

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862
FOR NASPO VALUEPOINT PURCHASING PROGRAM: Computer Equipment, Peripherals & Related Services
Led by the State of Minnesota
NASPO Master Agreement #23019

Contractor: Panasonic Connect North America

Contractor's NASPO ValuePoint Webpage: <https://www.naspovaluepoint.org/portfolio/computer-equipment-peripherals-related-services-2023-2028/panasonic-connect-north-america/>

1. **Parties.** This Participating Addendum (“Agreement”) is a contract between the State of Vermont, through its Department of Buildings and General Services, Office of Purchasing & Contracting (hereinafter “State” or “Vermont”), and the Contractor identified above. It is the Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** This Agreement authorizes Purchasing Entities (defined below in section four) to purchase from Contractor certain products and services offered by Contractor under the NASPO Master Agreement identified above (“Master Agreement”) at or below the rates established under the Master Agreement for such products and services. The terms of the Master Agreement are hereby incorporated by reference as if fully set forth herein. Contractor’s awarded categories are:
 - Band 1, Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets
 - Zero clients
 - Thin clients
 - All-in-ones
 - Workstations
 - Notebooks
 - Mobile thin clients; and
 - Ruggedized equipment
 - Band 2, Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets
 - Zero clients
 - Thin clients
 - All-in-ones
 - Workstations
 - Notebooks
 - Mobile thin clients; and
 - Ruggedized equipment

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

3. **Definitions.** Capitalized terms used, but not defined herein, have the meanings ascribed to such terms in the Master Agreement.
4. **Entities Authorized to Use This Agreement.** This Agreement may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a “State Purchaser”) according to the process for ordering and other restrictions applicable to State Purchasers set forth herein; and (b) political subdivisions of the State of Vermont (including, but not limited to, cities, towns, and school districts) and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education as authorized under 29 V.S.A. § 902 (each an “Additional Purchaser”). Each State Purchaser and Additional Purchaser is referred to herein as a “Purchasing Entity” or collectively as “Purchasing Entities”. Issues concerning a Purchasing Entity’s eligibility for participation under this Agreement are solely within the authority of the State of Vermont Chief Procurement Officer. The State of Vermont and its officers and employees shall have no responsibility or liability for Additional Purchasers. Each Additional Purchaser is to make its own determination whether this Participating Addendum and the Master Agreement are consistent with its procurement policies and regulations.
5. **Contract Term.** This Agreement shall be effective on October 1, 2023 and end upon expiration of the Master Agreement, unless terminated earlier in accordance with the terms of this Agreement or the Master Agreement. An amendment to the term of this Agreement shall not be necessary in the event of the renewal or extension of the Master Agreement.
6. **Restricted/Disallowed Products and Services.** All products and services listed in the Master Agreement may be purchased under this Agreement, subject to the restrictions set forth in the Master Agreement, except as set forth directly below in this section.
 - a. Cybersecurity Standard Update 2023-01. Contractor confirms that all products and services provided to or for the use of a State Purchaser under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update 2023-01, which prohibits the use of certain branded products in State information systems or any vendor system that is supporting State information systems, and is available on-line at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
 - b. Configuration Dollar Limits. No configuration dollar limits apply to orders placed under this Agreement.
 - c. Services. Services are allowed under this Agreement. Orders that include services shall use and follow the SOW Services Order Form attached to this Agreement for reference.
7. **No Lease Agreements with State Purchasers.** Contractor is prohibited from leasing to State Purchasers under this Agreement. Any breach of this prohibition shall be grounds for termination of this Agreement by the State and the immediate cancellation of any applicable purchases. Additional Purchasers are not subject to this prohibition and may negotiate lease agreements directly with Contractor if and to the extent leasing is contemplated under the terms of the Master Agreement.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America**8. Requirements for Ordering.**

- a. Orders must be placed pursuant to this Agreement prior to the termination of this Agreement.
 - i. Notwithstanding the expiration, cancellation or termination of this Agreement, Contractor agrees to perform in accordance with the terms of any orders then outstanding at the time of such expiration or termination. Contractor shall not honor any orders placed after the expiration, cancellation, or termination of this Agreement, or otherwise inconsistent with its terms.
 - ii. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Agreement may not be placed after the expiration or termination of this Cooperative Purchasing Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.
 - iii. Any language in the Master Agreement setting a time limit on delivery dates or performance periods for valid orders placed under this Agreement shall not apply. Vermont Purchasing Entities shall follow their customary procurement rules and policies when considering the duration of orders placed under this Agreement.
 - b. All orders placed under this Participating Addendum must be in writing and shall, at a minimum, specify the following:
 - i. The product(s) being delivered and the place and time of delivery;
 - ii. The service(s) required and the place and time period for performance;
 - iii. The Purchasing Entity's billing address;
 - iv. The name and contact information for the Purchasing Entity's primary contact;
 - v. The price per unit, rates, or other pricing elements consistent with this Agreement;
 - vi. A maximum amount payable by the Purchasing Entity under the order;
 - vii. A unique identifier for the order; and
 - viii. The State of Vermont Participating Addendum Number.
 - c. As applicable, orders shall include specifically negotiated statement of work or service level agreement terms as necessary for the product and/or service to meet the Purchasing Entity's requirements.
 - d. Orders may include additional terms as necessary to comply with local, state or federal laws or regulations applicable to the Purchasing Entity.
- 9. Requirements for Ordering Applicable to State Purchasers Only.** The following requirements apply as between Contractor and State Purchasers only and are not applicable to Additional

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

Purchasers. An Additional Purchaser may adopt procedures for purchasing under this Agreement as necessary to comply with its procurement policies and regulations.

- a. Contract Backed Purchase Order (PO). For orders by State Purchasers that do not include services, the Ordering Document will be a Contract backed Purchase Order (PO) that draws against the Contract.
- b. Services. For orders that include services Contractor shall use the State of Vermont SOW Services Order Form attached to the Agreement with State Purchasers.
- c. The State's Agency of Digital Services is the only entity authorized to place orders on behalf of State Purchasers. Orders placed from any other source shall not be binding against the State, or the State Purchaser. Contractor can verify orders for State Purchasers by contacting ADS.ITPurchasing@vermont.gov . Contractor agrees that it will not accept or fulfill orders placed on behalf of State Purchasers from any other source. Contractor's failure to meet this requirement may result in suspension or termination of this Participating Addendum.

10. Payment Provisions and Invoicing.

- a. Payment obligations shall be solely between the Purchasing Entity and the Contractor.
- b. Purchasing Entities may solicit the Contractor or, as applicable, its Fulfillment Partner/Authorized Reseller for deeper discounts than the minimum contract pricing as set forth in the Price Schedule (e.g., additional volume pricing, incremental discounts, firm fixed pricing or other incentives).
- c. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored.
- d. Retainage may be specified in an order in an amount mutually agreeable to the parties.
- e. Overdue or other charges or penalty for late payment are not authorized and shall not apply to Purchasing Entities.
- f. Payment terms are Net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documentation. Invoices shall itemize all work performed during the invoice period, including, as applicable, the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment. As applicable, a copy of the notice(s) of acceptance shall accompany invoices submitted for payment.
- g. Invoices shall be sent to the address identified on the Purchasing Entity's order and shall specify:
 - i. The address to which payments will be sent;
 - ii. The State of Vermont Contract Number for this Agreement, as indicated atop this Agreement; and

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

- iii. The order number or other unique identifier for the order against which the invoice is being submitted.
- h. Reimbursement of expenses is not authorized. Contractor rates set forth in an order shall be inclusive of any and all Contractor fees and expenses.
- i. Unopened Products can be returned with no restocking fee up to 30 days from the date of receipt.
- j. The State Purchasing Card may be used by State Purchasers for the payment of invoices. Use of the Purchasing Card requires all required documentation applicable to the purchase. The Purchasing Card is a payment mechanism, not a procurement approach and, therefore, does not relieve State Purchasers from adhering to all procurement laws, regulations, policies, procedures, and best practices.

11. Fulfillment Partners/Authorized Resellers.

- a. Resellers (or Fulfillment Partners) are available for this Agreement if and to the extent approved by the State Chief Procurement Officer (each an “Authorized Reseller”). Any Authorized Resellers will be listed on the Contractor’s dedicated webpage listed atop this Agreement.
- b. All State policies, guidelines, and requirements shall apply to Authorized Resellers.
- c. Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions of this Agreement. Contractor acknowledges that each and all of the promises it makes as “Contractor” in this Agreement and the Master Agreement apply to all Products and Services provided hereunder, regardless of who is providing or licensing the Product or performing the work.

12. Reporting. Contractor shall submit quarterly reports electronically detailing the purchasing of all items by all Purchasing Entities under this Agreement. If the format for reporting is not otherwise set forth under the Master Agreement, Contractor’s reporting shall detail the minimum requirements for orders as set out in section 8.b, above. Contractor’s reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.

- a. The reports shall be an excel spreadsheet transmitted electronically to SOV.ThePathForward@vermont.gov.
- b. Reports are due for each quarter as follows:

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

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

- c. Failure to meet these reporting requirements may result in suspension or termination of this Participating Addendum.
13. **Prior Approvals.** This Agreement shall not be binding until it has been approved by the State in accordance with current State law, bulletins, and interpretations.
14. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representatives of the State and Contractor.
15. **Termination.** This Agreement may be terminated by the State at any time upon 30 days prior written notice to the Contractor.
16. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this Agreement, which are presently as follows:
- a. **For the Contractor:**
- | | |
|--------|------------------------------------|
| Name: | Solomon Surles |
| Phone: | 775/895-2401 |
| Email: | Solomon.SurlesIII@us.panasonic.com |
- b. **For the State:**
- | | |
|----------|--|
| Name: | State of Vermont, Roland Ortiz |
| Address: | 133 State Street, Montpelier, VT 05633-8000 |
| Phone: | 802/371-8987 |
| Email: | roland.ortiz@vermont.gov |
17. **No effect of Click-Through or Other Additional Terms and Conditions.** Where a Purchasing Entity is required to click-through or otherwise accept or made subject to any electronic terms and conditions to use or access any Product or Service purchased hereunder, such terms and conditions are not binding and shall have no force or effect as to the Product or Service, this Agreement, or the applicable order for the Product or Service. Further, any terms and conditions of a Party's invoice, acknowledgment, confirmation, or similar documents, shall not apply to any order under this Agreement, or to this Agreement, and any such terms and conditions on any such document are objected to without need of further notice or objection.
18. **Attachments; Order of Precedence.** The following documents are made part of this Agreement and any ambiguity or conflict among them shall be resolved by giving priority to the documents in the order in which they are listed below.
- a. "Attachment C: Standard State Provisions for Contracts and Grants" (revision version dated December 15, 2017) is hereby incorporated by reference as if fully set forth herein and shall apply this this Agreement and shall apply to each order placed under this Agreement as if fully set forth in the order. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms> .
- b. "Attachment D: Information Technology System Implementation Terms and Conditions" is attached to this Agreement and incorporated herein and shall apply to each order placed under this Agreement as though fully set forth in the order.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

- c. If specified in an order made by a State Purchaser under this Agreement, the terms and conditions of the State of Vermont Business Associate Agreement, revised May 2019 shall be incorporated by reference and apply to the order as if specifically set forth in the order. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.
- d. If specified in an order made by a State Purchaser under this Agreement, the “STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) (Revision date: July 19, 2023)” shall be incorporated by reference and apply to the order as if fully set forth in the order. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.
- e. The Master Agreement, together with its exhibits, is hereby incorporated by reference as if fully set forth herein and shall apply to this Agreement and shall apply to each order placed under this Agreement as though fully set forth in the order.
- f. The State of Vermont SOW Services Order Form is attached to this Agreement for use by State Purchasers when placing orders that include services.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

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

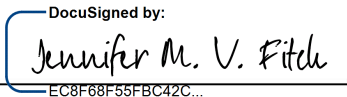
WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By Panasonic Connect North America

Date: 10/26/2023

Date: Oct 9, 2023

Signature:  EC8F68F55FBC42C...

