued use of the Deliverable; or
 - 3. If neither 1 nor 2 above is commercially reasonable, Purchasing Entity shall discontinue use of the Deliverable subject to such claim or proceeding and the Contractor shall refund the Purchasing Entity the fees paid for the Deliverable.
- g. Each party reserves for itself all proprietary rights not expressly granted to the other. Contractor shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided under this Master Agreement.

10. Data: Access and Ownership

a. Access to Master Agreement and State Data

The Contractor shall provide to the Purchasing Entity access to any data, as defined in Conn. Gen Stat. Sec. 4e-1, concerning the Master Agreement and the Purchasing Entity that are in the possession or control of the Contractor upon demand and shall provide the data to the Purchasing Entity in a format prescribed by the Purchasing Entity and the State Auditors of Public Accounts at no additional cost.

b. Ownership of Data

- 1. All ownership, title, licenses, proprietary rights and interest (including, but not limited to, perpetual use) (for purposes of this Ownership of Data Section, collectively, "Title") of and to any and all data as defined in section 4e-1 of the Connecticut General Statutes, ("Data") that is uploaded, collected, stored, held, hosted, located or utilized by the Purchasing Entity or Contractor and Contractor Parties directly or indirectly in connection with this Master Agreement at all times is and will always remain vested in the Purchasing Entity. At no time will Contractor have Title to such Data, wherever located.

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2. At no cost to the State the Contractor and Contractor Parties shall, no later than fifteen (15) days after (i) receiving a written request from the Purchasing Entity or (ii) Termination for any reason, deliver and transfer possession to the Purchasing Entity all of the Data, in a format acceptable to the Purchasing Entity.
3. At no cost to the Purchasing Entity, the Contractor and Contractor Parties shall, no later than fifteen (15) days, unless otherwise mutually agreed to in writing by the Parties, after (i) receiving a written request from the Purchasing Entity, (ii) receiving final payment from the Purchasing Entity, or (iii) Termination for any reason, over-write and securely delete all of the Data, such that the Data will be expunged in a manner to make retrieval of the Data impossible.
4. The Contractor's failure to deliver and transfer possession of the Data to a duly authorized agent of the Purchasing Entity shall constitute, without more, a de facto breach of this Master Agreement. Consequently, the Contractor shall indemnify and hold harmless the Purchasing Entity, the Participating Entity, and the Lead State, as appropriate, for any and all damages, costs and expenses associated directly or indirectly with such failure. The damages, costs and expenses shall include, but not be limited to, those resulting from any corresponding contracting for credit or identity protection services, or both, and from any subsequent non- Purchasing Entity use of any Data. If Contractor Parties will Perform for any purpose under this paragraph, the Contractor represents and warrants that it shall cause each of the Contractor Parties to so Perform and that each has vested in the Contractor plenary authority to cause the Contractor Parties to Perform. For purposes of this Ownership of Data Section, "Perform" shall include, but not be limited to, the obligations relating to the sale, transfer of Title, removal and transfer of possession of the Data and indemnifying and holding harmless the Purchasing Entity, the Participating Entity, and the Lead State. The Contractor on its own behalf and on behalf of the Contractor Parties shall also provide, no later than 30 days after receiving a request by the Purchasing Entity, such information as the Purchasing Entity may identify to ensure, in the Purchasing Entity's sole discretion, compliance with the provisions of this Ownership of Data Section. This Ownership of Data Section survives Termination.

11. Change Order Within Scope

The Purchasing Entity may, at any time, with thirty (30) calendar days' advance written notice to Contractor, request changes to the Deliverables that come within the scope of the Master Agreement or the SOW, as applicable. Contractor shall not deny or delay approving the request. The request may include, but is not limited to, modifications or other changes required to correct System deficiencies, and changes required by new or amended State or federal laws and regulations or both that are included in the Deliverables in Exhibit A, Deliverables Document. Contractor shall make any changes to the Deliverables that are required due to Deliverable deficiencies or failure in accordance with the requirements of this Master Agreement, without charge. Contractor shall at its sole cost and expense conduct any investigation necessary to determine the source of the problem requiring the change. No additions or reductions in the Deliverables and prices for work completed in the Performance of any Purchase Order shall be permitted unless the Purchasing Entity issues a change order in accordance with this Section.

12. Rejected Items; Abandonment

- a. The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any Purchasing Entity premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The Purchasing Entity may, by written notice and in accordance with this Master Agreement, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of Purchasing Entity premises and any other location which the Purchasing Entity manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property

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in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties, that:

1. they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the Purchasing Entity and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;
 2. there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
 3. they vest authority, without any further act required on their part or the Purchasing Entity's part, in the Purchasing Entity to use or dispose of the Rejected Goods and Contractor Property, in the Purchasing Entity's sole discretion, as if the Rejected Goods and Contractor Property were the Purchasing Entity's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
 4. if the Purchasing Entity incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the Purchasing Entity shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the Purchasing Entity no later than thirty (30) days after the date of invoice; and
 5. they do remise, release and forever discharge the Purchasing Entity and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "Purchasing Entity and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the Purchasing Entity and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- b. The Contractor shall secure from each Contractor Party, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this Section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the Purchasing Entity, such information as the Purchasing Entity may require to evidence, in the Purchasing Entity's sole determination, compliance with this Section.

13. Replacement Deliverables

The Purchasing Entity may order any Replacement Deliverables then available. Replacement Deliverables are subject to evaluation and Acceptance as set forth in this Master Agreement.

14. Maintenance and Support

- a. Contractor represents and warrants that after Acceptance of the System by the Purchasing Entity and throughout the duration of the Warranty Period, Contractor shall provide the following maintenance and support services at no additional cost:
 1. Assistance in accordance with the requirements of Exhibit A, Deliverables Document,

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Purchase Order or a SOW, as applicable;

2. Improvements related to any and all Deliverables; and
 3. Improvements to any and all Deliverables to cause each Deliverable to operate under new versions or releases of the operating system(s), database system(s), application servers or report servers that comprise the Purchasing Entity's computer operating environment.
- b. Upon expiration of the Warranty Period, maintenance and support and on-going services shall be provided by the Contractor on an annual basis if requested by the Purchasing Entity and identified in Exhibit C Service Level Agreement and Maintenance and Support and Exhibit B Price Schedule. Contractor shall invoice the Purchasing Entity in accordance with Exhibit B, Price Schedule.
- c. Provided the Purchasing Entity is current on its maintenance and support and on-going services payments, the Contractor shall provide Services itemized in a SOW in addition to the following:
1. Assistance in accordance with the requirements of Exhibit A, Deliverables Document, Exhibit C, Service Level Agreement and Maintenance and Support, Purchase Order or a SOW, as applicable;
 2. Improvements that may be developed by Contractor or made available to Contractor by the Licensor related to any and all Deliverables; and
 3. Improvements to any and all Deliverables to cause each to operate under new versions or releases of the operating system(s), database system(s), application servers or report servers that comprise the Purchasing Entity's computer operating environment at no additional cost.
- d. Contractor shall provide a complete list of any platform requirements and specifications to provide technical support services.
- e. The Purchasing Entity shall provide Contractor full and free access to each Deliverable for the limited purpose of providing Services required under this Master Agreement, subject to the Purchasing Entity's and the applicable Site's access policies.

15. Reserved

16. Working and Labor Synergies

The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties, their work force, Purchasing Entity employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under this Master Agreement.

17. Background Checks

To the extent applicable, the Contractor and Contractor Parties shall submit to and incur the cost of fingerprint supported federal and state criminal history background checks as may be required by the state, the Purchasing Entity, or as provided for in any Purchasing Entity document that governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as

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necessary or reasonably requested with the state and its agents in connection with such background checks.

18. Contractor Guaranties

- a. Contractor shall:
 - 1. Perform fully under this Contract;
 - 2. Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
 - 3. Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the Site, Goods, the Contractor's work or that of Contractor Parties;
 - 4. With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
 - 5. Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law;
 - 6. Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

19. Other Warranties

Contractor warrants that:

- a. Each Deliverable installed by Contractor, an authorized agent of Contractor or installed by the Purchasing Entity in accordance with Contractor's instructions, will function according to the Specifications and Performance Criteria on the Acceptance Date for such Deliverable;
- b. During the Warranty Period, Contractor shall make Improvements to the Deliverable as necessary or appropriate to maintain ongoing reliability according to Performance Criteria identified in Exhibit A, Deliverables Document or a SOW, as applicable; and
- c. Contractor shall provide each Deliverable within the time frames established under this Master Agreement, a Purchase Order or a SOW, as applicable.
- d. Contractor does not exclude or modify the implied warranties of merchantability and fitness for a particular purpose concerning the Deliverables.

20. System Warranties

- a. Contractor represents and warrants that the System shall conform to this Master Agreement, the Specifications, Performance Criteria, Documentation and as applicable, the SOW and that it shall be free from defects in material and workmanship upon the Acceptance Date of the System and through the Warranty Period, unless the Master Agreement is Terminated earlier.
- b. During the Warranty Period, Contractor shall, at no charge, make Improvements to the Deliverables as necessary to maintain ongoing System reliability in accordance with the Specifications, Performance Criteria, Documentation, and as applicable, the SOW.

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21. Sales and Use Report

Contractor shall deliver a sales and use report on a quarterly basis, in form and content as pre-approved by the Lead State, the Participating Entity, or Purchasing Entity. The Contractor shall deliver the report within ten (10) days following the end of each calendar quarter. The Contractor shall provide the Lead State, the Participating Entity, or Purchasing Entity with any additional reports as the Lead State, the Participating Entity, or Purchasing Entity may request from time to time within ten (10) days following receipt of the written request. Timely submission of these reports is a material requirement of this Master Agreement. All Title and property rights and interests in and to the reports and the data in the media containing the reports at all times is and will always remain vested in the State. At no time will Contractor have Title to such reports, data or media, wherever located. Accordingly, the Lead State, Participating Entity and the Purchasing Entity shall have a perpetual, irrevocable, non-exclusive, transferable right to display, modify, copy and otherwise use the reports, data, and information provided under this Section.

