

PARTICIPATING ADDENDUM
NASPO ValuePoint Cooperative Purchasing Program
Cloud Solution 2016-2026
Administered by the State of Utah
(hereinafter "Lead State")
Master Agreement No: **AR2479**
Deloitte Consulting
(hereinafter "Contractor")
and
State of Arkansas
(hereinafter "Participating State")
Contract No: **4600054447**

A. SCOPE:

This Participating Addendum (this "PA," or this "Addendum" or "Participating Addendum") covers the NASPO contract for Cloud Solutions administered by the Lead State for use by state agencies and other entities located in the Participating State authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. The Lead State Contract#: AR2479 references the NASPO ValuePoint Master Agreement Terms and Conditions and its exhibits and amendments thereto (collectively, the "Master Agreement") under Attachment A to the Lead State Contract. The State of Arkansas is a Participating Entity for purposes of the Lead State Contract and the Master Agreement. The parties acknowledge that Section 20 of the Master Agreement permits a Participating Entity to alter, modify, supplement, or amend the Master Agreement in a Participating Addendum.

B. PARTICIPATION:

All state agencies, K-12 educational institutions, and local public procurement units (cities, counties, municipalities) of the Participating State are considered Eligible Purchasers and are authorized to purchase products and services under the terms and conditions of this PA.

C. INDIVIDUAL CUSTOMER:

Each Eligible Purchaser that purchases from the Master Agreement ("Purchasing Entity") shall be treated as if they were individual customers. Except to the extent modified by the PA, each Purchasing Entity will be responsible to follow the terms and conditions of the Master Agreement; and they shall have the same rights and responsibilities for their purchases as the Participating State has in the Master Agreement and this PA. Each Purchasing Entity shall be responsible for their own charges, fees, and liabilities. Each Purchasing Entity shall have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor shall apply the charges to each Purchasing Entity individually.

D. ACCESS TO CLOUD PRODUCTS AND SERVICES REQUIRE DIS APPROVAL:

Unless otherwise stipulated in this PA, cloud products and services accessed through this PA by State executive branch agencies are subject to the authority and prior approval of the Arkansas Department of Transformation and Shared Services Division of Information Systems.

E. CLOUD PRODUCTS AND SERVICES:

All servers and data associated with the Arkansas instance of the Contractor provided cloud products and services must reside in the continental United States. The Contractor shall perform all work on the cloud products and services from within the continental United States

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of America. The cloud products and services must not be accessed from outside of the U.S.

F. ORDER OF PRECEDENCE:

1. Arkansas's Participating Addendum (PA); Arkansas's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the Terms of the Lead State's Master Agreement.
2. Lead State's Master Agreement (includes negotiated Terms & Conditions)

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 the Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an Exhibit or Attachment. Notwithstanding the foregoing, Orders (as defined in Section I below) may contain transaction-specific terms and each Order that is accepted and executed by the Contractor and the applicable Participating Entity shall become a part of this Agreement as to the products and services listed on the Order only. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or references on the Contractor's website, in the Contractor's quotation/sales order or in similar documents subsequently provided by the Contractor (unless such terms are referenced in the applicable Order).

G. VENDOR REGISTRATION:

To receive payment, the Contractor must register online at ark.org/vendor/index.html.

H. PAYMENTS AND INVOICE PROVISIONS:

Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance by the Purchasing Entity. The Participating State may not be invoiced in advance of delivery and acceptance of any products or services. Payment will be made only after the Contractor has successfully satisfied the Purchasing Entity as to the commodities and/or services purchased, rented, or leased. Contractors should invoice the Purchasing Entity by an itemized list of charges. The purchase order number, contract number, or both, as applicable, should be referenced on each invoice.

Payments will be submitted to the Contractor at the address shown on the invoice. Payments should be tendered to the contractor within thirty (30) days of the date of invoice. After the sixtieth (60) day from the date of invoice, unless mutually agreed to, interest may be paid on the unpaid balance due to the contractor at the rate of one half (1/2) of one (1) percent per month in accordance with Arkansas Code Annotated §19-11-224 and (ii) Contractor may also suspend or terminate the Services with fifteen (15) day's notice. The State shall have the right to dispute billed goods or services by providing written notice to Contractor within sixty (60) days of receipt of an invoice, and withhold payment for those goods or services that are in dispute. Interest shall not be charged on disputed amounts while in dispute.