Signature:  Richard Elliott (Oct 9, 2023 14:33 EDT)

Name: Jennifer M.V. Fitch

Name: Richard Elliott

Title: BGS Commissioner

Title: President

ATTACHMENT D
INFORMATION TECHNOLOGY SYSTEM IMPLEMENTATION
TERMS AND CONDITIONS (rev. 03/10/2023)

1. MODIFICATIONS TO CONTRACTOR DOCUMENTS

The parties specifically agree that the Contractor Documents are hereby modified and superseded by Attachment C and this Attachment D.

“Contractor Documents” shall mean one or more document, agreement or other instrument required by Contractor in connection with the performance of the products and services being purchased by the State, regardless of format, including the license agreement, end user license agreement or similar document, any hyperlinks to documents contained in the Contractor Documents, agreement or other instrument and any other paper or “shrinkwrap,” “clickwrap,” “browsewrap” or other electronic version thereof.

2. NO SUBSEQUENT, UNILATERAL MODIFICATION OF TERMS BY CONTRACTOR

Notwithstanding any other provision or other unilateral license terms which may be issued by Contractor during the Term of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for the products and services being purchased by the State, as applicable, the components of which are licensed under the Contractor Documents, or the fact that such other agreement may be affixed to or accompany the products and services being purchased by the State, as applicable, upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

3. TERM OF CONTRACTOR’S DOCUMENTS; PAYMENT TERMS

Contractor acknowledges and agrees that, to the extent a Contractor Document provides for alternate term or termination provisions, including automatic renewals, such sections shall be waived and shall have no force and effect. All Contractor Documents shall run concurrently with the term of this Contract; provided, however, to the extent the State has purchased a perpetual license to use the Contractor’s software, hardware or other services, such license shall remain in place unless expressly terminated in accordance with the terms of this Contract. Contractor acknowledges and agrees that, to the extent a Contractor Document provides for payment terms which differ from the payment terms set forth in Attachment B, such sections shall be waived and shall have no force and effect and the terms in Attachment B shall govern.

4. OWNERSHIP AND LICENSE IN DELIVERABLES

4.1 Contractor Intellectual Property. Contractor shall retain all right, title and interest in and to any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that has been created by Contractor prior to entering into this Contract (“Contractor Intellectual Property”). Should the State require a license for the use of Contractor Intellectual Property in

connection with the development or use of the items that Contractor is required to deliver to the State under this Contract, including Work Product (“Deliverables”), the Contractor shall grant the State a royalty-free license for such development and use. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property, provided the State shall be granted an irrevocable, perpetual, non-exclusive royalty-free license to use any such Contractor Intellectual Property that is incorporated into Work Product.

4.2 State Intellectual Property. The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

4.3 Work Product. All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

“Work Product” means any tangible or intangible ideas, inventions, improvements, modifications, discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or other documentation, technique, know-how, secret, 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, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State's internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State's obligations with respect to Confidential Information, authorize others to do the same on the State's behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable without explicit permission from the State.

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

5. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING

5.1 For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party's possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

5.2 **Confidentiality of Contractor Information.** The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

5.3 Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Contractor acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("State Data").

State Data shall not be stored, accessed from, or transferred to any location outside the United States.

Unless otherwise instructed by the State, Contractor agrees to keep confidential all State Data. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State's written request.

Contractor may not share State Data with its parent company or other affiliate without State's express written consent.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

6. SECURITY OF STATE INFORMATION

6.1 Security Standards. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor represents and warrants that it has implemented and it shall maintain during the term of this Contract the highest industry standard administrative, technical, and physical safeguards and controls consistent with NIST *Special Publication 800-53* (version 4 or higher) and *Federal Information Processing Standards Publication 200* and designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include, but not be limited to, encryption at rest and multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

6.2 Security Breach Notice and Reporting. The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, in the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a “Security Breach”), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

6.3 Security Policies. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor will have an information security policy that protects its systems and processes and media that

may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.4 Operations Security. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor shall cause an SSAE 18 SOC 2 Type 2 audit report to be conducted annually. The audit results and the Contractor's plan for addressing or resolution of the audit results shall be shared with the State within sixty (60) days of the Contractor's receipt of the audit results. Further, on an annual basis, within 90 days of the end of the Contractor's fiscal year, the Contractor shall transmit its annual audited financial statements to the State.

6.5 Redundant Back-Up. The Contractor shall maintain a fully redundant backup data center geographically separated from its main data center that maintains near realtime replication of data from the main data center. The Contractor's back-up policies shall be made available to the State upon request. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.6 Vulnerability Testing. The Contractor shall run quarterly vulnerability assessments and promptly report results to the State. Contractor shall remediate all critical issues within 90 days, all medium issues within 120 days and low issues within 180 days. Contractor shall obtain written State approval for any exceptions. Once remediation is complete, Contractor shall re-perform the test.

7. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

7.1 General Representations and Warranties. The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

- (iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the Deliverables as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the Deliverables or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.
- (v) The Contractor has adequate resources to fulfill its obligations under this Contract.
- (vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

7.2 Contractor's Performance Warranties. Contractor represents and warrants to the State that:

- (i) All Deliverables will be free from material errors and shall perform in accordance with the specifications therefor for a period of at least one year.
- (ii) Contractor will provide to the State commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with the State's access to and use of the Service during the term of this Contract;
- (iii) The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by the Contractor in its documentation;
- (iv) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.
- (v) All Deliverables supplied by the Contractor to the State shall be transferred free and clear of any and all restrictions on the conditions of transfer, modification, licensing, sublicensing and free and clear of any and all liens, claims, mortgages, security interests, liabilities and encumbrances or any kind.
- (vi) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

- (vii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

7.3 Limitation on Disclaimer. The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied.

7.4 Effect of Breach of Warranty. If, at any time during the term of this Contract, software or the results of Contractor's work fail to perform according to any warranty of Contractor under this Contract, the State shall promptly notify Contractor in writing of such alleged nonconformance, and Contractor shall, at its own expense and without limiting any other rights or remedies of the State hereunder, re-perform or replace any services that the State has determined to be unsatisfactory in its reasonable discretion. Alternatively, with State consent, the Contractor may refund of all amounts paid by State for the nonconforming deliverable or service

8. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of \$3,000,000.00 per claim, \$5,000,000.00 aggregate; and (b) first party Breach Notification Coverage of not less than \$3,000,000.00.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

9. LIMITATION OF LIABILITY.

ANY LIMITS ON CONTRACTOR'S LIABILITY SET FORTH UNDER THE MASTER AGREEMENT SHALL NOT APPLY TO STATE CLAIMS ARISING OUT OF: (A) CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE; (B) CONTRACTOR'S CONFIDENTIALITY OBLIGATIONS TO THE STATE; (C) PERSONAL INJURY OR

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

DAMAGE TO REAL OR PERSONAL PROPERTY; (D) CONTRACTOR'S GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT; OR (E) VIOLATIONS OF THE STATE OF VERMONT FALSE CLAIMS ACT.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, OR LOST PROFITS, INCOME, GOODWILL, OR REVENUE IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement.

10. TRADE SECRET, PATENT AND COPYRIGHT INFRINGEMENT

The State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor's trade secret, patent and/or copyright infringement.

11. REMEDIES FOR DEFAULT; NO WAIVER OF REMEDIES

In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

12. NO ASSUMPTION OF COSTS

Any requirement that the State defend or indemnify Contractor or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or license verification costs of Contractor, is hereby deleted from the Contractor Documents.

13. TERMINATION

Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to the State all State information, State Intellectual Property or State Data (including without limitation any Deliverables for which State has made payment in whole or in part) ("State Materials"), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Materials to State control;

including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Materials.

Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting the State Materials, in a format usable without the use of the Services and as agreed to by State, at no additional cost.

Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

14. CONTRACTOR BANKRUPTCY.

Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Contract, the State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain the State Intellectual Property.

15. SOFTWARE LICENSEE COMPLIANCE REPORT.

In lieu of any requirement that may be in a Contractor Document that the State provide the Contractor with access to its System for the purpose of determining State compliance with the terms of the Contractor Document, upon request and not more frequently than annually, the State will provide Contractor with a certified report concerning the State's use of any software licensed for State use pursuant this Contract. The parties agree that any non-compliance indicated by the report shall not constitute infringement of the licensor's intellectual property rights, and that settlement payment mutually agreeable to the parties shall be the exclusive remedy for any such non-compliance.

16. SOV Cybersecurity Standard Update 2023-01: Contractor confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with *State of Vermont Cybersecurity Standard 2023-01*, which prohibits the use of certain branded products in State information systems or any vendor system that is supporting State information systems, and is available on-line at:

<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

State of Vermont Ordering Document for Services

Authorizing Agreement: State of Vermont Participating Addendum # [REDACTED] for NASPO VALUEPOINT PURCHASING PROGRAM: Computer Equipment, Peripherals & Related Services

Contractor: [REDACTED]

State Purchasing Entity: Insert Requesting Agency or Business Unit

Purchasing Entity's address for invoicing: [REDACTED]

Order No. insert number here and in header on second page (This assigned Order # must be included on all correspondence, delivery documents and invoices.)