22. Breach

- a. If one party (the "Non-breaching Party") determines that the other (the "Breaching Party") has failed to comply with any of the Breaching Party's corresponding Master Agreement obligations (a "Breach"), then the Non-Breaching Party shall provide written notice of such failure to the Breaching Party in accordance with this Master Agreement. The Non-breaching Party must provide the Breaching Party an opportunity to remedy the Breach within thirty (30) calendar days from the date of the notice. However, if Contractor is the Breaching Party, then the Purchasing Entity may set forth any remedy period in the notice, so long as that period is otherwise consistent with the provisions of this Master Agreement. The period set forth in the notice is known as the "Remedy Period." The Non-Breaching Party shall extend the Remedy Period if it is satisfied that the Breaching Party is making a good faith effort to remedy the Breach, but the nature of the Breach is such that it cannot be remedied within the Remedy Period.
- b. If the Purchasing Entity determines that the Contractor has committed a Breach, then the Purchasing Entity may require the Contractor to, and Contractor shall, prepare and submit to the Purchasing Entity a CAP in connection with the identified Breach. Contractor shall provide in the CAP a detailed explanation of the deficiencies and other factors that contributed to the cited Breach, Contractor's assessment or diagnosis of Breach (identifying the deficiencies and factors in reasonable detail, with references to the applicable Specifications), and a specific proposal to remedy or resolve the Breach. Contractor shall submit the CAP to the Purchasing Entity within ten (10) Business Days following the Purchasing Entity's request for the CAP for the Purchasing Entity's review and approval. Within ten (10) Business Days of receiving the CAP, the Purchasing Entity must either approve the CAP, or reject it by delivering to Contractor a written explanation for the rejection. If the Purchasing Entity fails to accept or reject the CAP within the ten (10) Business Days, then the CAP is deemed to have been approved, without more. The Purchasing Entity's explanation for the rejection must include suggestions for changes to the CAP and the Contractor shall address the suggestions in such a manner to make it likely that the Purchasing Entity will approve the CAP when the Contractor re-submits it to the Purchasing Entity for review and approval. If the Purchasing Entity rejects a CAP, then the parties will repeat this submittal and review process until the earliest of one of the following: (1) the Purchasing Entity accepts a CAP, (2) the Purchasing Entity waives its right to receive a CAP, (3) Contractor remedies the Breach, (4) the Purchasing Entity waives the Breach, or (5) the Purchasing Entity makes a determination to Terminate this Master Agreement. After the first rejection, each of the parties will have five (5) Business Days, instead of ten (10) Business Days, within which to review the CAP. Each subsequent revision and review will be for up to three (3) Business Days each instead of ten (10) or five (5) Business Days.
- c. If the Purchasing Entity determines that the Contractor has Breached this Master Agreement, then the Purchasing Entity may withhold payment in whole or in part for any amounts due pending resolution of the Performance issue, provided that the Purchasing Entity notifies

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Contractor in writing prior to the date that the payment would have been due.

- d. For purposes of the Purchasing Entity determining whether there is a Breach under this Master Agreement, or whether any statement in the Representations and Warranties Section of this Master Agreement is false or misleading, the parties deem the Acts of the Contractor Parties to be the Acts of the Contractor itself, as if the Contractor itself was the subject of the Acts which the Purchasing Entity considers in determining if there was a Breach, or an instance of false or misleading statements, or both.
- e. The written notice of the Breach may include an effective Termination date. If the identified Breach is not remedied by the stated Termination date, unless otherwise modified by the Non-breaching Party in writing before such date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Termination date, then the Non-breaching Party shall provide the Breaching Party no less than twenty-four (24) hours' prior written notice before terminating this Master Agreement.
- f. Notwithstanding any provisions in this Master Agreement, the Lead State may terminate this Master Agreement with no Remedy Period for Contractor's Breach or violation of any of the representations or warranties in this Master Agreement and revoke any consent to assignments given as if the assignments had never been requested or consented to, without liability to Contractor or Contractor Parties or any third party. Termination under this Breach section is subject to the provisions of the Termination Section of this Master Agreement. In case of such revocation or Termination, the Purchasing Entity will have no liability or responsibility to Contractor or Contractor Parties or any third party, or any of them, resulting from the Termination or revocation.
- g. None of the Lead State's rights under this Breach Section diminishes the Lead State's rights under the Termination Section of this Master Agreement.

23. Termination

- a. Notwithstanding any provisions in this Master Agreement, the Lead State, through a duly authorized employee, may Terminate this Master Agreement whenever the Lead State makes a written determination that such Termination is in the best interests of the Lead State. The Lead State shall notify the Contractor in writing of Termination pursuant to this Section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under this Master Agreement prior to such date.
- b. Notwithstanding any provisions in this Master Agreement, either party, through a duly authorized employee, may, after making a written determination that the other party has Breached this Master Agreement and has failed to remedy the Breach, Terminate this Master Agreement in accordance with the Breach Section of this Master Agreement.
- c. Notices of Termination must be sent certified in accordance with the Notice Section of this Master Agreement. Upon receiving the Termination notice from the Lead State, the Contractor shall immediately modify or discontinue all Performance affected in accordance with the terms of the notice, undertake commercially reasonable efforts to mitigate any losses or damages and deliver to the Lead State or the Purchasing Entity (as directed in the notice) all Records. The Records are deemed to be the property of the State and the Contractor shall deliver them to the Lead State or the Purchasing Entity (as directed in the notice) no later than thirty (30) days after the Termination of this Master Agreement or fifteen (15) days after the Contractor receives a written request from the Lead State for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.

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- d. Except for any work which the Lead State directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- e. The Purchasing Entity shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Purchasing Entity in accordance with Exhibit A, Deliverables Document or a SOW, as applicable, in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Purchasing Entity will not tender to the Contractor any payments for anticipated or lost profits. Upon request by the Purchasing Entity, the Contractor shall assign to the Purchasing Entity, or any replacement contractor which the Purchasing Entity designates, all subcontracts, Purchase Orders and other commitments, deliver to the Purchasing Entity all Records and other information pertaining to its Performance, and remove from Purchasing Entity premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Lead State or the Purchasing Entity (as directed in the notice) may request.
- f. Upon Termination of this Master Agreement, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the Sections which survive Termination. All representations, warranties, agreements and rights of the parties under this Master Agreement shall survive such Termination to the extent not otherwise limited in this Master Agreement and without each one of them having to be specifically mentioned in this Master Agreement.
- g. Termination of this Master Agreement pursuant to this Section shall not be deemed to be a Breach of Master Agreement by the Lead State, a Participating Entity, or a Purchasing Entity.

24. Continued Performance

The Contractor and Contractor Parties shall continue to Perform their obligations under this Master Agreement while any dispute concerning this Master Agreement is being resolved.

25. Reserved**26. Setoff**

A Purchasing Entity, in its sole discretion, may setoff and withhold (1) any costs or expenses including but not limited to costs or expenses such as overtime, that the Purchasing Entity incurs resulting from the Contractor's unexcused Breach under this Master Agreement and under any other agreement or arrangement that the Contractor has with the Purchasing Entity and (2) any other amounts of whatever nature that are due or may become due from the Purchasing Entity to the Contractor, against amounts otherwise due or that may become due to the Contractor under this Master Agreement, or under any other agreement or arrangement that the Contractor has with the Purchasing Entity. The Purchasing Entity's right of setoff and to withhold shall not be deemed to be the Purchasing Entity's exclusive remedy for the Contractor's or Contractor Parties' Breach of this Master Agreement, all of which shall survive any setoffs and withholdings by the Purchasing Entity.

27. Cross-Default

- a. If the Contractor or Contractor Parties Breach, default or in any way fail to Perform satisfactorily under this Master Agreement, then the Lead State may, in its sole discretion, without more and without any action whatsoever required of the Lead State, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements ("Other

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Agreements”) that the Contractor or Contractor Parties have with the Lead State. Accordingly, the Lead State may then exercise at its sole option any and all of its rights or remedies provided for in this Master Agreement or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the Lead State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.

- b. If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under any or all Other Agreements with the Lead State, then the Lead State may, in its sole discretion, without more and without any action whatsoever required of the Lead State, treat any such event as a breach, default or failure to Perform under the Master Agreement. Accordingly, the Lead State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or this Master Agreement, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the Lead State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under this Master Agreement.

28. Sovereign Immunity

The parties acknowledge and agree that nothing in this Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of this Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.

29. Representations and Warranties

Contractor represents and warrants to the Lead State for itself and, as applicable, the Contractor Parties that:

- a. each is a duly and validly existing under the laws of each such entity's respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by this Master Agreement. Further, as appropriate, each has taken all necessary action to authorize the execution, delivery and Performance of this Master Agreement and have the power and authority to execute, deliver and Perform its obligations under this Master Agreement;
- b. each will comply with all applicable State and Federal laws and municipal ordinances in satisfying its obligations to the State under and pursuant to this Master Agreement, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics; Title 4a, Chapter 51 concerning State purchasing; and (3) Title 22a, Chapter 446c, section 22a-194a concerning the use of polystyrene foam;
- c. the execution, delivery and Performance of this Master Agreement will not violate, be in conflict with, result in a Breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- d. each is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- e. as applicable, each has not, within the three years preceding the Effective Date of this Master Agreement, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under this Master Agreement,

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for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or Performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records or property, making false statements, or receiving stolen property;

- f. each is not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- g. they have notified the Lead State in writing whether they have had any contracts with any governmental entity Terminated for cause within the three (3) years preceding the Effective Date;
- h. none has employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure this Master Agreement and it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Master Agreement or any assignments made in accordance with the terms of this Master Agreement;
- i. to the best of each entity's knowledge, there are no Claims involving Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under this Master Agreement;
- j. each shall disclose, to the best of its knowledge, to the State in writing any Claims involving it that would be required disclosure on Form 8-K of the Securities Exchange Act of 1934 no later than ten (10) calendar days after becoming aware or after it should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to the State, the ten (10) calendar days in the Section of this Master Agreement concerning disclosure of Contractor Parties litigation shall run consecutively with the ten (10) days provided for in this representation and warranty;
- k. each entity's participation in the Solicitation process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- l. the proposal submitted by Contractor in response to the Solicitation was not made in connection or concert with any other person, entity or proposer, including any affiliate of the proposer, submitting a proposal for the same Solicitation, and is in all respects fair and without collusion or fraud;
- m. each is able to Perform under this Master Agreement using their own resources or the resources of a party who has not submitted a proposal;
- n. if Contractor does not have plenary authority to make the representations and warranties in this Section, as applicable, on behalf of Contractor Parties, then Contractor shall enter into a written contract with Contractor Parties, in which contract Contractor Parties shall make all of the applicable representations and warranties in this Section;
- o. each has paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut; they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- p. none owes unemployment compensation contributions;