The Contractor shall ensure that all invoices are sent directly to the Purchasing Entity that purchased products from them.

All invoices should be forwarded to: Purchasing Entity Name

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Attention: Accounts Payable
Address
City, Arkansas Zip Code

I. PURCHASE ORDER INSTRUCTIONS:

Contractor shall provide services to a Purchasing Entity pursuant to and in accordance with separate, mutually agreed Statements of Work. Once executed by Contractor and the applicable Purchasing Entity, such Statement of Work shall be considered an "Order" under this participating addendum and be binding upon the parties thereto. Following execution of a Statement of Work, the applicable Purchasing Entity shall issue a Purchase Order. No signed Statement of Work shall be valid unless it is accompanied by a valid Purchase Order. Purchase Orders should include the following:

1. The mutually agreed Statement of Work
2. NASPO ValuePoint Master Agreement number AR2479
3. State contract number 4600040824
4. Agency Name, Address, Contact, and Phone-Number
5. Applicable approvals
6. Orders shall be made out to the Contractor

Purchase orders shall not modify or supplement the terms of any mutually agreed Statement of Work, and any terms and conditions contained in a purchase order, but not in the mutually agreed Statement of Work are null and void.

As set forth in the Master Agreement, Orders may include the licensing of specific software programs pursuant to individual End User License Agreements, in a form substantially similar to the license agreement for the applicable software as attached to the Master Agreement, in each case as executed by the Purchasing Entity and the applicable software vendor as part of the applicable Order. In addition, the additional terms set forth in Exhibit 1 to this PA will apply to any Order where AWS hosting is included as part of the Services thereunder.

Except as contemplated above, the Purchasing Entities **shall not** be required, by the Contractor or its subcontractors, to sign any additional terms and conditions when utilizing this Agreement.

J. CONVENIENCE FEE:

1. Convenience Fee

Contractor shall remit a convenience fee in the amount of one percent (1%) of all Contract Sales made to State, State Departments, and to local entities as defined in Arkansas Code Annotated § 19-11-206 (i.e. local governments, cities, counties, school districts, water districts, and other participants, collectively "State"). The convenience fee is based on Contractor invoice date and is effective upon the date of execution of this PA. Contract Sales is defined as gross sale amounts less credits, taxes, regulatory fees, and separately stated shipping charges not included in the unit prices. The State, at its sole

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discretion, may expand the applicability of this fee after providing notice to Contractors.

Unit prices are inclusive of the convenience fee and Contractor is not to charge the fee directly to the State in the form of a separate line item. Contracts shall not have separate or different prices for State Agency customers and local entities as defined in Arkansas Code Annotated § 19-11-206 participants.

2. Quarterly Reporting and Fee Remittance

Contractor shall submit a Sales Report documenting all contract sales, made to State and such submission, including any supplemental information submitted, is deemed public record.

The Sales Report shall be submitted, and the related convenience fee shall be remitted no later than thirty (30) calendar days after the end of each calendar quarter. The calendar quarters will end March 31, June 30, September 30, and December 31. The Sales Report must contain the following information:

- a. Complete and accurate details of all sales, credits, returns, refunds, and the like for the reporting quarter
- b. Purchasing entity
- c. Total of Convenience Fee amount due
- d. Such other information as the State may reasonably request
- e. If no Sales were made to State during the reporting quarter, then a report shall be submitted showing zero sales and zero convenience fees due.

3. Payment of Convenience Fee

The Contractor shall timely remit Convenience Fee via Automated Clearing House (ACH) transactions, unless otherwise directed by State, to the bank account directed by the State. Failure to remit convenience fees timely and accurately in accordance with State requirements may result in Contractor's goods and services being made ineligible for purchase by State or any other recourse available, including contract cancellation, or as further provided for by law.

4. Retention and Inspection of Records

The Contractor shall keep records of Sales to State in sufficient detail to enable the State to determine the Convenience Fee payable by the Contractor. State may examine and audit, at its own expense, Contractor's sales records and Sales Reports for completeness and accuracy. In the event that such examination reveals underpayment of the Convenience Fee, the Contractor shall immediately pay to the State the amount of deficiency. If the examination reveals an underpayment of 5% or more, then the Contractor shall reimburse the State for the cost of the audit.