- 1. Scope:** This Order is a contract between the Contractor identified above (hereinafter the "Contractor") and the State of Vermont, through its State Purchasing Entity identified above (hereinafter the "State"). Contractor hereby agrees to provide the services specified herein subject to and in accordance with the terms and conditions of the above-captioned Authorizing Agreement, inclusive of its attachments and/or exhibits and respective amendments (hereinafter the "Authorizing Agreement"). THE AUTHORIZING AGREEMENT IS HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS ORDER AS IF SPECIFICALLY APPENDED HERETO. THE TERMS OF THE AUTHORIZING AGREEMENT SHALL GOVERN AND PREVAIL IN THE EVENT OF ANY CONFLICT OR AMBIGUITY BETWEEN THE TERMS OF THIS ORDER AND THE TERMS OF THE AUTHORIZING AGREEMENT. FURTHER, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING SENTENCE, NOTWITHSTANDING ANY LANGUAGE TO THE CONTRARY, CONTRACTOR ACKNOWLEDGES AND AGREES THAT PURCHASING ENTITIES DO NOT INTEND TO BE BOUND, AND WILL NOT BE BOUND, BY ANY TERMS APPLICABLE TO THIS ORDER TO THE EXTENT SUCH TERMS: (A) REQUIRE INDEMNIFICATION BY THE PURCHASING ENTITY OF THE CONTRACTOR OR A THIRD PARTY; (B) WAIVE THE PURCHASING ENTITY'S RIGHT TO A JURY TRIAL; (C) ESTABLISH JURISDICTION IN ANY VENUE OTHER THAN THE SUPERIOR COURT OF THE STATE OF VERMONT, CIVIL DIVISION, WASHINGTON UNIT; (D) DESIGNATE A GOVERNING LAW OTHER THAN THE LAWS OF THE STATE OF VERMONT; (E) CONSTITUTE AN IMPLIED OR DEEMED WAIVER OF THE IMMUNITIES, DEFENSES, RIGHTS OR ACTIONS ARISING OUT OF PURCHASING ENTITY'S SOVEREIGN STATUS OR UNDER THE ELEVENTH AMENDMENT TO THE UNITED STATES CONSTITUTION; (F) ESTABLISH NEW OR DIFFERENT PAYMENT OBLIGATIONS OF THE PURCHASING ENTITY THAN ARE ESTABLISHED BY THE AUTHORIZING AGREEMENT; (G) REDUCE OR DIMINISH THE OBLIGATIONS REGARDING THE SECURITY, CONFIDENTIALITY, AND INTEGRITY OF THE PURCHASING

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

ENTITY'S DATA AS ARE ESTABLISHED UNDER THE AGREEMENT; (H) ESTABLISH RIGHTS IN THE USE OF OR ACCESS TO PURCHASING ENTITY'S DATA FOR ANY REASON OTHER THAN PERFORMANCE OF THE PRODUCT OR SERVICE; (I) ESTABLISH RIGHTS OF OWNERSHIP IN THE PURCHASING ENTITY'S DATA; OR (J) LIMIT THE TIME WITHIN WHICH AN ACTION MAY BE BROUGHT.

2. **Data Categorization and Applicable Standards:** Contractor is required at all times to comply with all applicable federal and state laws and regulations pertaining to information security and privacy. For purposes of this Order the parties have conferred and determined that the Contractor will hold, store, or process, or will have access to, the types of data indicated in the **Exhibit VT-Data Types** attached to this Order. Contractor confirms that the services provided under this Order can and will meet in all respects the corresponding standards, policies and laws as indicated in the **Exhibit VT-Data Types** attached to this Order.
3. **Term:** The term of this Order shall begin on [REDACTED] and end on [REDACTED] (the "Initial Term"). **INSERT RENEWAL OPTION(S) AS REQUIRED. NOTE: orders may only be executed during the term of the Authorizing Agreement (before expiration/termination) and may not have a delivery date or performance period continuing more than 120 days beyond the expiration date of the Authorizing Agreement**
4. **Payment and Invoicing:** The maximum amount payable under this Order shall not exceed [REDACTED]. This maximum amount is not a guaranteed amount. Contractor will be paid for products or services actually delivered or performed, as specified in the attached **Statement of Work**, up to the maximum amount payable. Payment obligations of the State hereunder shall not exceed the maximum allowable rates or other cost structures established by the Authorizing Agreement. Payments of invoices shall be made in accordance with the payment provisions in the Authorizing Agreement as further supplemented herein.
 - a. Contractor shall submit invoices to the State Purchasing Entity's address identified above.
 - b. Invoices shall include the Order # and Authorizing Agreement # appearing atop the first page of this document.
5. **Services:** The Contractor shall provide the services as described in the **Statement of Work** attached to this Order in full satisfaction of the specific requirements of the Authorizing Agreement and this Order.
6. **Integrated Agreement; Amendment:** This Order contains the final and complete agreement of the parties. The parties do not intend to be bound by any additional terms not included, or expressly incorporated by reference, in this Order. The terms of this Ordering Document shall govern and prevail over any conflict or ambiguity with the terms of the attached **Statement of Work**. Electronic "click-through" terms, terms and conditions of a Party's invoice,

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection. This Order may not be amended except in a writing that is numbered and signed by the duly-authorized representatives of the State and the Contractor.

7. **Termination:** The State reserves the right to terminate or suspend this Order for convenience upon written notice at least fifteen (15) days in advance and, in the event of termination under this provision, the State will pay for all completed and accepted deliverables up until the date of termination.
8. **Vermont Business Associate Agreement:** The terms and conditions of the State of Vermont Business Associate Agreement, as posted the Office of Purchasing & Contracting's website at <https://bgs.vermont.gov/purchasing-contracting/forms>, is hereby incorporated by reference and shall apply to this Order. **INCLUDE THIS CLAUSE ONLY AS APPLICABLE; DELETE OTHERWISE**
9. **Vermont Federal Terms Supplement (Non-Construction):** The "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) (Revision date: July 19, 2023)" as attached to the Authorizing Agreement, or otherwise as posted online at <https://bgs.vermont.gov/purchasing-contracting/forms>, is hereby incorporated by reference and shall apply to the order. **INCLUDE THIS CLAUSE ONLY AS APPLICABLE; DELETE OTHERWISE**

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this agreement is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this agreement is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds. Contractor further certifies under pains and penalties of perjury that, as of the date this agreement is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://www.bgs.vermont.gov/purchasing-contracting/debarment>.

SOV Cybersecurity Standard Update 2023-01. Contractor certifies that the products and services provided to or for the use of the State under this agreement comply with *State of Vermont Cybersecurity Standard 23-01*, which Contractor acknowledges has been provided to it, and is available on-line at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

REQUIRED PRIOR APPROVALS

In accordance with current State law, bulletins, and interpretations, this Order shall not be binding unless and until all requisite approvals have been obtained.

- a. **This Order must be approved by the Vermont Chief Information Officer/Secretary of the Agency of Digital Services prior to execution if the services will involve the electronic processing, storing, or transmission of Confidential Information.**

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

- b. This Order, if valued at \$25,000 or more per year, must be certified by the Vermont Office of the Attorney General in accordance with 3 V.S.A. § 342 prior to execution.**
- c. This Order, if valued at \$2,000,000 or greater, must be approved by the Secretary of Administration prior to execution.**

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS AGREEMENT.

<Insert Contractor Name here>

Signature

Date

STATE OF VERMONT, <Insert Requesting Agency or business unit>

Signature

Date

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

Exhibit VT-Data Types

INSERT DOC VENDOR SIGNED/SUBMITTED WITH Statement of Work.

Statement of Work

1. PROJECT BACKGROUND AND OVERVIEW

[Provide background and high-level overview of project.]

2. DEFINITIONS

Specific terms used in this SOW shall have the following meanings. All other terms used in this SOW shall have the meaning ascribed to them in the other documents that constitute the Agreement.

“**Deliverable**” means any work product that Contractor delivers for the purposes of fulfilling its obligations under this SOW.

“**Task**” means a material activity engaged in by Contractor for the purpose of fulfilling its obligations under this SOW.

“**Task Order**” means an amendment to this SOW that specifies Tasks or Deliverables to be completed by Contractor within a specified time period.

3. TIME AND MATERIALS SERVICES

This Section describes the general Tasks and Deliverables to be completed by the Contractor on a time and material basis. A Task or Deliverable will be considered “complete” when all the acceptance criteria set forth in this SOW have been met. All written Deliverables shall be delivered in a format specified by the State.

TABLE 1: T&M TASKS AND DELIVERABLES

Task/Deliverable Name	Metrics of Acceptance	Estimated Completion Date

For the Time and Materials Services, Contractor shall complete the work described in Table 1 or in the relevant Task Order, and as scheduled through [weekly] planning meetings. Contractor will submit [weekly] reports to the State’s Project Manager detailing the hours worked by each Named Resource. The weekly reporting must show actual resource hours worked against assigned Tasks and/or Deliverables and a description of completed Tasks or progress toward completion. Contractor will also report [weekly] to the State’s Project Manager its expected work effort the forthcoming week(s), showing each Named Resource’s expected level of effort. Prior review and authorization of each report by the State’s Project Manager is required to authorize any work by the Named Resource.

Contractor shall submit invoices to the state not more frequently than [monthly] for the actual hours worked per week of the Named Resource identified in Table 3 or in the relevant Task Order. Each invoice must include resource names, dates of service, and the hours worked and approved for each date of service. The State will review and approve these invoices based on satisfactory work performance by each Named Resource, satisfactory completion of Tasks listed in Table 1 or in the relevant Task Order, and fulfillment of Metrics of Acceptance in this Agreement. Approved invoices will be payable by the State in accordance with the Authorizing Agreement and applicable payment terms in the Order Document to which this SOW is attached.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

The State shall withhold **10%** from each payment as retainage. Upon completion of all work described in Table 1 in accordance with the prescribed project timeline, and to the satisfaction of the State, Contractor may submit a single invoice for the amount of retainage withheld.

4. FIXED PRICE TASKS AND DELIVERABLES

This Section describes the Tasks to be completed by the Contractor, the Deliverables to be provided by the Contractor, and timeline for delivery. A Task or Deliverable will be considered “complete” when all the acceptance criteria set forth in this SOW have been met. All written Deliverables shall be delivered in a format specified by the State.

TABLE 2: FIXED PRICE TASKS AND DELIVERABLES

Number	Name	Description and Metrics of Acceptance (Refer to Attachments if needed)	Due Date	Amount Due	Retainage
TOTAL					

For the Fixed Price Tasks and Deliverables of this Agreement, Contractor shall perform Tasks and deliver Deliverables in conformance with the Description and Metrics of Acceptance on or before the Due Dates set forth in Table 2. A Deliverable or Task will be considered “completed” when the State has accepted the Deliverable or Task in accordance with the Metrics of Acceptance in Table 2. Contractor shall issue invoices to for the Deliverables or Tasks that are completed, less any retainage amounts specified (each, a “Valid Invoice”). Invoices shall be payable in accordance with the Authorizing Agreement and applicable payment terms in the Order Document to which this SOW is attached.

The State shall withhold **10%** from each payment as retainage. Upon completion of all work described in Table 2 in accordance with the prescribed project timeline, and to the satisfaction of the State, Contractor may submit a single invoice for the amount of retainage withheld.

5. KEY CONTRACTOR PERSONNEL

5.1 Contractor Project Manager

Contractor will designate an individual to serve as the “Contractor Project Manager” who will: (i) be a senior employee within Contractor’s organization, with the information, authority and resources available to properly discharge the responsibilities required hereunder; (ii) serve as primary point of contact and the single-point of accountability and responsibility for all Contract-related questions and issues and the provision of Services by Contractor; (iii) have day-to-day responsibility for, and authority to manage, State customer satisfaction; (iv) devote full time and dedicated efforts to managing and coordinating the Services; and (v) be located at State Facilities or such other appropriate location as Contractor and the State may mutually agree.