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- q. none is delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- r. all of each entity's vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- s. each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms of this Master Agreement and that all appropriate parties shall also provide, no later than fifteen (15) days after receiving a request from the Lead State or the Purchasing Entity, such information as the Lead State or the Purchasing Entity may require to evidence, in their sole determination, compliance with this Section;
- t. each either owns or has the authority to use all the Deliverables;
- u. to the best knowledge of Contractor, the Deliverables do not infringe or misappropriate any patent, copyright, trade secret or other intellectual property right of a third party;
- v. to the best knowledge of Contractor, the Purchasing Entity's use of any Deliverables in a manner consistent with this Master Agreement shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- w. if any party shall procure any Deliverables, they shall sublicense such Deliverables and that the Purchasing Entity shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Deliverables;
- x. each shall assign or otherwise transfer to the Purchasing Entity or afford the Purchasing Entity the full benefits of any manufacturer's warranty for the Deliverables, to the extent that such warranties are assignable or otherwise transferable to the Purchasing Entity; and
- y. The Services and the System shall conform to this Contract, the Specifications, Performance Criteria, Documentation and as applicable, the SOW and that the Deliverables shall be free from defects in material and workmanship and that Performance will be in good and workmanlike manner consistent with industry standards and practices. Contractor warrants that its agents and/or employees used in the Performance will be qualified to Perform.

30. Further Assurances

The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Master Agreement and which do not involve the vesting of rights or assumption of obligations other than those provided for in this Master Agreement, in order to give full effect to this Master Agreement and to carry out the intent of this Master Agreement.

31. Advertising

The Contractor shall not refer to sales to the Lead State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without the Lead State's prior written approval.

32. Contractor Changes

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The Contractor shall notify the Lead State in writing no later than ten (10) days from the effective date of any change in:

- a. its certificate of incorporation or other organizational document;
- b. more than a controlling interest in the ownership of the Contractor; or
- c. the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. The Lead State, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to the Lead State's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of this Master Agreement. The Contractor shall deliver such documents to the Lead State in accordance with the terms of the Lead State's written request. The Lead State may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under this Master Agreement; the surviving Contractor Parties, as appropriate, must continue to Perform under this Master Agreement until Performance is fully completed.

33. Contractor Responsibility

- a. The Contractor shall be responsible for the entire Performance under this Master Agreement regardless of whether the Contractor itself Performs. The Contractor shall be the sole point of contact concerning the management of this Master Agreement, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of this Master Agreement.
- b. The Contractor shall exercise all reasonable care to avoid damage to a Purchasing Entity's property or to property being made ready for the Purchasing Entity's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the Purchasing Entity.

34. Continuity of Systems

- a. This Section is intended to comply with Conn. Gen. Stat. §4d-44. Nothing in this Section shall be construed to prevent Contractor from being paid for its Performance that is provided in accordance with this Master Agreement.
- b. Contractor acknowledges that the Deliverables, the Systems and associated Services are important to the function of a Purchasing Entity's operations and that they must continue without interruption. Pursuant to Conn. Gen. Stat. §4d-44, if the work under this Master Agreement, any subcontract, or amendment to either, is transferred back to a Purchasing Entity or to another contractor at any time for any reason, then Contractor shall cooperate fully with the Purchasing Entity, and do and Perform all acts and things that the Purchasing Entity deems to be necessary or appropriate, to ensure continuity of the Purchasing Entity's information system and telecommunication system facilities, equipment and Services so that there is no disruption or interruption in Performance as required or permitted in this Contract. Contractor shall not enter into any subcontract for any part of the Performance under this Master Agreement without approval of such subcontract by the Lead State, as required by Conn. Gen. Stat. §4d-32 and without such subcontract including a provision that obligates the subcontractor to comply fully with Conn. Gen. Stat. §4d-44 as if the subcontractor were in fact the Contractor. Contractor shall make a full and complete disclosure of and delivery to the Purchasing Entity or its

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representatives of all Records and "Public Records," as that term is defined in Conn. Gen. Stat. §4d-33 in whatever form they exist or are stored and maintained and wherever located, directly or indirectly concerning this Master Agreement.

- C. The parties shall follow the below applicable and respective procedures in order to ensure the orderly transfer to Purchasing Entity:

1. Facilities and Equipment:

Unless a shorter period is necessary or appropriate to ensure compliance with Conn. Gen. Stat. §4d-44, in which case that shorter period shall apply, Contractor shall deliver F.O.B. to the location specified by the Purchasing Entity, all Deliverables, Systems, facilities and equipment related to or arising out of this Master Agreement, subcontract or amendment, (other than any of the Deliverables, Systems, facilities or equipment in which Contractor has title under this Master Agreement) no later than ten (10) days from the date that the work under this Master Agreement is transferred back to the Purchasing Entity or to another contractor for any reason. Contractor shall deliver the Deliverables, Systems, facilities or equipment to the Purchasing Entity, during the Purchasing Entity's business hours, in good working order and in appropriately protective packaging to ensure delivery without damage. Concurrent with this delivery, Contractor shall also deliver all related operation manuals and other Documentation in whatever form they exist and a list of all related passwords and security codes;

2. Software Deliverables created or modified pursuant to this Master Agreement, subcontract or amendment: Unless a shorter period is necessary or appropriate to ensure compliance with Conn. Gen. Stat. §4d-44, in which case that shorter period shall apply, Contractor shall deliver F.O.B. to the location specified by the Purchasing Entity, all Deliverables, Materials and Systems, no later than 10 days from the date that the work under the SOW or this Master Agreement is transferred back to the Purchasing Entity or to another contractor for any reason. Contractor shall deliver such Deliverables, Materials and Systems to the Purchasing Entity, during the Purchasing Entity's Business Hours, in good working order, and if the Purchasing Entity's equipment shall be delivered, in appropriately protective packaging to ensure delivery without damage. Concurrent with this delivery, Contractor shall also deliver all Deliverable-related operation manuals and other Documentation in whatever form they exist, if delivery of such manuals and documentation is required by this Master Agreement or the SOW for such Deliverable, and a list of all Deliverable passwords and security codes; and

3. Public Records, as defined in Conn. Gen. Stat. §4d-33, which Contractor or Contractor Parties possess or create pursuant to this Master Agreement, subcontract or amendment: Unless a shorter period is necessary or appropriate to ensure compliance with Conn. Gen. Stat. §4d-44, in which case that shorter period shall apply, Contractor shall deliver F.O.B. to the location specified by the Purchasing Entity, all Public Records created or modified pursuant to this Master Agreement, any SOW, subcontract or amendment and requested in writing by the Purchasing Entity (provided that Contractor may redact confidential information of Contractor, its personnel or third parties to the extent permitted by applicable law) no later than the latter of (1) the time specified in the section in this Master Agreement concerning Termination for the return of Public Records and (2) ten (10) days from the date that the work under the Master Agreement or SOW is transferred back to the Purchasing Entity or to another contractor for any reason. Contractor shall deliver to the Purchasing Entity during the Purchasing Entity's Business Hours those Public Records in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or TXT. Contractor shall deliver to the Purchasing Entity, during the Purchasing Entity's business hours, those Public Records and a list of all applicable passwords and security codes, all in appropriately protective packaging to ensure delivery without damage.

- d. If Contractor employs former Purchasing Entity employees, Contractor shall facilitate the

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exercising of any reemployment rights that such Purchasing Entity employees may have with the Purchasing Entity, including, but not limited to, affording them all reasonable opportunities during the workday to interview for Purchasing Entity jobs. Contractor shall include language similar to this Section in all of its contracts with its subcontractors and applicable Contractor Parties so that they are similarly obligated.

35. Security and/or Property Entrance Policies and Procedures

Contractor shall adhere to established security and/or property entrance policies and procedures for each Purchasing Entity. It is the responsibility of Contractor to understand and adhere to the Purchasing Entity's policies and procedures prior to entering the Purchasing Entity Site to Perform under this Master Agreement.

36. Disclosure of Contractor Parties Litigation

Contractor shall require that all Contractor Parties, as appropriate, disclose in writing to Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under this Master Agreement, no later than ten (10) calendar days after becoming aware of or after they should have become aware of any such Claims.

37. Protection of Confidential Information

- a. Contractor and Contractor Parties have a duty to and shall, at their own expense, protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with the highest current industry standards and best practices, as they may be amended from time to time.
- b. Contractor and all Contractor Parties shall develop, implement and maintain a comprehensive written information security policy for the protection of Confidential Information that meets or exceeds current industry standards and best practices as they may be amended from time to time. The safeguards contained in the written information security policy must meet or exceed the standards for the protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and State law and in written policy of the Purchasing Entity, Participating Entity, or the Lead State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
 1. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 2. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept and an auditable electronic system of logging and tracking the viewing, accessing or both of Confidential Information;
 3. A process for reviewing policies and security measures at least annually;
 4. Creating secure access controls to Confidential Information, including but not limited to passwords; and
 5. Encrypting of Confidential Information that is stored on laptops, portable devices and storage media or that is being transmitted electronically.
- c. Contractor and Contractor Parties shall notify the Lead State, the Purchasing Entity, and the

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Connecticut Office of the Attorney General as soon as practical, but no later than the next Business Day, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred which, in the sole opinion of the Purchasing Entity, after consultation with the Lead State's Attorney General, constitutes a breach of security as defined in Connecticut General Statutes, § 36a-701b, or otherwise (Breach), the Contractor shall, within three (3) Business Days after the notification, present a credit monitoring and protection plan to the Commissioner of the Lead State, the Purchasing Entity, and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring and protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to, reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the Lead State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Breach. Neither Contractor's nor any Contractor Party's costs and expenses for the credit monitoring and protection plan shall be recoverable from the Lead State, Participating Entity, Purchasing Entity, or any affected individuals and shall be outside of any liability cap or limitation contained in this Master Agreement.