K. RECORD RETENTION:

Financial and accounting records relevant to State of Arkansas transactions under this PA shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the expiration date and final payment under this PA or extension thereof, provided, however, that such government authorities will provide thirty (30) days written

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notice to the Contractor of its intent to conduct such examination contemplated by this section.

L. GOVERNING LAW:

The laws of the State of Arkansas shall govern this PA. Nothing under this PA or the Master Agreement shall be deemed or construed as a waiver of the State's right of sovereign immunity.

M. VENUE AND JURISDICTION:

Venue for any claim, dispute, or action concerning an order placed against the contract shall be Pulaski County, Arkansas. Any claims against the State, whether sounding in tort or in contract, shall be brought before the Arkansas State Claims Commission as provided by Arkansas law, and shall be governed accordingly.

N. TAXES:

Personal Property tax will not be charged to Arkansas state agencies.

O. TRAVEL EXPENSES:

Expenses for travel shall not be reimbursed unless specifically permitted under the duties of the Contractor. All travel must be approved in advance by the State. Approved expenditures made by the contractor for travel will be reimbursed at the current rate paid by the State and in accordance with Arkansas Travel Guidelines and Procedures.

P. SOFTWARE TERMS AND CONDITIONS:

Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software; however, any language in a EULA which violates a Purchasing Entity's constitution, statute or other applicable law will be deemed void, and of no force or effect, as applied to the Purchasing Entity.

Q. CANCELLATION:

1. **For Convenience.** The State may cancel this PA for any reason by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.
2. **For Cause.** Either party may terminate this Participating Addendum or an Order executed hereunder in the event of a material breach of this Participating Addendum or an Order executed hereunder, as applicable, by the other party by giving thirty (30) days prior written notice to the other party, unless the breaching party cures the breach within the notice period. If any Order is terminated pursuant this Participating Addendum, this Participating Addendum shall continue to apply to all Orders that have not been terminated. The State shall pay for all services rendered (including work in progress) through the effective date of cancellation.
3. If upon cancellation the Contractor has provided services which the State has accepted, and there are no funds legally available to pay for the services, the Contractor may file a claim with the Arkansas State Claims Commission under the laws and regulations governing the filing of such claims.

R. INDEMNIFICATION:

The following indemnification clause replaces in its entirety the Indemnification clause specified in the Master Agreement.

INDEMNIFICATION - The Contractor shall be fully liable for the actions of its agents,

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employees, partners, and subcontractors in performing its obligations under the Agreement and shall fully indemnify, defend, and hold harmless the Purchasing Entity and the State, and their officers, agents, and employees from suits, actions, damages, and costs of every name and description, including reasonable attorney's fees arising from third party claims attributable to personal injury and damage to real or tangible personal property, to the extent caused by the negligence or intentional misconduct of vendor, its agents, employees, partners, and subcontractors while engaged in its performance of services under this Agreement. Language in this clause shall not be construed or deemed as the State's waiver of its right of sovereign immunity. The Contractor agrees that any claims against the State, whether sounding in tort or in contract, shall be brought before the Arkansas State Claims Commission as provided by Arkansas law, and shall be governed accordingly. This section is not subject to any limitations of liability in the Master Agreement or in any other document executed in conjunction with the Master Agreement.

S. LIMITATION OF LIABILITY

The Contractor, its subsidiaries and subcontractors, and its personnel shall not be liable to the State for any claims, liabilities, or expenses relating to this Participating Addendum or any Order executed hereunder, or the Services ("Claims") for an aggregate amount in excess of the total fees paid by the State to the Contractor under the applicable Order to this Participating Addendum over the twenty-four (24)-month period immediately preceding the date on which the first cause of action giving rise to a Claim under such Order accrues, except to the extent resulting from their recklessness, bad faith or intentional misconduct. In no event shall the Contractor, its subsidiaries or subcontractors, or its personnel be liable to the State for any loss of revenues or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense, relating to this Participating Addendum, any Order executed hereunder, or the Services. In circumstances where any limitation on damages or indemnification provision hereunder is unavailable, the aggregate liability of each party, its subsidiaries and subcontractors, and their respective personnel for any Claim shall not exceed an amount that is proportional to the relative fault that their conduct bears to all other conduct giving rise to such Claim.