5.2 Contractor Personnel

Contractor shall assign each of the following Names Resources and/or Roles to this SOW in accordance with Table 3. If a change to the assigned personnel is necessary, the Contractor PM

will provide a written change request at least two weeks prior to the change to the State. The State may reject or accept such change. The State may terminate use of any Named Resource by providing five (5) days written notice to the Contractor PM. If termination is for cause, or for a violation of a term of this Agreement, the State may terminate use of the Named Resource effective immediately by providing written notice to the Contractor PM. Contractor shall use reasonable efforts to promptly and expeditiously replace Named Resources and within fifteen (15) business days of receipt of the written notice unless otherwise mutually agreed. The State's right to request replacement of Contractor personnel hereunder relates solely to the removal of individuals from work on this Contract with the State and does not create an employment relationship. Nothing in this Contract authorizes the State to direct the Contractor's termination of the employment of any individual.

Contractor shall take full responsibility for project management and shall obtain State's written pre-approval for the use of any subcontractor(s). Contractor shall ensure any subcontractor(s) providing work under this SOW comply with all terms of the Agreement and Contractor shall be responsible for the performance, acts, and omissions, of each such subcontractor.

TABLE 3: TIME AND MATERIALS RATES

Named Resource	Role	Hourly Rate	Estimated Number of Hours	Estimated Cost
TOTAL ESTIMATED COST				
TOTAL NOT TO EXCEED AMOUNT				

Hourly Rates listed above may not exceed the rates or pricing structure established in the Authorizing Agreement.

6. ACCEPTANCE OR REJECTION PROCESS

Time and Materials

The Contractor PM will submit each weekly report to the State. The State will review each weekly report and approve these reports based on satisfactory work performance by each Named Resource, satisfactory completion of Tasks listed in Table 1 or in the relevant Task Order, and fulfillment of Metrics of Acceptance in this Agreement.

Within **five (5)** business days of each weekly report, the State will notify the Contractor, in writing, of acceptance or rejection. A rejection will include a written description of any relevant defects or issues. If the State does not respond with acceptance or rejection within **five (5)** business days of receipt, the Contractor shall provide a reminder notice to the State. Upon receipt of rejection, Contractor will act diligently to correct the specified defects or issues.

Fixed Price

The Contractor PM will submit each Deliverable to the State on or before the Due Date specified in Table 2. The State will review each Deliverable and determine whether it has met in all material respects the criteria established in this Agreement.

STATE OF VERMONT PARTICIPATING ADDENDUM # 46862

Contractor: Panasonic Connect North America

Within ten (10) business days of receipt of each Deliverable, the State will notify the Contractor PM, in writing, of acceptance or rejection. A rejection will include a written description of the defects of the Deliverable. If the State does not respond with acceptance or rejection within ten (10) business days of receipt, the Contractor PM shall provide a reminder notice to the State. Upon receipt of rejection of a Deliverable, Contractor will act diligently to correct the specified defects and deliver an updated version of the Deliverable to the State. Acceptance or rejection of the updated version of the Deliverable will be subject to the process described in this paragraph.

Following any acceptance of a Deliverable which requires additional work to be entirely compliant with the pertinent specifications, and until the next delivery, Contractor will use reasonable efforts to provide a prompt correction or workaround.

7. ADDITIONAL REQUIREMENTS

[Include any additional privacy / security requirements based on data being accessed or used by Contractor. Include additional technical specifications, support terms, etc. Refer to attached documents if needed.]

EXAMPLE: Any personnel providing services under this SOW who will have access to [AGENCY]'s premises and/or systems will be subject to [AGENCY]'s background screening requirements prior to commencement of such services.]

8. TOTAL COSTS

The total amounts payable to Contractor by State are as follows:

For Time and Materials Work: Not to exceed XXXXX USD

For Fixed Price Deliverables and TASKS: XXXX USD



NASPO ValuePoint Master Agreement No.: 23019

This Contract is between the State of Minnesota, acting through its Commissioner of Administration (“Lead State”) and Panasonic Connect North America, Division of Panasonic Corporation of North America, whose designated business address is Two Riverfront Plaza, 9th Floor, Newark, NJ 07102-5490 (“Contractor”). State and Contractor may be referred to jointly as “Parties.”

Recitals

1. The State of Minnesota, Department of Administration, Office of State Procurement, on behalf of the State of Minnesota and NASPO ValuePoint Cooperative Procurement Program (“NASPO ValuePoint”) issued a solicitation to establish Minnesota NASPO ValuePoint Master Agreement(s) (“Contract”) with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services);
2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and
3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract; and
4. That Contractor changed its name from Panasonic Corporation of North America (PNA), doing business as Panasonic System Solutions Company of North America (PSSNA) to Panasonic Connect North America, Division of Panasonic Corporation of North America during negotiations; and
5. All authorized governmental entities in any state or participating US Territory are welcome to use the resulting Master Agreement through NASPO ValuePoint with the approval of the State Chief Procurement Official. Upon final award of the overarching Master Agreement, Contractors are able to sign Participating Addendums (PA) at the option of Participating States. Participating States reserve the right to add state specific terms and conditions and modify the scope of the contract in their Participating Addendum as allowed by the Master Agreement.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract

- a. Effective date. July 1, 2023, or the date the Lead State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.
- b. Expiration date. June 30, 2025. This Master Agreement may be extended for up to an additional 36 months, in increments as determined by the Lead State, through a duly executed amendment.
- c. If, in the judgment of the Lead State, a follow-on, competitive procurement will be unavoidably delayed beyond the planned date of execution of the follow-on master agreement, this Master Agreement may be extended for a

reasonable period of time, not to exceed six months. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

2. **Representations and Warranties**

- a. Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law the Lead State is empowered to engage such assistance as deemed necessary.
- b. Contractor warrants that it is duly qualified and shall perform its obligations under this Master Agreement in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor’s industry, trade, or profession, and in accordance with the specifications set forth in this Master Agreement, to the satisfaction of the Lead State.
- c. Contractor warrants that it possesses the legal authority to enter into this Master Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Master Agreement, or any part thereof, and to bind Contractor to its terms.

3. **Awarded Band(s)**

The solicitation included three product Bands: Band 1, Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets; and Band 2, Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets; and Band 3, Servers and Storage. The Contractor is awarded the following Band(s):

- Band 1, Personal Computer Devices – Windows Operating Systems
- Band 2, Personal Computer Devices - Non-Windows Operating Systems

4. **Configuration Dollar Limits**

The following configuration limits apply to the Master Agreement. Participating Entities may define their configuration limits in their Participating Addendum. The Participating Entity’s Chief Procurement Official may increase or decrease the configuration limits, as defined in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Product and Service Schedule.

The dollar limits identified below are based on a SINGLE computer/system configuration. This is NOT a restriction on the purchase of multiple configurations (e.g., an entity could purchase 10 laptops at \$15,000 each, for a total purchase price of \$150,000).

<u>ITEM</u>	<u>CONFIGURATION</u>
Band One	\$15,000
Band Two	\$15,000
Band Three	\$1,000,000
Peripherals	\$10,000
Services	Addressed in the Participating Addendum

5. **Restrictions**

The following restrictions apply to the Master Agreement. A Participating Entity may set further restrictions of products in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Entity’s Product and Service Schedule.

- a. Software

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.
2. Any software purchased must be related to the procurement of equipment.
3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment, except for the exceptions allowed under Paragraph 5.a.4.
4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 3) purchased, is allowed and may be procured after the initial purchase of equipment.

b. General Services

1. Services must be related to the procurement of equipment.
2. Service limits will be addressed by each State.
3. Wireless phone and internet service is not allowed.
4. Managed Print Services are not allowed.

c. Cloud Services

1. Cloud Services are restricted to Services that function as operating systems and software needed to support or configure hardware purchased under the scope of the contract and is subject to equipment configuration limits.
2. Any Cloud Service purchased must be related to the procurement of equipment.

d. Third-Party Products

1. Third-Party Products can be offered only in the Bands they have been awarded. All third-party products must meet the definition(s) of the Band(s) in which they are being offered.
2. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.

e. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.
2. Lease/Rentals of equipment may be allowed and will be addressed by each State.
3. Cellular Phone Equipment is not allowed.
4. EPEAT Bronze requirement may be waived, on a State case-by-case basis, if approved by the State's Chief Procurement Officer. EPEAT Bronze requirement does not currently apply to storage.

6. Authorized Representative

- a. Master Agreement Administrator. The Master Agreement Administrator designated by NASPO ValuePoint and the State of Minnesota, Department of Administration is Elizabeth Randa, Acquisition Management Specialist.

Elizabeth Randa, Acquisition Management Specialist
Department of Administration
Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
E-mail: elizabeth.randa@state.mn.us
Phone: 651.201.3122

- b. Contractor's Authorized Representative. The Contractor's Authorized Representative is Solomon Surles III, Government Contracts Manager.

Solomon Surles III, Government Contracts Manager
Panasonic Connect North America, Division of Panasonic Corporation of North America
Two Riverfront Plaza, 9th Floor
Newark, NJ 07102-5490
Email: Solomon.SurlesIII@us.panasonic.com
Phone: 775.895.2401

If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the Lead State.

7. Notices

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. An email shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed to the Master Agreement Administrator.

8. Exhibits

The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:

Exhibit A: NASPO ValuePoint Terms and Conditions
Exhibit B: Minnesota Terms and Conditions
Exhibit C: Requirement
Exhibit D: Price Schedule

9. Survival of Terms:

The following clauses survive the expiration or cancellation of this Master Agreement: Indemnification; State Audits; Government Data Practices and Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that states it shall survive, shall survive.

10. Entire Agreement

This Contract and any written addenda thereto constitute the entire agreement of the parties to the Master Agreement.

1. Contractor

The Contractor certifies that the appropriate person(s) have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print name: DocuSigned by: Richard Elliot
549B07E1FBB7432...

Signature: Richard Elliot

Title: SVP Finance and Business Operations Date: 7/19/2023

2. State Agency

With delegated authority

Print name: DocuSigned by: Elizabeth M. Randa
742DE739C8ED492...

Signature: Elizabeth M. Randa

Title: Acquisition Management Specialist Date: 7/19/2023

3. Commissioner of Administration

As delegated to The Office of State Procurement

Print name: DocuSigned by: Andy Doran
68D02A26D7604BA...

Signature: Andy Doran

Title: IT Acquisitions Supervisor Date: 7/19/2023

Exhibit A: NASPO ValuePoint Master Agreement Terms and Conditions

1. Conflict of Terms/Order of Precedence.

- a. Any order placed under this Master Agreement shall consist of the following documents:
 1. A Participating Entity's Participating Addendum ("PA");
 2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;
 3. A Purchase Order issued against a PA (terms and conditions set forth in a Purchase Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).
- b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- c. Contractor terms and conditions may be incorporated if expressly accepted by the Lead State and attached to the Master Agreement as an Exhibit or Attachment, or by written reference (including reference to information contained in a URL or referenced policy). A written reference, including by URL or policy, is incorporated into the Master Agreement only if the Master Agreement expressly identifies that reference. URL's must be explicitly referenced to be incorporated into the Master Agreement. URL's contained within the URL's that are explicitly referenced are not incorporated into the Master Agreement. Any Contractor term or condition incorporated by URL or written reference applies to this Master Agreement only to the extent such term or condition is not prohibited by applicable law. Any change to information contained in a URL or referenced policy will not affect any financial obligation, place any additional material obligation on an ordering entity, or materially diminish an ordering entity's ability to use the product or service.
- d. A written Master Agreement (which may include the contents of the RFP and selected portions of Contractor's response incorporated therein by reference) will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement, in the Contractor quotation/sales order, or in similar documents subsequently provided by the Contractor.
- e. 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.