- d. Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to the provisions of this Master Agreement concerning the obligations of the Contractor to the Purchasing Entity, Participating Entity, or DAS.

38. Confidentiality; Non-Disclosure

The Purchasing Entity shall exercise at least the same degree of care to safeguard any trade secrets or confidential information of Contractor as the Purchasing Entity does its own property of a similar nature and shall take reasonable steps to ensure that neither the confidential information of Contractor nor any part of it will be disclosed for reasons other than its own business interests. Such prohibition on disclosures does not apply to disclosures by the Purchasing Entity to its employees, agents or representatives, provided such disclosures are reasonably necessary to the Purchasing Entity's use of the Deliverable, and provided further that the Purchasing Entity will take all reasonable steps to ensure that the Deliverable is not disclosed by such parties in contravention of this Master Agreement. The Purchasing Entity's performance of the requirements of this Section shall be subject to open records laws and the State of Connecticut Freedom of Information Act ("FOIA"), as applicable.

All Records, Purchasing Entity Data, and any Data owned by the Purchasing Entity in any form, in the possession of the Contractor or Contractor Parties, whether uploaded, collected, stored, held, hosted, located or utilized by Contractor and Contractor Parties directly or indirectly, must remain within the continental United States.

39. Contractor's Obligation to Notify the Lead State Concerning Public Records

In accordance with Conn. Gen. Stat. § 4d-38, if the Contractor or Contractor Parties learn of any violation of the provisions of Conn. Gen. Stat. §§ 4d-36 or 4d-37 they shall, no later than seven calendar days after learning of such violation, notify the Chief Information Officer of such violation.

40. General Assembly Access to Records

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In accordance with Conn. Gen. Stat. § 4d-40, the Joint Committee on Legislative Management and each nonpartisan office of the General Assembly shall continue to have access to the Lead State records that is not less than the access that said committee and such offices have on July 1, 1997.

41. Profiting from Public Records

In accordance with Conn. Gen. Stat. § 4d-37, neither Contractor nor Contractor Parties shall sell, market or otherwise profit from the disclosure or use of any public records which are in their possession pursuant to this Master Agreement or any contract, subcontract or amendment to a contract or subcontract, except as authorized in this Master Agreement. For purposes of this Section, "public records" shall have the meaning set forth in Conn. Gen. Stat. § 1-200, as it may be modified from time to time.

42. Application of FOIA to Public Records Provided to Contractor

In accordance with Conn. Gen. Stat. § 4d-35, any public record which a state agency provides to Contractor or Contractor Parties shall remain a public record for the purposes of subsection (a) of Conn. Gen. Stat. § 1-210 and as to such public records, the State, Contractor and Contractor Parties shall have a joint and several obligation to comply with the obligations of the state agency under the Freedom of Information Act (FOIA), as defined in Conn. Gen. Stat. § 1-200, provided that the determination of whether or not to disclose a particular record or type of record shall be made by such state agency.

43. Ownership Rights and Integrity of Public Records

In accordance with Conn. Gen. Stat. § 4d-34, (a) neither Contractor nor Contractor Parties shall have any Title in or to (1) any public records which the Contractor or Contractor Parties possess, modify or create pursuant to a contract, subcontract or amendment to a contract or subcontract, or (2) any modifications by such contractor, subcontractor, employee or agent to such public records; (b) neither Contractor nor Contractor Parties shall impair the integrity of any public records which they possess or create; and (c) public records which Contractor or Contractor Parties possess, modify or create pursuant to this Master Agreement or other contract, subcontract or amendment to a contract or subcontract shall at all times and for all purposes remain the property of the State. For purposes of this Section, "public records" shall have the meaning set forth in Conn. Gen. Stat. § 4-33, as it may be modified from time to time.

44. Nondisclosure of Public Records

In accordance with Conn. Gen. Stat. § 4d-36, neither Contractor nor Contractor Parties shall disclose to the public any public records (a) which they possess, modify or create pursuant to this Master Agreement or any contract, subcontract or amendment to a contract or subcontract and (b) that a state agency (1) is prohibited from disclosing pursuant to state or federal law in all cases, (2) may disclose pursuant to state or federal law only to certain entities or individuals or under certain conditions or (3) may withhold from disclosure pursuant to state or federal law. This provision shall not be construed to prohibit the Contractor from disclosing such public records to any Contractor Parties to carry out the purposes of its subcontract. For purposes of this section, "public records" shall have the meaning set forth in Conn. Gen. Stat. § 1-200, as it may be modified from time to time.

45. Audit and Inspection of Plants, Places of Business and Records

- a. The Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents (each an "Auditing Entity"), may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor

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Parties' plants and places of business which, in any way, are related to, or involved in, the Performance of this Master Agreement and associated Participating Addenda and Orders.

- b. Contractor shall maintain, and shall require each Contractor Party to maintain, accurate and complete Records. Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the Auditing Entity.
- c. The Auditing Entity shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty- four (24) hours' notice prior to the requested audit and inspection date. If the Auditing Entity suspects fraud or other abuse, or in the event of an emergency, the Auditing Entity is not obligated to provide any prior notice.
- d. Contractor shall pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the Auditing Entity, is sufficient to constitute a Breach by the Contractor under this Master Agreement. The Contractor will remit full payment to the Auditing Entity for such audit or inspection no later than 30 days after receiving an invoice from the State. If the Auditing Entity does not receive payment within such time, the Auditing Entity may setoff the amount from any moneys which the Auditing Entity would otherwise be obligated to pay the Contractor in accordance with this Master Agreement.
- e. Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until six (6) years after the latter of (1) final payment for any Order placed under this Master Agreement, or (2) the expiration or earlier termination of this Master Agreement, as the same may be modified for any reason. An Auditing Entity may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- f. Contractor shall cooperate fully with the Auditing Entity and its agents in connection with an audit or inspection. Following any audit or inspection, the Auditing Entity may conduct and the Contractor shall cooperate with an exit conference.
- g. Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

46. Audit Requirements for Recipients of State Financial Assistance

For purposes of this paragraph, the word "Contractor" shall be deemed to mean "nonstate entity," as that term is defined in section 4-230 of the Connecticut General Statutes. The Contractor shall provide for an annual financial audit acceptable to the Lead State for any expenditure of Lead State awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor shall comply with federal and Lead State single audit standards as applicable.

47. Indemnification

- a. Contractor shall indemnify, defend and hold harmless the Lead State, Participating Entities, Purchasing Entities, NASPO, and its officers, representatives, agents, servants, employees, successors and assigns (each an "Indemnified Party") from and against any and all (1) Claims arising, directly or indirectly, in connection with this Master Agreement for the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or this Master Agreement. Contractor shall use counsel reasonably acceptable to the Indemnified Party in

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carrying out its obligations under this Section. Contractor's obligations under this Section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or non-copyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.

- b. Contractor shall not be responsible for indemnifying, defending or holding the Indemnified Party harmless from any liability arising due to the negligence of the Indemnified Party or any third party acting under the direct control or supervision of the Indemnified Party.
- c. Contractor shall reimburse the Indemnified Party for any and all damages to the real or personal property of the Indemnified Party caused by the Acts of Contractor or any Contractor Parties. The Indemnified Party shall give Contractor reasonable notice of any such Claims.
- d. Contractor's duties under this Section shall remain fully in effect and binding in accordance with the terms of this Master Agreement, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims or where the Indemnified Party is alleged or is found to have contributed to the Acts giving rise to the Claims or both.
- e. Contractor shall carry and maintain at all times during the Term of this Master Agreement, and during the time that any provisions survive the Term of this Master Agreement, sufficient commercial general liability insurance to satisfy its obligations under this Master Agreement.
- f. This Section shall survive the Termination of this Master Agreement and shall not be limited by reason of any insurance coverage. Unless otherwise set forth herein, this Section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement

48. Forum and Choice of Law

- a. Notwithstanding the other provisions of this of this Forum and Choice of Law Section, the parties deem this Master Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of this Master Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the Lead State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- b. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.
- c. If a Claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for Claims relating to the procurement, evaluation, award, or contract performance or

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administration if the Lead State is a party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

49. Assignment

The Contractor shall not assign any of its rights or obligations under this Master Agreement, voluntarily or otherwise, in any manner without the prior written consent of the Lead State. The Lead State may void any purported assignment in violation of this Section and declare the Contractor in breach of Master Agreement. Any Termination by the Lead State for a breach is without prejudice to the Lead State's or a Participating Entity or Purchasing Entity's rights or possible Claims.

50. Americans with Disabilities Act

Contractor represents that it is familiar with the terms of the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq, and that it is in compliance with the law. Failure of Contractor to satisfy this standard either now or during the Term as it may be amended will render this Master Agreement voidable at the option of the State upon notice to Contractor. Contractor warrants that it will hold the State harmless from any liability that may be imposed upon the State as a result of any failure of Contractor to be in compliance with the Americans with Disabilities Act.

51. Executive Orders and Other Enactments

- a. All references in this Master Agreement to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, "Enactments") shall mean Enactments that apply to the Master Agreement at any time during its term, or that may be made applicable to the Master Agreement during its Term. This Master Agreement shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. At the Contractor's request, the Lead State, Participating Entity, or Purchasing Entity shall provide a copy of these Enactments to the Contractor. Unless otherwise provided by Enactments, the Contractor is not relieved of its obligation to perform under this Master Agreement if it chooses to contest the applicability of the Enactments or the Lead State, Participating Entity, or Purchasing Entity's authority to require compliance with the Enactments.
- b. This Master Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Master Agreement as if they had been fully set forth in it.
- c. This Master Agreement may be subject to (1) Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; and (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04. If any of the Executive Orders referenced in this subsection is applicable, it is deemed to be incorporated into and made a part of this Master Agreement as if fully set forth in it.