T. CONFIDENTIAL INFORMATION:

Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas statutes.

U. CONTINGENT FEE:

The Contractor guarantees that Contractor has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.

V. DISCLOSURE AND CERTIFICATIONS:

1. DISCLOSURE

Under Arkansas law, the Office of State Procurement (OSP) is required to have a copy of Governor's Executive Order (EO 98-04) Disclosure Form on file for the Contractor. The Contractor shall submit the disclosure form prior to entering into this PA. Failure to make

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any disclosure required by EO 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this PA. Any Contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the Participating State.

2. RESTRICTION OF BOYCOTT OF ISRAEL

Pursuant to Arkansas Code Annotated § 25-1-503, a public entity shall not enter into a contract with a company unless the contract includes a written certification that the person or company is not currently engaged in and agrees for the duration of the contract not to engage in, a boycott of Israel.

3. RESTRICTION OF ENERGY, FOSSIL FUEL, FIREARMS, AND AMMUNITION INDUSTRIES

Pursuant to Arkansas Code Annotated § 25-1-1102, a public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract.

4. RESTRICTION OF SCRUTINIZED COMPANIES

Pursuant to Arkansas Code Annotated § 25-1-1203, a state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor.

5. EQUAL OPPORTUNITY POLICY

In compliance with Arkansas Code Annotated § 19-11-104, if a state agency is purchasing services, the Office of State Procurement is required to have a copy of the Contractor's Equal Opportunity (EO) Policy prior to entering into this PA. The submission of an EO Policy is a one-time requirement. The Contractor is responsible for providing updates or changes to its policy, and for supplying EO Policies upon request to other Participating Entities that must also comply with this statute. If the Contractor is not required by law to have an EO Policy, the Contractor must submit a written statement to that effect.

6. PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

Pursuant to Arkansas Code Annotated § 19-11-105, if a state agency is purchasing services, the Office of State Procurement is required to have a certification on file from the Contractor stating that the Contractor does not employ or contract with illegal immigrants.

W. TECHNOLOGY ACCESS:

When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology

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purchased in whole or in part with state funds. The Contractor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

Accordingly, the Contractor expressly represents and warrants to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means.
2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.
3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.
5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.
6. Integrating into networks used to share communications among employees, program participants, and the public.
7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display

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appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2019.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

X. SHARED TECHNICAL ARCHITECTURE:

Solutions must comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed by visiting <https://www.transform.ar.gov/information-systems/policies-standards/> and <https://www.transform.ar.gov/information-systems/policies-standards/standards/>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

Y. PERFORMANCE STANDARDS (FOR SERVICES ONLY):

Under Arkansas law, all state agencies, boards, commissions, and institutions of higher education must include performance standards when purchasing services. Performance standards shall be mutually agreed upon by the parties hereto for any services purchased.

Z. LEASING:

Leasing **shall not** be authorized under this PA.

AA. VALUE ADDED SERVICES:

The Contractor **shall not** propose or provide value-added services unless it meets one (1) or more of the following criteria:

- It is of no cost to the purchasing entity;
- Services are linked to items the entity has purchased through a current or past transaction.

BB. SUBCONTRACTORS:

The Contractor may use subcontractors; however, the Contractor will be responsible for any agreements with the subcontractors. The Participating State and Purchasing Entity are not agreeing to and is not responsible for any terms and conditions with a subcontractor. The following subcontractors are authorized to provide commodity delivery and services:

Subcontractor	Contact Name	Email	Phone
To be provided			

Subcontractors may be updated by mutual agreement.

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CC. ORDERS:

Any order placed by a Participating State or Purchasing Entity for a commodity, service, or both available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

DD. TERMS:

The Participating State and Purchasing Entity are agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with Arkansas law.