2. Definitions.

- a. **Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.
- b. **Accessory** means a product that enhances the user experience but does not extend the functionality of the computer (e.g., mouse pad or monitor stand). For the purposes of this Contract, accessories are considered peripherals.

- c. **_____ as a Service (_aaS)** refers to any good provided in a subscription-based model that is defined in the industry as “_____ as a Service”. Examples are “Software as a Service”, “Infrastructure as a Service”, and “Storage as a Service”, and shall follow the NIST definitions of those services. _____ as a Service are permitted only when they meet the restrictions found in Paragraph 5.c, above.
- d. **Band** means a category of products. There are three product bands which may be awarded through this Contract. Each product band includes related peripherals and services.
- e. **Components** are the parts that make up a computer configuration.
- f. **Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.
- g. **Configuration** means the combination of hardware and software components that make up the total functioning system.
- h. **Customer** (see Purchasing Entity).
- i. **Desktop** means a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: (1) the processor, 2) display monitor, and 3) input devices usually a keyboard and a mouse. Desktops, including desktop virtualization endpoints such as zero and thin clients, are included in Bands 1 and 2 of this Contract.
- j. **Embedded Software** means one or more software applications which permanently reside on a computing device.
- k. **Energy Star®** is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes it easy to identify energy efficient computers by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at <http://www.energystar.gov>.
- l. **EPEAT** is a type-1 ecolabel for identifying and purchasing sustainable IT products. EPEAT-registered products must meet sustainability criteria detailed in voluntary consensus-based standards that are free and publicly available on the Green Electronics Council’s website at www.greenelectronicscouncil.org. Products are classified as Bronze, Silver, or Gold based on meeting criteria that address the life cycle of the products. Product life cycle includes material extraction, hazardous substance reduction, end-of-life management, packaging, and corporate sustainability. Only products listed as Active in the online EPEAT Registry are considered to meet the EPEAT criteria.
- m. **FOB Destination** means that shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.
- n. **FOB Inside Delivery** means that shipping charges are included in the price of the item, and that the shipped item becomes the legal property and responsibility of the receiver when it reaches the inside delivery point, which is beyond the front door or loading dock. FOB Inside Delivery is a special shipping arrangement that may include additional fees payable by the Purchasing Entity. FOB Inside Delivery must be annotated on the Purchasing Entity ordering document.

- o. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- p. **Laptop** means a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad, and speakers in a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptops include notebooks, ultrabooks, netbooks, Zero and thin client devices, and computers with mobile operating systems. Laptops are included in Bands 1 and 2 of this Contract.
- q. **Lead State** means the State centrally administering any resulting Master Agreement(s).
- r. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.
- s. **Manufacturer** means a company that, as one of its primary business functions, designs, assembles, owns the trademark/patent for, and markets branded computer equipment.
- t. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor.
- u. **Middleware** means the software "glue" that helps programs and databases (which may be on different computers) work together. The most basic function of middleware is to enable communication between different pieces of software.
- v. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of 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 (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.
- w. **Option** means an item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.
- x. **Order or Purchase Order** means any purchase order, sales order, contract or other method used by a Purchasing Entity to order the Products.
- y. **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.
- z. **Participating Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- aa. **Participating State** means a state that has executed a Participating Addendum.

bb. **Partner** means a company, authorized by the Contractor and approved by the Participating Entity, to provide marketing, support, or other authorized contract services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Agreement. A Partner may include, but is not limited to, an agent, subcontractor, fulfillment partner, channel partner, business partner, servicing subcontractor, etc.

cc. **Peripherals** means any hardware product that can be attached to, added within, or networked with personal computers, servers, or storage. Peripherals extend the functionality of a computer without modifying the core components of the system.

dd. **Per Transaction Multiple Unit Discount** means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase.

ee. **Premium Savings Package(s) (PSP)** are deeply discounted standard configurations available to Purchasing Entities using the Master Agreement. NASPO ValuePoint reserves the right to expand and modify the PSP throughout the life of the contract. For more information see: <https://www.naspovaluepoint.org/portfolio/57/>.

ff. **Product** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

gg. **Purchasing Entity** means a state (including the District of Columbia and U.S. territories), city, county, district, other political subdivision of a state, other public entities domestic or foreign, and nonprofit organizations under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order under the terms of the Master Agreement, or any Participating Addendum thereto, and becomes financially committed to the purchase.

hh. **Ruggedized** means equipment specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures, and wet or dusty conditions. Ruggedized equipment may be proposed under the band that most closely fits the equipment being proposed.

ii. **Server** means computer hardware dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. Servers may be either physical or virtual. Servers, including server appliances, are included in Band 3 of this Contract. Server appliances have their hardware and software preconfigured by the manufacturer, and include embedded networking components such as those found in blade chassis systems.

jj. **Services** are broadly classified as installation or de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Agreement. These classifications of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or hardware components), asset management, recycling or disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk or helpdesk, imaging, and any other directly related technical support service required for the effective operation of a product offered or supplied. Contractors may offer limited professional services related ONLY to the equipment and configuration of the equipment purchased through the resulting contracts.

EACH PARTICIPATING ENTITY WILL DETERMINE RESTRICTIONS AND NEGOTIATE TERMS FOR SERVICES THROUGH THEIR PARTICIPATING ADDENDUM.

kk. **Software** means, for the purposes of this Contract, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified

in Paragraph 5.a. “Software” applies to all parts of software and documentation, including new releases, updates, and modifications of software.

ll. **Storage** means hardware or a virtual appliance with the ability to store large amounts of data. Storage, including SAN switching necessary for the proper functioning of storage equipment, is included in Band 3 of this Contract

mm. **Storage Area Network (SAN)** is a high-speed special-purpose network (or subnetwork) that interconnects different kinds of data storage devices with associated data servers on behalf of a larger network of users.

nn. **Tablet** means a mobile computer that provides a touchscreen that acts as the primary means of control. Tablets, including notebooks, ultrabooks, and netbooks with touchscreen capabilities, are included in Bands 1 and 2 of this Contract.

oo. **Takeback Program** means the Contractor’s process for accepting the return of equipment or other products at the end of the product’s life.

pp. **Thin Client** is a lightweight computer that has been optimized for establishing a remote connection with a server-based computing environment.

qq. **Third Party Product** is a good sold by the Contractor that is manufactured by another company. Third Party Products are intended to enhance or supplement a Contractor’s own product line, and are not intended to represent more than a third of any Contractor’s total sales under this Master Agreement.

rr. **Upgrade** means the replacement of existing software, hardware, or hardware component with a newer version.

ss. **Warranty** means the Manufacturer’s general warranty tied to the product at the time of purchase.

tt. **Wide Area Network (WAN)** is a data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers.

3. **Term of the Master Agreement.**

a. The initial term of this Master Agreement is for 2 years. This Master Agreement may be extended beyond the original contract period for 36 additional months at the Lead State’s discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. **Amendments.**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without a written amendment to the Master Agreement executed by the Contractor and Lead State as required by law. Master Agreement amendments will be negotiated by the Lead State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work.

5. **Participants and Scope.**

a. **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, 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.

b. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

c. Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

d. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

e. NASPO and NASPO ValuePoint are not parties to the Master Agreement.

f. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

g. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

h. Resale. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the Master Agreement, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees

associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Individual Customers.

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

7. Independent Contractor.

The Contractor is an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as an agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

8. Contracting Personnel.

Contractor must provide adequate contracting personnel to assist states with the completing and processing Participating Addenda. It is preferred that each Contractor be able to provide each Participating Entity with a primary contact person for that Participating Entity.

9. Changes in Contractor Representation.

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. Such approval shall not be unreasonably withheld. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

10. Contractor Verification.

The Contractor is responsible for delivering products or performing services under the terms and conditions set forth in the Master Agreement. The Contractor must ensure partners utilized in the performance of this contract adhere to all the terms and conditions. The term Partner will be utilized in naming the relationship a Contractor has with another company to market and sell under the contract. Participating Entities will have final determination/approval if a Partner may be approved for that state in the role identified by the Contractor.

11. Contractor Performance Meeting.

An annual performance meeting may be held each year with the NASPO ValuePoint Sourcing Team. Historically performance meetings have been held in Minnesota, but the Lead State may hold the meetings in person or virtually at the Lead State's discretion.

All contractors that are invited to participate must send their Primary Account Representative, unless an exception is granted in writing by the Lead State. It is possible that not all contractors will be invited to participate in a performance meeting.

12. Laws and Regulations.

Any and all Products offered and furnished shall comply fully with all applicable Federal, State, and local laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Office of the Minnesota Secretary of State. To the extent any purchase is subject to Federal Acquisition Regulations, as

may be required by the terms of a federal grant, a Participating Entity and Contractor may include in their Participating Addendum terms that reflect such a requirement.

13. Price and Rate Guarantee Period.

All minimum discounts and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for minimum discount or rate adjustment must be for a guarantee period as offered by the Contractor, and must be made at least 30 days prior to the effective date. Requests for minimum discount or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to minimum discounts or rates will be allowed.

14. Premium Savings Package Program.

The Lead State reserves the right to create a Premium Savings Package Program (PSP) as outlined in the Definitions, Paragraph 2.ee of Exhibit A. Participation by Contractor is voluntary. The details and commitments of the PSP will be detailed as a part of any request for Contractor to participate.

15. Services.

Participating Entities must explicitly allow services in their Participating Addenda for the approved services to be allowed under that Participating Addendum. The Participating Addendum by each Participating Entity will address service agreement terms and related travel.

16. Ordering.

- a. Master Agreement and purchase order numbers shall be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies or services contemplated by this Master Agreement.
- d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.
- f. All Orders pursuant to this Master Agreement, at a minimum, shall include:
 1. The service description or supplies being delivered;
 2. The place and requested time of delivery;
 3. A billing address;

4. The name, phone number, and address of the Purchasing Entity representative;
5. The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
6. A ceiling amount of the order for services being ordered;
7. The Master Agreement identifier; and
8. Statement of Work, when applicable.

- g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- i. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

17. Trade-In.

Any trade-in programs offered during the life of the Master Agreement must be approved by the Lead State. Participating Entities must explicitly allow trade-in programs in their Participating Addenda for the approved programs to be allowed under that Participating Addendum. Trade-in value shall not decrease the discounts offered through the Master Agreement.

18. Shipping and Delivery.

- a. The prices are the delivered price to any Purchasing Entity via standard shipping as follows:
1. For large or custom builds, shipping is 30-45 days after receipt of order (ARO)
 2. For in-stock products, shipping is 3-5 days ARO. If deployment services are required, shipping is 3-5 days after such services are rendered.

If an order is requested with expedited shipping, the Contractor must provide a firm "not to exceed" price for the expedited shipping on the quote. All deliveries shall be FOB Destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any

portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. Specific delivery instructions, including FOB Inside Delivery, will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to promptly notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipment shall be marked with the Purchasing Entity's Purchase Order number and other information sufficient for the Purchasing Entity to properly identify the shipment as outlined in the Participating Addendum of the Purchasing Entity.