52. Whistleblower Provision

This Master Agreement may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or

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quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of such statute, Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty percent of the value of this Master Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

53. Summary of State Ethics Laws

Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes (a) the Lead State has provided to the Contractor the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Master Agreement as if the summary had been fully set forth in this Master Agreement; (b) the Contractor represents that the chief executive officer or authorized signatory of the Master Agreement and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law; (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law; (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for Termination of the Master Agreement; and (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms.

54. Force Majeure

- a. The parties shall not be excused from their respective Master Agreement obligations except in the case of Force Majeure Events and as otherwise provided for in this Master Agreement.
- b. If a Force Majeure Event prevents a party from complying with any obligation or satisfying any conditions under this Master Agreement, then that failure to comply will not constitute a Breach if (A) that party uses reasonable efforts to comply; (B) that party's failure to comply is not due to its failure to (i) take reasonable measures to protect itself against Force Majeure Events or (ii) develop and maintain a reasonable contingency plan to respond to Force Majeure Events; and (C) that party complies with its obligations under subsection (c) of this Section.
- c. If a Force Majeure Event occurs, then the noncomplying party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on its obligations under this Master Agreement, and how long the noncomplying party expects the noncompliance to last. Thereafter, the noncomplying party shall update that information as reasonably necessary, or as the other party may reasonably request, whichever is more frequent. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume complying with its Performance and obligations under this Master Agreement.
- d. Failure to provide written notice of any Force Majeure Event as soon as the failing party becomes aware of it, or failure by the other party to Act in response to the notice, does not excuse any delays or failures in Performance or obligations.

55. Notice

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- a. All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Master Agreement (for the purpose of this Section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

State of Connecticut Department of Administrative Services
Procurement Division
450 Columbus Boulevard, Suite 1202
Hartford, CT 06103

Attention: Michael Baczewski

If to the Contractor:

Track Group, Inc.
200 E. 5th Avenue, Suite 100
Naperville, IL 60563

Attention: Legal Department

- b. Details regarding invoices and all technical or day-to-day administrative matters pertaining to this Master Agreement shall be directed to:

Purchasing Entity: The individual specified in the applicable Purchase Order.

Contractor: The individual designated by Contractor in the response to the Solicitation or as the Contractor may otherwise designate in writing to the Purchasing Entity.

56. Headings

The headings given to the Sections in this Master Agreement are inserted only for convenience and are in no way to be construed as part of this Master Agreement or as a limitation of the scope of the particular Section to which the heading refers.

57. Number and Gender

Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

58. Amendments, Supremacy, Entirety of Master Agreement

No amendment to or modification of this Master Agreement shall be valid or binding unless made in writing, signed by the parties and, if applicable, approved by the Connecticut Attorney General. Any and all Purchase Orders, Statements of Work or other documents authorized in connection with this Master Agreement shall be subject to the terms of this Master Agreement. Any additional terms within any such Purchase Order, SOW, or other document that contradict the terms of this Master Agreement shall have no force or effect and shall in no way affect, change or modify any of the terms of this Master Agreement. This Master Agreement contains the complete and exclusive statement of the terms agreed to by the parties.

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59. Severability

If any term or provision of this Master Agreement or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Master Agreement or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of this Master Agreement shall be valid and enforced to the fullest extent possible by law.

60. Risk of Loss and Insurance

The Purchasing Entity shall not be liable to Contractor for any risk of Deliverable loss or damage while Deliverables are in transit, or while in the Purchasing Entity's possession, except when such loss or damage is due directly to the Purchasing Entity's negligence or intentional misconduct. Nothing in this Section is intended nor shall it be construed, in any manner, as waiving or compromising the sovereign immunity of the Purchasing Entity.

The insurance required by this Section shall be written on an occurrence basis as opposed to a "claims made" basis and shall be on such forms, and contain such endorsements and terms, as shall be acceptable to the Lead State.

Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the Term of this Master Agreement, the insurance described below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within twenty (20) Business Days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

Contractor shall provide to Participating Entities the same insurance obligations and documentation as those specified in this section, except the endorsement is provided to the applicable Participating Entity. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement.

a. Commercial General Liability

Throughout the Term and during the time that any provisions survive the Term, Contractor shall maintain, at Contractor's sole cost and expense, a policy or policies of commercial general liability insurance, including contractual liability coverage, in an amount not less than \$1,000,000 for all damages arising out of bodily injuries to, or death of, all persons and injuries to or destruction of property, in any one accident or occurrence, and, subject to that limit per

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accident, a total (or aggregate) limit of \$2,000,000 per occurrence for all damages arising out of bodily injuries to, or death of, all persons and injuries to or destruction of property per policy period. The Contractor shall cause the State and its officers, agents, and employees to be named as an additional insured on the policy and shall provide (1) a certificate of insurance (2) the declaration page and (3) the additional insured endorsement to the policy to the Lead State all in an electronic format acceptable to the Lead State prior to the Effective Date evidencing such coverage. The Contractor shall not begin Performance until the delivery of these 3 documents to the Lead State. Contractor shall provide an annual electronic update of the 3 documents to the Lead State on or before each anniversary of the Effective Date during the Term. The State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the State is contributorily negligent, but only for that portion of the negligence attributable to the Contractor and not for that portion of the negligence attributable to the State.

b. Automobile Liability

\$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage extends to owned, hired and non-owned automobiles. If the Contractor does not own an automobile, but one is used in the execution of this Master Agreement, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Master Agreement, then automobile coverage is not required.

c. Workers' Compensation and Employer's Liability

Contractor shall maintain Worker's Compensation and Employer's Liability insurance in compliance with the laws of the state of Connecticut, which coverage shall include Employer's Liability coverage with minimum limits of \$100,000 for each accident, \$500,000 for disease, and \$100,000 for each employee, per policy period, or as otherwise required by the laws of the applicable Participating Entity or Purchasing Entity.

d. Excess / Umbrella Liability

Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.

e. Information Security Privacy

Throughout the Term, Contractor shall carry, at Contractor's sole cost and expense, an information security and privacy Insurance policy with limits not less than \$1,000,000 per occurrence or claim, \$1,000,000 annual aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this Master Agreement and shall include, but not limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including infringement of copyright, trademark, trade dress, invasion of privacy violations information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

f. Professional Liability

During the Term, and for a period of three (3) years thereafter, the Contractor shall carry Professional Liability Insurance in the amount of \$5,000,000 per Claim and Annual Aggregate. Contractor shall provide the State a certificate of insurance evidencing such Professional Liability Insurance coverage upon written request on an annual basis and shall not begin Performance until such a certificate has been provided to the Purchasing Entity.

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61. Chief Information Officer Approval of Subcontractors

In accordance with Conn. Gen. Stat. § 4d-32, Contractor shall not award a subcontract for work under this Master Agreement without having first obtained the written approval of the Chief Information Officer of the Department of Administrative Services or their designee of the selection of the subcontractor and of the provisions of the subcontract.

62. References to Statutes, Public Acts, Regulations, Codes and Executive Orders

All references in this Master Agreement to any statute, public act, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Master Agreement that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Master Agreement, this Master Agreement shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public act, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Master Agreement at the time of its execution.

63. Large State Contract Representation for Contractor

Pursuant to Conn. Gen. Stat. § 4-252 and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the Contractor, for itself and on behalf of all of its principals or key personnel who submitted a bid or proposal, represents:

- (1) That no gifts were made by (A) the Contractor, (B) any principals and key personnel of the Contractor, who participate substantially in preparing bids, proposals or negotiating State contracts, or (C) any agent of the Contractor or principals and key personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to (i) any public official or State employee of the State agency or quasi- public agency soliciting bids or proposals for State contracts, who participates substantially in the preparation of bid solicitations or requests for proposals for State contracts or the negotiation or award of State contracts, or (ii) any public official or State employee of any other State agency, who has supervisory or appointing authority over such State agency or quasi-public agency;
- (2) That no such principals and key personnel of the Contractor, or agent of the Contractor or of such principals and key personnel, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or State employee; and
- (3) That the Contractor is submitting bids or proposals without fraud or collusion with any person.

64. Large State Contract Representation for Official or Employee of State Agency

Pursuant to Conn. Gen. Stat. § 4-252 and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the State official or employee represents that the selection of the person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

65. Reserved.

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66. Consulting Agreements Representation

Pursuant to Conn. Gen. Stat. § 4a-81, the person signing this Contract on behalf of the Contractor represents, to their best knowledge and belief and subject to the penalty of false statement as provided in Conn. Gen. Stat. § 53a-157b, that the Contractor has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contracts. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of Conn. Gen. Stat. §4a-81.

_____ Consultant's Name and Title		_____ Name of Firm (if applicable)
_____ Start Date	_____ End Date	_____ Cost

The basic terms of the consulting agreement are:

Description of services provided:

Is the consultant a former State employee or former public official? ☐ YES ☐ NO

If YES: _____
Name of Former State Agency Termination Date of Employment

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The parties are executing this Master Agreement on the date below their respective signatures.

Track Group, Inc.

Derek
BY: Cassell

 Digitally signed by Derek
Cassell
Date: 2023.10.27
15:04:14 -0500

Name: Derek Cassell

Title: Chief Executive Officer
Duty Authorized

Date:

STATE OF CONNECTICUT

Department of Administrative Services

Solely for the purposes of acting in its capacity as the Lead State, thereby enabling states, other entities and the Lead State to contract using this Master Agreement, by executing a Participating Addendum.