EE. PRIMARY CONTACTS:

The primary contact individuals for this PA are as follows (or their named successors):

Lead Entity	
Name:	State of Utah
Contact Person:	Blake Theo Porter
Address:	
Telephone:	801-957-7136
E-Mail:	btporter@utah.gov

Contractor	
Name:	Deloitte Consulting LLP
Contact Person:	Sanjeev Sethi
Address:	400 W. Capitol Ave, Suite 900, Little Rock, AR 72201
Telephone:	512-507-4155
E-Mail:	sansethi@deloitte.com

Arkansas Contact	
Name:	State of Arkansas Department of Transformation & Shared Services, Office of State Procurement
Contact Person:	Austin McClane
Address:	501 Woodlane Street, Ste 220 Little Rock, AR 72201
Telephone:	501-371-6156
E-Mail:	Austin.McClane@arkansas.gov

The contacts listed above can be changed by the parties from time to time in writing. Such updates do not require an amendment to this PA.

By signing this PA, the Contractor represents, warrants, and certifies that they are not a Scrutinized Company and they do not currently and shall not for the aggregate term of a

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contract resulting from this PA:

- Boycott Israel.
- Knowingly employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a contractor.

The Contractor further represents, warrants, and certifies that it shall not become a Scrutinized Company during the aggregate term of a contract resulting from this PA.

This PA and the Master Agreement number AR2479 (administered by Utah) together with its exhibits (including any terms referenced in the Master Agreement), set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this PA and the Master Agreement, together with its exhibits, shall not be added to or incorporated into this PA or the Master Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this PA and the Master Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

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

Participating State: Arkansas	Contractor: Deloitte Consulting
Signature: 	Signature: 
Name: Jessica Patterson	Name: Sanjeev Sethi
Title: State Procurement Director	Title: Managing Director
Date: 06/27/2024	Date: 06/26/2024

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Exhibit A
AWS Hosting

In addition to the terms and conditions in the Participating Addendum, the terms and conditions set forth in this exhibit will apply to any Order where AWS hosting is included as part of the Services thereunder.

- (a) State Participating Entity or Purchasing Entity acknowledges and agrees that Contractor will be contracting with Amazon Web Services, Inc. ("AWS"), an independent commercial public cloud infrastructure provider, as a vendor to provide the AWS cloud-computing platform, services and tools ("AWS Platform") as part of the Services in the applicable Order. State Participating Entity or Purchasing Entity agrees that AWS shall not be deemed a subcontractor under the terms of the Agreement.
- (b) By entering into the Order, State Participating Entity or Purchasing Entity acknowledges that its use of the AWS Platform is subject to AWS's access policy currently located at <https://s3.amazonaws.com/Reseller-Program-Legal-Documents/AWS+Access+Policy.pdf>, as it may be updated by AWS from time to time, and as may be made available on any successor or related site designated by AWS ("AWS Public Sector Access Policy"), a copy of the current version is attached hereto. State Participating Entity or Purchasing Entity hereby accepts the terms of the AWS Public Sector Access Policy.
- (c) State Participating Entity or Purchasing Entity acknowledges that aspects of, or changes to, the functionality of the AWS Platform is outside of Contractor's direct control. In the event the AWS Platform experiences an availability, performance, or security failure solely as a result of an outage, malfunction, unavailability of, or change by AWS to an AWS Platform component (a "Platform failure"): (i) Contractor shall coordinate with AWS and the State Participating Entity or Purchasing Entity to monitor status on resolving any such issue and Contractor will work collaboratively with the State Participating Entity or Purchasing Entity to develop a mutually agreeable resolution to address the impact of such failure; and (ii) to the extent AWS provides a credit/payment to Contractor as a result, Contractor shall apply such amount against amounts due to Contractor for the Services; and (iii) State Participating Entity or Purchasing Entity agrees that Contractor will not be in breach of its obligations for such a Platform failure. The foregoing shall not relieve Contractor from responsibility for any other aspects of the Services, such as the functionality of the hosted solution, nor from responsibility for Contractor not having properly installed or configured any AWS Platform components in accordance with the applicable Order.
- (d) "State Items" shall mean any State-provisioned application or other software installed or uploaded onto the AWS Platform by or on behalf of State Participating Entity or Purchasing Entity, or by Contractor as part of the Services ("State Software") and any State-provisioned machine images, data, text, audio,