19. Inspection and Acceptance.

a. Where the Master Agreement, a Participating Addendum, or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and quality assurance requirements under this Master Agreement. Upon delivery, the Purchasing Entity shall have 30 days to inspect. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

c. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

d. The warranty period shall begin upon Acceptance. The Purchasing Entity will make every effort to notify the Contractor, within thirty (30) calendar days following delivery, of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.

e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in this Master Agreement or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and

Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

20. Title of Product.

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include a license to use any Embedded Software in the Product, as follows:

- a. To the extent that the Software sold under the Master Agreement is Commercial Off-the-Shelf Software, such Software is licensed, not sold, to the Purchasing Entity. The Contractor and its licensors reserve and retain all rights not expressly granted to the Purchasing Entity. No right, title or interest to any trademark, service mark, logo or trade name of Contractor or its licensors is granted to the Purchasing Entity. Licenses to such Software is provided in accordance with the terms of the manufacturer's written End User License Agreement tied to the product at the time of purchase unless otherwise negotiated between Purchasing Entity and the Contractor or the Licensor in a duly executed contract.
- b. Contractor will perform services for the Purchasing Entity, subject to the following section pursuant to a fully executed Statement of Work entered into between the Purchasing Entity and the Contractor.
- c. The Contractor grants the Purchasing Entity a perpetual, non-exclusive, royalty free the license in Contractor's pre-existing intellectual property that is contained in the products, materials, equipment or services, excluding software, that are purchased through this Master Agreement.
- d. Any and all licensing, maintenance, cloud services, or order specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the terms of the Master Agreement as incorporated into the Participating Addendum, and to the extent the terms are not in conflict with the Participating Entities' applicable laws. In the event of a conflict in the terms and conditions, the conflict shall be resolved as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance, cloud services agreements, or order specific agreements may be further negotiated by the Contractor or, if applicable, the Licensor, and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

21. Warranty.

The Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

22. System Failure or Damage.

In the event of system failure or damage caused by the Contractor or its Product, the Contractor shall use reasonable efforts to restore or assist in restoring the system to operational capacity. The Contractor shall be responsible under this provision to the extent a 'system' is defined at the time of the Order; otherwise the rights of the Purchasing Entity shall be governed by the Warranty.

23. Payment.

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law.

Payments will be remitted by mail or electronically. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

Prices are exclusive of taxes, duties, and fees, unless otherwise quoted. If a withholding tax is required by law, the tax will be added and identified on the applicable invoice. All applicable taxes, duties, and fees must be identified on the quote.

24. Leasing or Alternative Financing Methods.

Lease purchase and term leases are allowable only for Purchasing Entities whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process and if the applicable PAs permit leasing. No lease agreements will be reviewed or evaluated as part of the RFP evaluation process.

25. Contract Provisions for Orders Utilizing Federal Funds.

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

26. Self Audit.

The Contractor must conduct at a minimum a quarterly self-audit, unless approved by the Lead State. The audit will sample a minimum of one tenth of one percent (.001) of orders with a maximum of 100 audits per quarter conducted. For example: Up to 1,000 sales = 1 audit; 10,000 sales = 10 audits; Up to 100,000 sales = 100 audits. This will be a random sample of orders and invoices and must include documentation of pricing. Summary findings must be reported to Lead State with actions to correct documented findings.

27. Assignment/Subcontracts.

- a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.
- b. The Lead State, or Participating Entity, shall not assign, delegate or otherwise transfer all or any part of this Master Agreement without prior written consent from Contractor, except for assignment or delegation to a Participating Entity State agency or eligible Purchasing Entity. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO ValuePoint and other third parties.

28. Insurance.

- a. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Lead State and 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.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

1. Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
2. Contractor must comply with any applicable statutory State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Should any of the described policies be cancelled before the expiration date thereof or not renewed, Contractor will provide to a Participating Entity notice within five (5) business days.

d. Prior to commencement of performance, Contractor shall provide to the Participating Entity a certificate of insurance showing the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating Entity as an additional insured, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's Commercial General liability insurance policy shall be primary, with any liability insurance of any Participating Entity as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. During the term of this Master Agreement, the Lead State and Participating Entities may request Contractor provide evidence of coverage that meets the requirements of this Section. 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.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. Administrative Fees.

a. The 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 shall 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.

b. The NASPO ValuePoint Administrative Fee in this section shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

c. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Purchasing Entity may allow the Contractor to adjust the Master Agreement pricing to account for these additional fees for purchases made by Purchasing Entities within the jurisdiction of the Participating Entity. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

30. NASPO ValuePoint 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 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.

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

- a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to 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 qualifying entities can participate in the Master Agreement.

- b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within 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 contract offer as available in the Participating Entity.
- c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.
- d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.
- e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.
- f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to Paragraph 42 of Exhibit A, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to Section Paragraph 42 of Exhibit A or to terminate for default pursuant to Paragraph 44 of Exhibit A.
- g. Contractor agrees to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in any Cooperative Purchasing 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. For the purposes of this paragraph, Cooperative Purchasing Agreement shall mean a cooperative purchasing program facilitating public procurement solicitations and agreements using a lead agency model. This does not include contracts with any federal agency or any federal contract.

32. Right to Publish.

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the public release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

33. Records Administration and Audit.

- a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit 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, to audit, inspect, examine, copy and transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders

placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

34. Indemnification

a. General Indemnity. Contractor shall indemnify, defend (to the extent permitted by a state's Attorney General), and hold harmless an Indemnified Party from any third-party claims or causes of action, including reasonable attorney's fees, to the extent arising from Contractor's intentional, willful, or grossly negligent acts or omissions; actions that give rise to strict liability; and actions arising from breach of contract or warranty.

"Indemnified Party" means NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

b. Intellectual Property Indemnification. Notwithstanding Paragraph 34.a of Exhibit A, the Contractor shall indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the Purchasing Entity, at the Contractor's expense, from any third-party action or claim brought against the Purchasing Entity to the extent that it is based on a claim that all or part of the works or documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, reasonable attorney fees.

1. If such a claim or action arises, or in the Contractor's or the Purchasing Entity's opinion is likely to arise, the Contractor must, at the Purchasing Entity's discretion, either procure for the Purchasing Entity the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the Purchasing Entity will be in addition to and not exclusive of other remedies provided by law.

2. Notwithstanding the foregoing, Contractor will not be liable under this section to the extent the infringement was caused by: 1) Contractor modification of the infringing material where such modification is made specifically for the Purchasing Entity, and where the Purchasing Entity has set forth the specific manner in which the modifications shall be made, as opposed to where the Purchasing Entity has requested modifications and given Contractor discretion over how to implement said modifications; 2) Purchasing Entity modification of the infringing material where such modification is not made under the direction of Contractor; 3) Use of the Deliverables or the System in a manner not contemplated by this Contract or as otherwise authorized by the Contractor in writing; 4) use of the Deliverables or the System in combination, operation, or use with other

products in a manner other than as contemplated by the Contract or otherwise authorized by the Contractor in writing.

35. Limitations of Liability

- a. The Parties agree that neither Contractor nor the indemnified party shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except any claim related to bodily injury or death an unauthorized release or breach of not public data as set forth more fully in Minn. Ch. 13; or a claim or demand based on patent, copyright, or other intellectual property infringement.
- b. Contractor's liability is limited to the greater of (i) the aggregate annual value amount of all fees paid to the Contractor by the Purchasing Entity under this Master Agreement; and (ii) \$5,000,000. This limit on liability does not apply to claims for bodily injury or death or for intellectual property infringement.
 1. Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is provided by the Contractor or the Contractor's subsidiaries or affiliates;
 2. specified by the Contractor to work with the Product; or
 3. reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 4. It would be reasonably expected to use the Product in combination with such product, system or method.

36. License of Pre-Existing Intellectual Property.

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, transfer with any sale of tangible media or Product, perform, and display the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third party rights in the Pre-existing Intellectual Property.

37. Assignment of Antitrust Rights.

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

38. Debarment.

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

39. Governing Law and Venue.

- a. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.
- b. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall 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 contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

40. Confidentiality, Non-Disclosure, and Injunctive Relief.

- a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.
- b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep

one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to Paragraph 33 of Exhibit A. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

41. Public Information.

This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

42. Cancellation.

Unless otherwise set forth in this Master Agreement, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate as set forth in Paragraph 44 of Exhibit A.

43. Force Majeure.

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, restrictions on the movement of people or goods imposed by public health order or by a declared state of emergency, or war, which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon thirty (30) days' notice to Contractor for an opportunity to remediate or minimize the impact of such event on Contractor's performance, after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

44. Defaults and Remedies.

- a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
 - 1. Nonperformance of contractual requirements; or
 - 2. A material breach of this Master Agreement; or

3. Any certification, representation or warranty by Contractor in response to the RFP or in this Master Agreement that proves to be untrue or materially misleading; or

4. Institution of proceedings under any bankruptcy, insolvency, court-ordered reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

5. Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, except for material breach, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 30 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement. The Lead State may immediately terminate this Master Agreement upon material breach of the Master Agreement by Contractor.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

1. Exercise any remedy provided by law; and
2. Terminate this Master Agreement and any related contracts or portions thereof; and
3. Impose liquidated damages as provided in this Master Agreement; and
4. Suspend Contractor from being able to respond to future bid solicitations; and
5. Suspend Contractor's performance; and
6. Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

45. Waiver of Breach.

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or

requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

46. Notices.

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile or electronic transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed as follows:

Elizabeth Randa, Acquisition Management Specialist
112 Administration Bldg.
50 Sherburne Avenue
St. Paul, MN 55155
elizabeth.randa@state.mn.us

47. No Waiver of Sovereign Immunity.

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

Exhibit B: Minnesota Terms and Conditions

1. Change Requests.

The Lead State reserves the right to request, during the term of the Master Agreement, changes to the products offered within the Band(s). Products introduced during the term of the Master Agreement shall go through a formal review process. The process for updating the products offered within a Band is outlined in Paragraph 2 of Exhibit B. The Contractor shall evaluate and recommend products for which agencies have an expressed need. The Lead State shall require the Contractor to provide a summary of its research of those products being recommended for inclusion in the Master Agreement as well as defining how adding the product will enhance the Master Agreement. The Lead State may request that products, other than those recommended, are added to the Master Agreement.

In the event that the Lead State desires to add new products and services that are not included in the original Master Agreement, the Lead State requires that independent manufacturers and resellers cooperate with the already established Contractor in order to meet the Lead State's requirements. Evidence of the need to add products or services should be demonstrated to the Lead State. The Master Agreement shall be modified via supplement or amendment. The Lead State will negotiate the inclusion of the products and services with the Contractor. No products or services will be added to the Master Agreement without the Lead State's prior approval.

2. Product and Service Schedule (PSS).

- a. Creating the Product and Service Schedule (PSS). Contractor will use the attached sample PSS to create and maintain a complete listing of all products and services offered under the Master Agreement. The PSS must conform to the contracted minimum discounts. Contractor may create and maintain a separate PSS for a Participating Entity based on the requirements and restrictions of the Participating Entity.