BY

Name: Mark Raymond 

Title: Chief Information Officer
Duty Authorized

Date:

10/27/2023

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I. Scope of Services:

Contractor Services, all as listed in Exhibit B, Price Schedule, shall include:

- 1.** Real time electronic monitoring of home confinement 24 hours per day, 7 days per week, and 365 days per year ("24/7/365").
- 2.** System implementation, standard and custom integration, configuration, validation and deployment of the Licensed Software within a Hosting Environment and Hosting Services for global positioning system ("GPS") satellite monitoring. Contractor shall provide Licensed Software for unlimited Users.
- 3.** Hardware including ReliAlert/XC Offender GPS ankle bracelet, receiver ("beacon") and associated accessories.
- 4.** Preventative Maintenance and Support of Hardware:

Preventative maintenance and support of ReliAlert/XC Offender GPS ankle bracelets and beacons including repair and replacement of hardware in the event of failure resulting from normal wear and tear.
- 5.** Five (5%) Percent Allowance for Loss, Stolen, or Damaged Hardware:

Contractor provided coverage for loss, stolen, or damaged ReliAlert/XC Offender GPS ankle bracelets and beacons outside of normal wear and tear.
- 6.** Twenty (20%) Percent Surplus Hardware Allowance:

Contractor provided surplus of ReliAlert/XC Offender GPS ankle bracelets and beacons, calculated monthly, based on Purchasing Entity's active units.
- 7.** Optional Hardware Protection Plan for active and idle ReliAlert/XC Offender GPS ankle bracelets and beacons, 100% coverage.
- 8.** Monitoring Center Live Alert Calls:

Contractor provided live alert calls to Purchasing Entity authorized User(s) and offender(s) 24/7/365 as instructed by Purchasing Entity.
- 9.** Value-added technology and data reporting related technology services including:

A. Officer mobile smartphone application:

Application must provide User access to and use of the System via Purchasing Entity's User's smartphone device.

B. Empower victim smartphone application:

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Application must provide Purchasing Entity's authorized user with the following functionality:

- i. Generate a mobile mapping "geo-zone(s)" linked to offender's ReliAlert/XC Offender GPS Bracelet location; and
- ii. Notification/ping to user and Purchasing Entity User(s) of an offender's breach of the established geo-zone(s).

C. Smartphone device:

Contractor provided smartphone for Purchasing Entity's authorized user to run the Empower victim smartphone application.

D. GPS data analytics:

GPS data reporting and analysis of Purchasing Entity's designated data that allows Purchasing Entity to identify and locate offender and evaluate offender movement, including but not limited to, offender behavioral patterns.

10. System maintenance and support in accordance with Exhibit C, Service Level Agreement and Maintenance and Support.

11. Contractor shall deliver a System that must:

- A.** Be minimally obstructive to offenders' daily lives with Goods, Services and Systems that do not interfere with the offender's ability to seek, including but not limited to, employment or education.
- B.** In real time, restrict offender to the geofenced area(s) established by the Purchasing Entity, which may include but not be limited to, a range of 35 to 150 linear feet of the offender's home and/or residence and be able to report to the Purchasing Entity the location of offender outside any structure and/or building.
- C.** In real time, track and record time and collect and store offender GPS location points at a frequency not less than once every minute.
- D.** Comply with Participating Entity's directive and timeline for installing or removing all Goods and/or turning off offender monitoring.
- E.** Incorporate best-in class functionality related to charging capabilities, connectivity flexibility, tampering resistance, offender fit and feel and water resistance as approved by the Purchasing Entity. Contractor shall provide Upgrades as they become available at no additional cost to the Participating Entity.

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- F.** Include Goods in new, clean, damage free, and operative order. Remanufactured or refurbished Goods are not permitted under this Master Agreement. Goods delivered must comply with the electronic surveillance and/or monitoring standards set by the U.S. Department of Justice, including, without limitation, Goods must be:
- i.** Able to operate in active, passive and hybrid modes.
 - ii.** Capable of being worn on the offender's ankle.
 - iii.** Water resistant.
 - iv.** Hypoallergenic and not pose a safety risk or hazard to the offender wearing the Good(s).
 - v.** Easily attached to and removed from the offender by Purchasing Entity or Contractor in less than 10 minutes.
 - vi.** Shock-proof.
 - vii.** Connect to the Contractor's System through a cellular network.
 - viii.** Configurable to utilize multiple cellular towers within the Participating Entity and/or Purchasing Entity jurisdiction(s) for optimum offender location tracking service coverage.
 - ix.** Supplied with a rechargeable battery that operates on standard 110-volt household current and can maintain a charge for a minimum of 16 hours.
 - x.** Supplied with the functionality for Participating Entity to communicate with the offender which may include but may not be limited to; by voice, text, tone, vibration, light, liquid crystal display.
- G.** Allow Users of a Purchasing Entity to digitally track, monitor, receive real-time offender violation alert notifications and restrict offender travel within a designated area, as determined by the Purchasing Entity.
- H.** Allow Purchasing Entity to enroll offender pursuant to court order, remove offender from database, modify Purchasing Entity Data, generate reports, add notes, and otherwise perform offender case management activities by fax, email, web-based and/or telephone.
- I.** Generate and make available 24/7/365 offender digital activity reports in a format approved by Purchasing Entity. Offender digital activity reports must include, without limitation:

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- i.** Offender missed calls and/or notifications from the Contractor and/or Purchasing Entity.
 - ii.** Offender non-compliance with Purchasing Entity determined offender curfew(s).
 - iii.** Offender location including inclusion and exclusion zone violations.
 - iv.** Malfunctions of devices used by offender.
 - v.** Offender tampering.
 - vi.** Detection of low power or battery for Goods used by offender.
- J.** Include customizable System notification functionality including immediate and next calendar day notifications via secure email, phone voice message, and cellular text message.
- K.** Include monitoring center(s) with an uninterruptible power supply, located within the continental United States and equipped with redundant internet and telephone connectivity and inventorying of Goods as required by the Purchasing Entity pursuant to the Participating Entity's PA.
- L.** If Contractor is authorized by a Purchasing Entity to invoice offender(s) directly, allow Contractor to establish, in writing with the Purchasing Entity, the fee schedule including but not limited to any late fees incurred by offender(s) for insufficient payment.
- M.** Provide that all monitoring Service(s) are staffed by Contractor Parties and operate continuously, 24/7/365.
- N.** Provide that all Contractor Parties Performing Services shall be Original Equipment Manufacturer ("OEM") trained and shall effectively and efficiently deliver technical assistance to Purchasing Entity and offenders, as applicable.
- O.** Provide that Contractor and Contractor Parties Performing monitoring centers shall be fully trained in the System functionality including the Goods and monitoring services delivered to the Purchasing Entity and used by the offender.
- P.** Comply with all applicable local, state, and federal policies, regulations, and laws including but not limited to; the U.S. Department of Justice, the Federal Communication Commission ("FCC") and the National Institute of Standards and Technology ("NIST") including NIST 800-53 or most current NIST directive. Contractor Deliverables shall comply with all new

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state federal and local regulations, policies and/or laws at no additional expense to the Purchasing Entity.

- Q.** Comply with Purchasing Entity's requirements for electronic monitoring systems and technology.

II. Licensing, Permits and Certificates:

Prior to Performance, Contractor shall obtain, at no additional cost to the Purchasing Entity, all applicable permits, licenses, and certificates. Contractor shall furnish all applicable permits, licenses and/or certificates to the Purchasing Entity upon request.

III. Needs Assessment:

Upon Participating Entity's or Purchasing Entity's request and prior to the issuance of a PA, SOW and/or Purchase Order, Contractor shall:

1. At no cost, schedule a mutually agreed to date and time to conduct an initial needs assessment ("Needs Assessment Meeting") to assist a Participating Entity or Purchasing Entity.
2. During the Needs Assessment Meeting, Contractor shall assess and identify Deliverables System needs, to satisfy Participating Entity's or Purchasing Entity's need.
3. Upon the completion of the Needs Assessment Meeting, Participating Entity or Purchasing Entity may require Contractor to provide a summary of the Deliverables to be incorporated in the PA or SOW, as applicable.

IV. SOW Guidelines for Purchasing Entities:

Unless otherwise required by the Purchasing Entity, the SOW must include, without limitation:

1. Project Objectives: a summary of the Purchasing Entity's project.
2. Scope of Services: the specific Deliverables, Acceptance Criteria for each Deliverable, Performance Criteria, and Service requirements, as applicable.
3. Deliverable Implementation Schedule: the specific timeline and implementation for each Deliverable.
4. Cost, pursuant to Exhibit B, Price Schedules.
5. Services and associated Deliverables, as identified by Contractor in collaboration with the Purchasing Entity, including but not limited to:

A. Project Management:

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Tasks within project management may include, but are not limited to:

- i.** Project kick-off which may include virtual meetings, meetings in person or both; preparing and distributing kick-off materials, and distribution of any agenda, notes or minutes;
 - ii.** Business visioning and analysis that includes current and future Purchasing Entity Goods, Services and System needs;
 - iii.** Project schedule for all tasks and activities;
 - iv.** Status reporting plan, including daily, weekly, monthly, and ad-hoc reporting in both written and oral formats;
 - v.** Project resource management plan;
 - vi.** Project organizational structure;
 - vii.** Risk management and mitigation plan;
 - viii.** Issue management plan;
 - ix.** Deliverables management plan;
 - x.** Project communication plan;
 - xi.** Quality management plan;
 - xii.** Testing strategy and plan that must include testing environments, tools, and a modular testing approach considering transitional operations;
 - xiii.** Document management plan that must include naming, versioning, and style approved by the Purchasing Entity;
 - xiv.** Knowledge transfer plan for transferring knowledge base and all project Documentation to Purchasing Entity staff and as applicable, Purchasing Entity's identified stakeholders;
 - xv.** Support Purchasing Entity from project implementation through Go-Live deployment; and
 - xvi.** Other content as Contractor or Purchasing Entity determine to be necessary or appropriate considering the nature of the project.
- B.** Complete System integration, standard or custom, System configuration and System implementation, to include, testing and validating Licensed

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Software to determine suitability before integration into Purchasing Entity's existing system(s) and infrastructure(s) including, but not limited:

- i.** Data conversion and migration services.
- ii.** System solution design, configuration including functional, technical, security, and the integration and interfacing with existing infrastructure(s) and, as applicable, third-party billing systems.
- iii.** Install, set up, and configure the System in the Hosted Environment.
- iv.** Quality assurance and quality control services including System Performance, security and maintainability.
- v.** Pursuant to Exhibit C, User training of System functionality, access and use, and knowledge transfer, including all applicable Documentation and Materials in accordance with the needs of the Purchasing Entity.
- vi.** Pursuant to Exhibit C, Service Level Agreement and Maintenance and Support, including technical support during the integration project and throughout the Warranty Period.
- vii.** Project closeout services including, without limitation, post-implementation System support, troubleshooting, System updating and maintenance and support in accordance with Exhibit C Service Level Agreement and Maintenance and Support.

C. Hardware and maintenance and support:

ReliAlert/XC Offender GPS ankle bracelet, beacon, accessories and associated maintenance and support.

D. Value-added technology and data reporting services including;

- i.** Officer Mobile smartphone application.
- ii.** Empower Victim smartphone application.
- iii.** Smartphone device.
- iv.** GPS data analytics.

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EXHIBIT B
PRICE SCHEDULE

Electronic Monitoring Service Category: GPS Satelite Monitoring

Contractor: Track Group, Inc.	Delivery: As required per Purchasing Entity
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This Exhibit B Price Schedule includes not to exceed “ceiling” pricing for Contractor for the electronic monitoring service offered. All Contractor costs are included in the prices specified unless otherwise negotiated per Participating Entity’s PA. A Participating Entity reserves the right to further negotiate pricing per its PA.

Item	Description of Service	Cost
1	Real time electronic monitoring of home confinement 24 hours per day, 7 days per week, and 365 days per year	Included at no additional cost.
2	System implementation, integration, configuration, UAT and Go-Live deployment	
3	Standard integration, a total of 80 hours of integration to include: - Up to 40 hours of Contractor developer time; - Up to 20 hours of Contractor quality assurance time; and - Up to 20 hours of Systems integration time.	
4	Custom integration Beyond the 80 hours of standard integration, billable at Contractor rates.	Contractor rates: - Developer: \$150.00 per hour - Project Manager: \$150.00 per hour - Systems Integration: \$100.00 per hour - Quality Assurance: \$75.00 per hour
5	Licensed Software for unlimited Users	Included at no additional cost.
6	Hosted Services	
7	System Training for unlimited Users: - Web Based and/or Virtual Training - On-Site	
8	Preventative Maintenance and Support of Hardware	
9	Five (5%) Percent Allowance for Loss, Stolen, or Damaged Hardware - In year one of Service, the 5% allowance is based on the average monthly total of ReliAlert/XC Offender GPS ankle bracelet/beacon leased. Allowances calculated separately for ReliAlert/XC Offender GPS ankle bracelet and beacon. - Beginning in year two of Service, the 5% allowance is based on the average annual total of ReliAlert/XC Offender GPS ankle bracelet/beacon leased. Allowances calculated separately for ReliAlert/XC Offender GPS ankle bracelet and beacon.	
10	Twenty (20%) Percent Allowance of Surplus Hardware 20 % surplus hardware provided based on Purchasing Entity’s active ReliAlert/XC Offender GPS ankle bracelets and beacons.	Contractor Rates: \$0.50 daily rate per each active or idle ReliAlert/XC Offender GPS ankle bracelet. The beacon covered at no additional cost.
11	Optional Hardware Protection Plan for Active and Inactive ReliAlert/XC Offender GPS Ankle Bracelets and Beacons 100% coverage annually for loss of and damage to active and inactive ReliAlert/XC Offender GPS ankle bracelets and beacons.	
12	Monitoring Center Live Alert Calls, 24/7/365	Contractor Rates: \$0.25 daily rate per active ReliAlert/XC Offender GPS ankle bracelet and beacon per day.

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Hardware Lease Option Only:						
Item	Model Description	Number of Units	Daily Rate Per Active Unit Per Day		Replacement Cost Per Unit	
			Product Lease	Monitoring Service	ReliAlert/XC Offender GPS ankle bracelet	Beacon
1	ReliAlert/XC Offender GPS ankle bracelet and beacon	1 - 25	\$ 3.50	\$ 0.18	\$ 600.00	\$ 75.00
		26 - 100	\$ 3.25	\$ 0.18	\$ 600.00	\$ 75.00
		101 - 250	\$ 3.20	\$ 0.18	\$ 600.00	\$ 75.00
		251 - 500	\$ 3.15	\$ 0.18	\$ 600.00	\$ 75.00
		501 - 1,000	\$ 3.10	\$ 0.18	\$ 600.00	\$ 75.00
		1,001 - 2,000	\$ 3.05	\$ 0.18	\$ 600.00	\$ 75.00
		2,001 – 3,500	\$ 3.00	\$ 0.18	\$ 600.00	\$ 75.00
		3,501+	\$ 2.95	\$ 0.18	\$ 600.00	\$ 75.00
Optional Accessory:						
2	Secure Cuff	Each	\$ 0.45			

Optional value-added technology and data reporting services:		
Item	Description	Daily Rate Per Active Unit Per Day
1	Officer mobile smartphone application	Included at no additional cost.
2	Empower victim smartphone application	\$ 1.98
3	Smartphone device	\$ 2.00
4	GPS data analytics	\$ 0.60

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EXHIBIT C
SERVICE LEVEL AGREEMENT AND MAINTENANCE AND SUPPORT

I. System Availability:

Throughout the Term and at all times in connection with its actual or required Performance under the Master Agreement and applicable PA, Contractor shall:

1. Provide System Availability (defined below) at least 99.999% of the Available- Time-per-Month. as measured over the course of each calendar month, 24 hours per day, 7 days per week during the Term which the Contractor does or is required to Perform under the Master Agreement.

2. Calculation:

The 99.999% required System Availability (Computed % Availability) (exclusive of Excluded Unavailability, as defined below) during any calendar month of productive Purchasing Entity use is computed as follows:

$$\text{Computed \% Reliability} = \frac{(\text{Available-Time-per-Month}) - (\text{Downtime-per-Month})}{(\text{Available-Time-per-Month})}$$

“Available-Time-per-Month” equated to 24 hours times the number of days in the month and Downtime-per-Month is equated to those minutes of Available-Time-per-Month during which the Purchasing Entity or any specific site does not have System Availability.

EXAMPLE:

Given: Available-Time-per-Month was 720 hours.
Downtime per-Month was 3.60 hours.

$$\text{Then: Computed \% Reliability} = \frac{(720 - 3.60)}{720} = 99.5\%$$

3. Definitions:

A. System Availability means the Hosted Services meet the System Reliability standards in I 7below and are available and operable for access and use by Purchasing Entity and its Users in accordance with the Master Agreement.

B. Excluded Unavailability means scheduled downtime, subject to Section I 5 below and lack of System Availability due to the negligent act or omission of Purchasing Entity or anyone accessing the System through Purchasing Entity; or Force Majeure Event

4. System downtime will not exceed .001% of the time in any calendar month.

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5. Scheduled Downtime:

Contractor shall notify Purchasing Entity at least 3 Business Days in advance of any scheduled downtime of the System, in whole or in part. Such scheduled downtime must (1) last no longer than 60 minutes per calendar month; (2) be pre-approved by Purchasing Entity; and (3) be scheduled on a weekend day, the specific date and time to be determined by Purchasing Entity, unless otherwise agreed to by Purchasing Entity.

Purchasing Entity acknowledges that large System Improvements, Upgrades, or Updates will take longer than the allotted 60 minutes per calendar month of cumulative downtime. The parties will mutually agree on the date and time that large System Improvements, Upgrades, or Updates will take place. Contractor will inform Purchasing Entity of the amount of time expected for such implementation. Purchasing Entity shall waive the cumulative downtime allotment for System Improvements, Updates or Upgrades on a case by case basis, provided that the parties shall agree to a substitute downtime allotment for that System Improvement, Upgrade or Update. To the extent downtime for a System Improvement, Upgrade or Update exceeds a substituted time such excess will count toward 60 minute cumulative downtime allotment.

6. System Availability Reports:

Contractor shall provide Purchasing Entity with the following reports, in electronic form, or such other form as Purchasing Entity may approve in writing:

- A.** A daily report describing the System Availability and performance of the Hosted Services during the previous 24-hour calendar day as compared to the System Availability requirement.
- B.** A weekly report describing the System Availability and performance of the Hosted Services during the previous 7 calendar days as compared to the System Availability requirement. The weekly report must be available every Monday at 10:00 am Eastern Standard Time, and must include the previous 7 calendar days (Monday through Sunday). The reportable week shall begin at 12 am Eastern Standard Time, and end midnight (12 pm) Sunday of that calendar week.
- C.** A monthly report describing the System Availability and performance of the Hosted Services during the calendar month as compared to the System Availability requirement. The monthly report must be available 10 Business Days following the last day of the previous month and must include all of the calendar days of that reportable month. The reportable month will start at 12:00 am, EST on the first day of the calendar month and end on 11:59 pm, EST of the last day of the calendar month.
- D.** A report shall also include, at minimum:
 - i.** Actual performance of the Hosted Services relative to the System Availability requirement.

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- ii. If performance of Hosted Services has failed in any respect to meet or exceed the System Availability requirement during the reporting period, a description in sufficient detail to inform Purchasing Entity of the cause of such failure, the length of the failure and the corrective actions the Contractor has taken to ensure that the System Availability requirements are fully met. Any such failure to meet the 99.999% System Availability requirement shall be subject to Section III, System Performance, Non-Compliance in this Exhibit C.
- iii. Notwithstanding the Contractor's obligation to provide System Availability reports, Contractor shall give Purchasing Entity access to the System Availability performance data which access will allow Purchasing Entity to independently generate reports utilizing search parameters acceptable to Purchasing Entity.

7. System Reliability:

The reliability, at any point in time, of the System shall be determined by the System's operational capability for productive Purchasing Entity use as configured, hosted, and installed, as applicable within the specified operating environment.

II. Redundant Hosting and Data Back Up

1. Redundant Hosting:

- A. Contractor shall simultaneously operate 2 co-located systems in geographically separate locations: (1) Primary Production mirrored (Primary System) site and (2) Secondary Disaster Recovery (DR) site within the continental United States. The DR site shall be geographically remote from the Primary System site on which the Licensed Software and Services are hosted. The Primary System site shall include redundant servers within the Hosting Environment and one hundred (100%) percent of the System workload. In addition to the separate locations, the DR site will be a replica of the Primary System and identical in all respects to the Primary System site and able to function independently of the Primary System site.
- B. Contractor shall operate, monitor and maintain the DR site so that it is configured to replace the functionality of the Primary System site within 30 minutes of any failure of the Primary System site.
- C. In the event the Primary System site is unavailable, the DR site will support all production activity, immediately.
- D. In the event the DR site becomes unavailable, the Primary System site will continue as the primary production site without interruption and a replacement DR site must be made available within 24 hours, except for a Force Majeure event.