Contractors are encouraged to provide remote learning bundles for K-12 Education. These bundles can be included in the response to the PSS.

- b. Maintaining the PSS.

1. In General. Throughout the term of the Master Agreement, on a quarterly basis, Contractor may update the PSS to make model changes, add new products or services, or remove obsolete or discontinued products or services. Any updates to the PSS must conform to the Master Agreement requirements, including the scope of the Master Agreement and contracted minimum discounts.

2. Process. Contractor must provide notification to the Lead State of any changes to their PSS using the attached Action Request Form (ARF).

- a) The Lead State does not need to approve Contractor's request to make model changes, add their own manufactured products, or remove discontinued or obsolete products or services, and Contractor does not need the Lead State's approval prior to posting an updated PSS.
- b) The Lead State must approve Contractor's request to add new third party manufacturers to Contractor's PSS. If the proposed third-party manufacturer holds a NASPO Master Agreement for Computer Equipment, Contractor must obtain written authorization from that manufacturer. Contractor must have the Lead State's approval prior to posting the updated PSS.
- c) Contractor must maintain a historic record of all past PSSs on their dedicated NASPO ValuePoint website.

d) Pursuant to the audit provisions of the Master Agreement, upon the request of NASPO ValuePoint, the Lead State, or a Participating Entity, Contractor must provide an historic version of any Baseline Price List.

3. Purchase Orders.

There will be no minimum order requirements or charges to process an individual purchase order. The Participating Addendum number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.). The Ordering Entity's purchase order constitutes a binding contract.

4. Risk of Loss or Damage.

The Purchasing Entity is relieved of all risks of loss or damage to the goods or equipment during periods of transportation, and installation by the Contractor and in the possession of the Contractor or their authorized agent.

5. Payment Card Industry Data Security Standard and Cardholder Information Security.

Contractor assures all of its Network Components, Applications, Servers, and Subcontractors (if any) comply with the Payment Card Industry Data Security Standard ("PCIDSS"). "Network Components" shall include, but are not limited to, Contractor's firewalls, switches, routers, wireless access points, network appliances, and other security appliances; "Applications" shall include, but are not limited to, all purchased and custom external (web) applications. "Servers" shall include, but are not limited to, all of Contractor's web, database, authentication, DNS, mail, proxy, and NTP servers. "Cardholder Data" shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder's account number, expiration date, name, address, social security number, or telephone number.

Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. Contractor must have a business continuity program which conforms to PCIDSS to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and ensure that a representative or agent of the payment card industry and a representative or agent of the Purchasing Entity shall be provided with full cooperation and access to conduct a thorough security review of Contractor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

6. Foreign Outsourcing of Work.

Upon request, the Contractor is required to provide information regarding the location of where services, data storage, and location of data processing under the Master Agreement will be performed.

7. State Audits (Minn. Stat. § 16C.05, subd. 5).

The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Lead State's Legislative Auditor or State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The Lead State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

8. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the contractor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

9. Human Rights/Affirmative Action.

The Lead State requires affirmative action compliance by its Contractors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

- a. Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.
- b. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400 5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552 5000.3559.
- c. Disabled Workers. Minn. R. 5000.3550 provides the Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- (a) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - (b) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - (c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - (d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
 - (e) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- d. Consequences. The consequences of a Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by

the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

e. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

10. Equal Pay Certification.

If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the Lead State may require Contractor to verify its exempt status.

11. Americans with Disabilities Act (ADA).

Products provided under the Master Agreement must comply with the requirements of the Americans with Disabilities Act (ADA). The Contractor's catalog and other marketing materials utilized to offer products under the Master Agreement must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contractor agrees that the customer can assume the product meets or exceeds the ADA requirements.

12. Nonvisual Access Standards.

Pursuant to Minn. Stat. § 16C.145, the Contractor shall comply with the following nonvisual technology access standards:

- a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

13. Accessibility Standards.

Contractor acknowledges and is fully aware that the Lead State (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at: <https://mn.gov/mnit/government/policies/accessibility/>.

The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to

develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.

When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the Lead State in advance of the change, occurring within an agreed upon timeframe sufficient for the state to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the Lead State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the Lead State to consider the Contractor in default.

14. Conflict Minerals.

Contractor agrees to provide information upon request regarding adherence to the Conflict Minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502).

See: <http://beta.congress.gov/111/bills/hr4173/111hr4173enr.pdf#page=838>
<http://www.sec.gov/news/press/2012/2012-163.htm>

15. Hazardous Substances.

To the extent that the goods to be supplied by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable state and federal laws and regulations, the Contractor must provide Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

16. Copyrighted Material Waiver.

The Lead State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the Lead State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response and agrees to indemnify, protect, save and hold the Lead State, its representatives and employees harmless from any and all third-party claims arising from the violation of this section and agrees to pay all legal fees incurred by the Lead State in the defense of any such action.

17. Publicity.

The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products or services that are the subject of the Master Agreement without the prior written consent of the State's Assistant Director or designee of Office of State Procurement. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

18. Performance While Dispute is Pending.

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Master Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under the Master Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

19. Organizational Conflicts of Interest.

An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a. the Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- b. the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- c. the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Lead State's Department of Administration's Office of State Procurement that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the Master Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Master Agreement and did not disclose the conflict to the Master Agreement Administrator, the Lead State may terminate the Master Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," "Master Agreement", "Master Agreement Administrator" and "Contract Administrator" modified appropriately to preserve the State's rights.

20. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

- a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions. Instructions for certification:

1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding \$25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from federal procurement and nonprocurement programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

21. Government Data Practices.

The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with the Master Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the Lead State. The Lead State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the Lead State.

The Contractor agrees to indemnify, save, and hold the Lead State, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota

Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Master Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Master Agreement, the Contractor shall retain responsibility under the terms of this article for such work.

22. Survivability.

Certain rights and duties of the Lead State and Contractor will survive the expiration or cancellation of the RFP and resulting Master Agreement. These rights and duties include but are not limited to paragraphs: Indemnification; Limitations of Liability; State Audits; Government Data Practices; Governing Law and Venue; Publicity; and Administrative Fees.

23. Severability.

If any provision of the Master Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the Lead State and the Contractor shall be relieved of all obligations arising under such provisions. If the remainder of the Master Agreement is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.

Exhibit C: Requirements

1. Contractor Verification.

Contractor must be a manufacturer of a Product in the Band(s) it is awarded a Master Agreement. "Re-branding" a product that is manufactured by another company does not meet this requirement. If the Contractor ceases production, sells or assigns their manufacturing to another vendor, or otherwise no longer manufactures a product during the life of the Master Agreement the Lead State reserves the right to terminate the Contractor's Master Agreement.

2. Warranty and Maintenance.

Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

3. Website.

Contractor must develop and maintain a URL to a web site specific to the awarded Master Agreement. Contractor's Master Agreement website must offer twenty-four (24) hours per day, seven (7) days per week availability, except for regularly scheduled maintenance times. The website must be separate from the Contractor's commercially available (i.e., public) on-line catalog and ordering systems. No other items or pricing may be shown on the website without written approval from the Lead State

a. Mandatory Specifications:

- Designated Baseline Price List(s) (e.g., MSRP, List, or Education)
- Product and Service Schedule (PSS)
- Product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote,
- Service options and service agreements available on the contract. Please refer to Paragraph 5.
- Contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns
- Sales representatives for participating entities
- Links to environmental certification, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.

b. Desirable Specifications:

- Purchase order tracking
- Information on accessibility and accessible products
- Signed Master Agreement
- Online ordering capability with the ability to remember multiple ship to locations (if applicable to product)
- List of approved partners, if applicable

Within 30 calendar days of the notice of intent to award a Master Agreement, Contractor must provide a sample URL of the Master Agreement webpage to the Lead State for review and approval. The Lead State will review and determine acceptability of the website format and data. If the information is determined to be unacceptable or incorrect, the Contractor will have 15 calendar days to provide revisions to the Lead State. After the Lead State approves the website, Contractor may not make material changes to the website without notifying the Lead State through the ARF process and receiving written approval of the changes.

4. Environmental Certifications.

Contractor must include environmental or supply chain responsibility certifications and registrations for products sold through this Contract on their website. Contractor must provide these certifications and registrations for specific products to Participating Entities upon request.

5. EPEAT Registration.

Contractor agrees that applicable products offered that have EPEAT Standards provided under the Master Agreement must have achieved a minimum EPEAT Bronze registration. This requirement does not apply to Band 3.

Contractor may propose the addition of a product that has not yet achieved a minimum EPEAT Bronze registration. The Lead State, in its sole discretion may require Contractor to provide the following documentation to support the addition of the proposed product:

- A letter from the Green Electronics Council (GEC) on GEC's letterhead confirming that the verification process is underway; or
- A copy of Contractor's GEC contract, Conformity Assurance Board (CAB) contract, and a letter from Contractor's CAB stating that the relevant product has been registered with the CAB and that verification is underway.

The Lead State reserves the right to reject the inclusion of such product, or if approved, require Contractor to remove the product at a later date if the product does not achieve a minimum EPEAT Bronze registration. The Contractor must remove any products that subsequently exit the verification process without achieving EPEAT Bronze or greater from the Master Agreement.

6. Third-Party Products.

Some products offered may be manufactured by a third party. Contractor, however, must provide or facilitate the warranty service and maintenance for all Third-Party Products on the Master Agreement either directly or pass-through from the manufacturer. Contractor may not offer products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment without approval from the Lead State. Warranty for third-party products must be provided by the Contractor. Warranty documents for products manufactured by a third party are preferred to be delivered to the Participating Entity with the products. Contractor can only offer Third-Party Products in a Band they have been awarded.

Third-Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of Contractor's total sales under this Master Agreement. The Lead State may limit the sale of Third-Party Products through the Master Agreement during the life of the Master Agreement should Third-Party Product sales be determined to consistently exceed one third of the total sales under this Master Agreement. Such limitation may take the form of any action the Lead State so chooses, up to and including non-renewal or cancellation of the Master Agreement.

7. Partner Utilization.

If utilizing partners, the Contractor is responsible for the partners providing products and services, as well as warranty service and maintenance for equipment the partner provides. Participating Entities have the option of utilizing partners. Contractor must provide a Participating Entity a copy of its plan for partner utilization upon request. Contractor must make available a list of approved partners for each Participating Entity. Participating Entities must approve specific Partners as outlined within the relevant Participating Addendum, and only partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove partners in their Participating Addendum.

8. 2019 National Defense Authorization Act, Section 889(f)(3).

Under the 2019 National Defense Authorization Act, Section 889(f)(3), the US military is prohibited from purchasing video surveillance and telecommunications equipment from certain Chinese-owned technology firms. While US state are

not subject to this act, there is increasing concern for the security of state data. Contractor certifies for the term of this Master Agreement that it is not subject to laws, rules, or policies potentially requiring disclosure of, or provision of access to, customer data to foreign governments or entities controlled by foreign governments, and that Contractor's Products do not contain, include, or utilize components or services supplied by any entity subject to the same. Contractor also certifies that its Products do not contain, include, or utilize any covered technology prohibited under Section 889 of the National Defense Authorization Act, as amended.