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- E. Contractor shall guarantee a recovery time objective and recovery point objective of not more than 30 minutes.

2. Data Backup

Contractor shall conduct or cause to be conducted, automated daily and weekly back- ups of Confidential Information and all System data.

III. System Performance, Non-Compliance:

1. System Unavailability:

- A. Contractor shall provide System Availability as provided in Section I of this Exhibit C. For every hour or part of an hour starting with minute 1 immediately after the 30 minutes of failure to provide System Availability, Contractor shall incur a charge of \$10,000.00 until System Availability is restored. Partial hours shall be prorated to the nearest 1/2 hour. The charge imposed on Contractor under Section III1.A of this Exhibit C will be paid by the Contractor to the Purchasing Entity within 30 days of invoicing.
- B. If Purchasing Entity terminates its Purchase Order or SOW, as applicable prior to the payment of the charge, then Contractor shall pay Purchasing Entity the amount of the service level owed for System unavailability or noncompliance within 30 days of Purchasing Entity's written notice to Contractor.

2. System Accuracy:

Contractor shall conduct an annual performance test to assess System accuracy levels. Purchasing Entity shall use the first annual performance test set and test results as the initial baseline. The test set will include all Confidential Information of a subset of one database on both the primary and secondary data center.

IV. System Training:

At a minimum, Contractor shall provide the following for each Purchasing Entity:

1. Web Based and/or Virtual Training, no additional cost:

- A. For an unlimited number of Purchasing Entity authorized User(s) scheduled at a frequency and duration as determined by Purchasing Entity. Unless otherwise instructed by a Purchasing Entity, Contractor shall provide training within 10 Business Days of written request.
- B. Training materials in a digital format unless otherwise specified by Purchasing Entity.

2. On-Site Training, no additional cost:

- A. For an unlimited number of Purchasing Entity authorized User(s) scheduled at a frequency and duration as determined by Purchasing Entity. Unless otherwise

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instructed by a Purchasing Entity, Contractor shall provide training within 10 Business Days of written request.

- B.** Training materials in a digital format unless otherwise specified by Purchasing Entity.

3. Unlimited Access to Contractor's Online Resources, no additional cost:

Digital user manuals for Purchasing Entity and offender, as applicable and/or as requested by Purchasing Entity, including unlimited access to online resources.

V. System Maintenance and Support:

1. Maintenance:

- A.** Contractor shall provide Purchasing Entity with System maintenance and support, including, but not limited to, Upgrades, Updates, Improvements and technical support of all products and services, including ongoing unlimited telephone technical support, problem identification, escalation and resolution.
- B.** Contractor System maintenance shall also include the following:
 - i.** Maintenance of the System so that it operates in conformity with the Master Agreement and Purchasing Entity's PA.
 - ii.** Detection and correction of System errors pursuant to the Master Agreement and Purchasing Entity's PA.
 - iii.** Hardware and electronic monitoring device maintenance services including, but not limited to routine inspection of all hardware and electronic monitoring devices, as applicable, to identify replacement needs, implementation of additional hardware and electronic monitoring devices as necessary to maintain Purchasing Entity Data and proactive preventative maintenance to ensure proper operation. Offender lost or damage to electronic monitoring devices, as determined between Contractor and Purchasing Entity, to be billed in accordance with Exhibit B, Price Schedule.
 - iv.** System database maintenance, with regular database activities including daily backups, table re-organizations, database statistics, data security, data import/export functionality.
 - v.** All services necessary to maintain the 99.999% System Availability.
 - vi.** Meeting with Purchasing Entity on a monthly basis, unless otherwise specified by Purchasing Entity, to discuss Licensed Software implementation, Upgrades, Updates and Improvements, Hosted Environment, Hosted Services, System maintenance and help desk requests received, change control for hardware or software implementation, and planned and unplanned outages that occurred since the last scheduled status meeting.

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- vii. Purchasing Entity read and report access to Contractor's help desk portal, enabling Purchasing Entity to track and report on all production issues.

2. On-Going Support:

Contractor shall provide on-going support 24 hours per day, 7 days per week, 365 days per year ("24/7/365") at no additional cost, pursuant to the Maintenance and Support table below. Contractor shall monitor all nightly batch processes and provide Purchasing Entity with an immediate response, including escalation as appropriate, in the case of a failure.

Maintenance and Support Table	
Software Support	24 / 7 / 365
Unlimited Telephone Technical Support	√
One Hour Telephone Response Time	√
Remote Dial-in Analysis	√
Licensed Software Standard Release – Improvements	√
Licensed Software Supplemental Releases	√
Automatic Call Escalation	√
Licensed Software Customer Alert Bulletins	√

Hardware Support	24 / 7 / 365
On-Site Response	√
On-Site Corrective Maintenance	√
On-Site Replacement, including devices	√
Preventive Maintenance	√
Escalation Support	√
Hardware Service Reporting	√
Hardware Customer Alert Bulletins	√
Annual Diagnostic Review	√
Replacement of Backend Components as Needed	√

3. Help Desk and Service Request Support:

Contractor shall provide a toll-free telephone number and email address which Purchasing Entity can use to report technical System issues or requests for Service. The toll free telephone number will be a direct contact line to Contractor support or help desk.

Contractor help desk shall:

- A.** Provide knowledgeable and trained personnel to answer and resolve System

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support and technical problems. The help desk personnel shall be able to answer "how to" type questions about the System as well as questions about hardware, software, security and internet setting configurations.

- B.** Provide Contractor Parties dispatched by Contractor to assist with issues requiring same day, on-Site support.
- C.** Provide a Frequently Asked Questions (FAQ) list for the resolution of common issues.
- D.** Respond to the Purchasing Entity caller with a resolution or escalation strategy within 60 minutes.
- E.** If support help desk personnel are unable to reach the Purchasing Entity by telephone, the help desk personnel shall leave a voice message for the Purchasing Entity caller and indicate help desk personnel name, time called, and description of how to return the call to obtain further assistance. This voice mail will be immediately followed up by an email to both the Purchasing Entity caller and the Purchasing Entity caller's supervisor with the same information as specified in the voice mail. Help desk personnel shall continue, on a daily basis or other basis agreed upon between Purchasing Entity and Contractor, to update Purchasing Entity on the status of the help desk request.
- F.** Maintain a log of all help desk calls and document complaints, issues and requests reported to the help desk until such time as Purchasing Entity directs in writing that the Contractor may discard the reported call. The log will be made available to Purchasing Entity electronically in real-time and as part of Contractor's monthly reporting. Contractor shall deliver the monthly log to Purchasing Entity 5 Business Days prior to the monthly meeting. The log shall include, at minimum:
 - i.** Time of call;
 - ii.** Name of caller;
 - iii.** Caller's telephone number or email;
 - iv.** Description of reported issue, complaint or request;
 - v.** Indication of whether the issue was resolved at time of call;
 - vi.** Description of any escalation, investigation and resolution;
 - vii.** Assigned case number if resolution not provided during call
 - viii.** Date, time, and description of final resolution; and
 - ix.** Contractor sign-off upon resolution.

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G. Contractor shall respond to any support and/or service request from Purchasing Entity within 2 hours of Purchasing Entity initial request for assistance regardless of time zone. Purchasing Entity reserves the right to enact more comprehensive response times per Purchasing Entity PA including but not limited to, required help desk support for offender service requests.

4. Escalation:

Contractor shall resolve 80% of all System issues and requests for service, other than Updates, Upgrades, or Improvements or new features, regardless of severity level, within 24 hours and 99% of severity 1 issues within 1 hour. If more than one request within the same severity level is reported to the Contractor, Purchasing Entity shall determine the priority of the requests. The severity level of a System issue shall be lowered if Contractor implements a work-around, as approved by Purchasing Entity that reduces the severity of the System issue. When responding to System issues or requests for service, Contractor shall use the severity levels defined in the following table:

Severity Level	Description	Definition	Examples, including, but not limited to the following
1	Total System Failure	Occurs when the System is not functioning and there is no workaround.	• Application, database, or web server down. • Central server down. • Interfaces not working. • Monitoring Services unavailable. Cannot locate an offender. • Application bug/issue stopping workflow for any/all Users.
2	Critical Failure	Critical failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around.	• Failover site is not available. • Reporting server is down/Users unable to create reports/Users unable to access reporting database. • Response time degraded. • Purchasing Entity User cannot access System. • Application bug/issue hindering System performance and/or real time monitoring Service.
3	Non-Critical Failure	Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.	• Reports are formatted incorrectly.
4	Inconvenience	An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.	• Hardware is working in a manner that causes inconvenience (for example, working slowly). • Purchasing Entity User has application or training question that does not affect daily productivity. • 'One off' error occurs infrequently and cannot be easily reproduced.
5	New features	Occur when Purchasing Entity requests a new feature to System functionality. Such new feature shall	• New monitoring Service features available.

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		be installed by Contractor as agreed to between parties.	
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VI. Additional PA Requirements:

Due to significant variability of Purchasing Entity's needs and specific requirements, the Contractor shall comply with all additional Service Level and Maintenance and Support requirements as may be set forth in a PA or SOW, as applicable.

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EXHIBIT D
NASPO VALUEPOINT PROVISIONS

1. **Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in section 5 of the Master Agreement and in this Exhibit D are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.
2. **Administrative Fees**
 - a. **NASPO ValuePoint Fee.** Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.
 - b. **State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.
3. **NASPO ValuePoint Summary and Detailed Usage Reports**
 - a. **Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.
 - b. **Summary Sales Data.** "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.
 - c. **Detailed Sales Data.** "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
 - d. **Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to

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NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.

- e. **Executive Summary.** Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

4. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

- a. **Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.
- b. **Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.
- c. **Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.
- d. **Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.
- e. **Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

- 5. **Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon,

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including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

- 6. Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.
- 7. Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.