Exhibit D: Pricing Schedule

Attached and incorporated into this Master Agreement as Exhibit D is the Price Schedule.

Exhibit D: Price Schedule*NASPO ValuePoint Computer Equipment (2023-2028)***CONTROL SET****Master Agreement:** 23019**Contractor Name:** Panasonic Connect North America, Division of Panasonic Corporation of North America**Awarded Bands:**

X	Band 1: Personal Computing Devices (Windows)
X	Band 2: Personal Computing Devices (Non-Windows)
	Band 3: Servers and Storage

Band	Category Code	Category Description	Discount off Baseline List
1	1B	Band 1 - Minimum Discount	0.0%
1	1B-1	Fully Rugged TOUGHBOOK Computer	16.0%
1	1B-2	Semi-Rugged TOUGHBOOK Computer	13.0%
1	1B-3	TOUGHBOOK Tablet	12.0%
1	1B-4	TOUGHBOOK Handheld	9.0%
1	1B-5	Accessory	11.0%
1	1B-6	Peripheral: Professional Video	5.0%
1	1B-7	Peripheral: Professional Audio	10.0%
1	1B-8	Peripheral: Display	22.0%
1	1B-9	Peripheral: Display Accessory	10.0%
1	1B-10	Peripheral: Projector (Large Venue, Installation)	48.0%
1	1B-11	Peripheral: Projector (Portable, Short Throw, Space Player)	38.0%
1	1T	Band 1 - Third Party Product Minimum Discount	2.0%
1	1T-1	Absolute Software/Licenses	0.0%
1	1T-2	Agora Peripherals and Related Accessories	11.0%
1	1T-3	Airgain Peripherals and Related Accessories	11.0%
1	1T-4	Brother Peripherals and Related Accessories	11.0%
1	1T-5	CradlePoint Peripherals and Related Accessories	11.0%
1	1T-6	Crossmatch Software/Licenses	0.0%
1	1T-7	Gamber-Johnson Peripherals and Related Accessories	11.0%
1	1T-8	Havis Peripherals and Related Accessories	11.0%
1	1T-9	Ikey Peripherals and Related Accessories	11.0%
1	1T-10	Lind Peripherals and Related Accessories	11.0%
1	1T-11	Nuance Peripherals/Accessories	11.0%
1	1T-12	Nuance Software/Licenses	0.0%
1	1T-13	Panasonic i-Pro Sensing Solution Peripherals and Related Accessor	11.0%
2	2B	Band 2 - Minimum Discount	0.0%
2	2B-1	TOUGHBOOK Tablet	12.0%
2	2B-2	TOUGHBOOK Handheld	9.0%
2	2B-3	Accessory	11.0%
2	2B-4	Peripheral: Professional Video	5.0%
2	2B-5	Peripheral: Professional Audio	10.0%
2	2B-6	Peripheral: Display	22.0%

Exhibit D: Price Schedule

Band	Category Code	Category Description	Discount off Baseline List
2	2B-7	Peripheral: Display Accessory	10.0%
2	2B-8	Peripheral: Projector (Large Venue, Installation)	48.0%
2	2B-9	Peripheral: Projector (Portable, Short Throw, Space Player)	38.0%
2	2T	Band 2 - Third Party Product Minimum Discount	2.0%
2	2T-1	Absolute Software/Licenses	0.0%
2	2T-2	Agora Peripherals and Related Accessories	11.0%
2	2T-3	Airgain Peripherals and Related Accessories	11.0%
2	2T-4	Brother Peripherals and Related Accessories	11.0%
2	2T-5	CradlePoint Peripherals and Related Accessories	11.0%
2	2T-6	Crossmatch Software/Licenses	0.0%
2	2T-7	Gamber-Johnson Peripherals and Related Accessories	11.0%
2	2T-8	Havis Peripherals and Related Accessories	11.0%
2	2T-9	Ikey Peripherals and Related Accessories	11.0%
2	2T-10	Lind Peripherals and Related Accessories	11.0%
2	2T-11	Nuance Peripherals/Accessories	11.0%
2	2T-12	Nuance Software/Licenses	0.0%
2	2T-13	Panasonic i-Pro Sensing Solution Peripherals and Related Accessor	11.0%
	S	Installation	0.0%
	S	Extended Warranty	0.0%
	S	Training	0.0%
	S	Complimentary software	0.0%

Exhibit D: Price Schedule**Discount Structure**

Master Agreement: 23019
Contractor Name: Panasonic Connect North America, Division of Panasonic Corporation of North America
Baseline Price List: Posted on Contractor's dedicated NASPO ValuePoint website

Band 1: Personal Computer Equipment (Windows OS)

Band	Category Code	Category Description	Discount off Baseline List
1	1B	Band 1 - Minimum Discount	0.0%
1	1B-1	Fully Rugged TOUGHBOOK Computer	16.0%
1	1B-2	Semi-Rugged TOUGHBOOK Computer	13.0%
1	1B-3	TOUGHBOOK Tablet	12.0%
1	1B-4	TOUGHBOOK Handheld	9.0%
1	1B-5	Accessory	11.0%
1	1B-6	Peripheral: Professional Video	5.0%
1	1B-7	Peripheral: Professional Audio	10.0%
1	1B-8	Peripheral: Display	22.0%
1	1B-9	Peripheral: Display Accessory	10.0%
1	1B-10	Peripheral: Projector (Large Venue, Installation)	48.0%
1	1B-11	Peripheral: Projector (Portable, Short Throw, Space Player)	38.0%
1	1T	Band 1 - Third Party Product Minimum Discount	2.0%
1	1T-1	Absolute Software/Licenses	0.0%
1	1T-2	Agora Peripherals and Related Accessories	11.0%
1	1T-3	Airgain Peripherals and Related Accessories	11.0%
1	1T-4	Brother Peripherals and Related Accessories	11.0%
1	1T-5	CradlePoint Peripherals and Related Accessories	11.0%
1	1T-6	Crossmatch Software/Licenses	0.0%
1	1T-7	Gamber-Johnson Peripherals and Related Accessories	11.0%
1	1T-8	Havis Peripherals and Related Accessories	11.0%
1	1T-9	Ikey Peripherals and Related Accessories	11.0%
1	1T-10	Lind Peripherals and Related Accessories	11.0%
1	1T-11	Nuance Peripherals/Accessories	11.0%
1	1T-12	Nuance Software/Licenses	0.0%
1	1T-13	Panasonic i-Pro Sensing Solution Peripherals and Related Accessories	11.0%

Band 2: Personal Computer Equipment (Non-Windows OS)

Band	Category Code	Category Description	Discount off Baseline List
2	2B	Band 2 - Minimum Discount	0.0%
2	2B-1	TOUGHBOOK Tablet	12.0%
2	2B-2	TOUGHBOOK Handheld	9.0%
2	2B-3	Accessory	11.0%
2	2B-4	Peripheral: Professional Video	5.0%
2	2B-5	Peripheral: Professional Audio	10.0%
2	2B-6	Peripheral: Display	22.0%
2	2B-7	Peripheral: Display Accessory	10.0%
2	2B-8	Peripheral: Projector (Large Venue, Installation)	48.0%
2	2B-9	Peripheral: Projector (Portable, Short Throw, Space Player)	38.0%
2	2T	Band 2 - Third Party Product Minimum Discount	2.0%

Exhibit D: Price Schedule

Discount Structure

Band 2: Personal Computer Equipment (Non-Windows OS)			
Band	Category Code	Category Description	Discount off Baseline List
2	2T-1	Absolute Software/Licenses	0.0%
2	2T-2	Agora Peripherals and Related Accessories	11.0%
2	2T-3	Airgain Peripherals and Related Accessories	11.0%
2	2T-4	Brother Peripherals and Related Accessories	11.0%
2	2T-5	CradlePoint Peripherals and Related Accessories	11.0%
2	2T-6	Crossmatch Software/Licenses	0.0%
2	2T-7	Gamber-Johnson Peripherals and Related Accessories	11.0%
2	2T-8	Havis Peripherals and Related Accessories	11.0%
2	2T-9	Ikey Peripherals and Related Accessories	11.0%
2	2T-10	Lind Peripherals and Related Accessories	11.0%
2	2T-11	Nuance Peripherals/Accessories	11.0%
2	2T-12	Nuance Software/Licenses	0.0%
2	2T-13	Panasonic i-Pro Sensing Solution Peripherals and Related Accessories	11.0%

Exhibit D: Price Schedule**Volume-Based Discounts****Master Agreement:** 23019**Contractor Name:** Panasonic Connect North America, Division of Panasonic Corporation of North America**All Awarded Bands****1. Per Transaction Multiple Unit Discount(s)**

Contractor provides a contractual volume discount program as follows based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity, or multiple entities conducting a cooperative purchase.

Panasonic's volume discount applies to fully ruggedized TOUGHBOOK computers and tablets. It is calculated not on purchase price but on the quantity of the same model of TOUGHBOOK equipment purchased by each specific end-user customer per transaction.

An end-user customer purchasing 50 to 99 units of the same TOUGHBOOK model will receive a 2-percent discount off contract pricing.

An end-user customer purchasing 100 units or more will receive a 4-percent discount off contract pricing.

2. Cumulative Discount(s)

Contractor provides a cumulative volume discount as follows based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement.

Cumulative discounts are not available at this time; however, in the instance that a State defines standardization of a Panasonic equipment model for use across the State, and multiple State entities or local entities within the State subsequently purchase the equipment model per State standardization, Panasonic may work with the State to provide additional discounts to the end-user purchasers.

3. Other Discount(s)

Additional discount(s) available.

Panasonic offers promotional pricing in which deeper discounts—an additional percentage off contract pricing—are available on specified products based on inventory and sales. Such promotional pricing is offered for a defined period (e.g., quarterly, defined as approximately 3 months).

Panasonic also provides piggyback pricing to local entities within States that have signed a NASPO Participating Addendum.

Exhibit D: Price Schedule

Services

Master Agreement: 23019
Contractor Name: Panasonic Connect North America, Division of Panasonic Corporation of North America

Each Purchasing Entity will determine if and how services will be offered in the Participating Addendum.

Travel for Services will be negotiated with each Participating Entity in the Participating Addendum.

All Awarded Bands		
Category Code	Description of Service	Percent Discount
S	Installation	0.0%
S	Extended Warranty	0.0%
S	Training	0.0%
S	Complimentary software	0.0%

Exhibit D: Price Schedule

Lease Rates

Master Agreement: 23019
Contractor Name: Panasonic Connect North America, Division of Panasonic Corporation of North America

All Awarded Bands

Optional: Lease Rates

0% Financing
Short-term rental available

Exhibit D: Price Schedule

Prompt Payment Discount

Master Agreement: 23019
Contractor Name: Panasonic Connect North America, Division of Panasonic Corporation of North America

All Awarded Bands

		in 30
		in 15, Net 30
		in 10, Net 30
X		Net 30
X	Other (specify):	Panasonic sales are indirect, executed through its authorized reseller partners; therefore, prompt payment discounts do not apply to Panasonic. However, reseller partners may individually provide this discount to the end-user customer.