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video, images or other content that is installed or uploaded onto the AWS Platform by Contractor as part of the Services, or that State Participating Entity or Purchasing Entity or any of its end users (a) runs on any State Software hosted on the AWS Platform, (b) uploads to any State Software hosted on the AWS Platform, or (c) causes to interface with the AWS Platform. State Items, once uploaded to and while hosted on the AWS Platform, will not be considered Confidential Information under the Agreement, but will be subject to any security control measures to be implemented as agreed to by the parties to the applicable Order. Contractor shall promptly notify State Participating Entity or Purchasing Entity of any unauthorized third- party access to any State Items. Notwithstanding the foregoing, any State Items that Contractor maintains in its possession or accesses in connection with the Services, in each case outside of the Hosted Solution, shall be treated by Contractor as Confidential Information under the terms of the Agreement.

- (e) In lieu of an order to comply with any inspection under the Agreement of the AWS Platform or the AWS data center facilities, servers, networking equipment and hosting software systems, State may review relevant security documentation regarding AWS's FedRAMP program by submitting a request directly to AWS. In addition, notwithstanding anything to the contrary, State Participating Entity's or Purchasing Entity's audit rights set forth in the Contract shall not extend to AWS's books and records.

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Attachment

AWS PUBLIC SECTOR ACCESS POLICY

(Last Updated July 21, 2015)

This AWS Public Sector Access Policy ("Access Policy") governs your access to and use of the Services (as defined below) of Amazon Web Services, Inc. ("AWS") provided to you by your systems integrator, reseller or services provider ("Provider"). It sets out the additional rules, conditions, and restrictions that apply to you or the entity you represent ("you") for use of the Services. In this Access Policy, "we", "us", or "our" means AWS and any of its affiliates. Please see Section 8 for definitions of capitalized terms.

1. Use of the Services.

1.1 **Generally.** You are provided access to the Services by your Provider. Your use of and access to the Services are governed by the agreement between you and Provider. This Access Policy supplements the terms of such agreement and may be updated by us from time to time. AWS Service Level Agreements do not apply to your use of the Services. Your continued access to and use of the Services is conditioned on your compliance with all laws, rules, regulations, policies and instructions applicable to your use of the Services, including the Policies.

1.2 **Account Keys.** Provider may provide you with AWS account keys which will allow you to directly access the Services via Provider's account(s). We are not responsible for any activities that occur under these account keys, regardless of whether the activities are undertaken by you, Provider or a third party (including your employees, contractors or agents) and we are also not responsible for unauthorized access to the account.

1.3 **Third Party Materials.** Through the use of Provider's AWS account(s), you may have access to Third Party Materials, such as software applications provided by third parties, which are made available directly to you by other companies or individuals under separate terms and conditions, including separate fees and charges. Your use of any Third Party Materials is at your sole risk.

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2. Your Responsibilities

2.1Your Materials. You are solely responsible for the development, content, operation, maintenance, and use of Your Materials with the Services. For example, you are solely responsible for:

- (a) the technical operation of Your Materials, including ensuring that calls you make to any Service are compatible with then-current application program interfaces for that Service;
- (b) compliance of Your Materials with the Acceptable Use Policy, the other Policies, and the law;
- (c) any claims relating to Your Materials;
- (d) properly handling and processing notices sent to you (or any of your affiliates) by any person claiming that Your Materials violate such person's rights, including pursuant to the Digital Millennium Copyright Act;
- (e) any action that you permit, assist or facilitate any person or entity to take related to this Access Policy, Your Materials or use of the Services; and
- (f) End Users' use of Your Materials and the Services and ensuring that End Users comply with your obligations under this Access Policy and that the terms of your agreement with each End User are consistent with this Access Policy.

2.2Other Security and Backup. You or Provider are solely responsible for properly configuring and using the Services and taking steps to maintain appropriate security, protection and backup of Your Materials, including using encryption technology to protect Your Materials from unauthorized access and routinely archiving Your Materials.

2.3End User Violations. If you become aware of any violation of your obligations under this Access Policy by an End User, you will immediately terminate such End User's access to Your Materials and the Services.

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3. Service Interruption.

3.1 General. We may suspend the AWS account(s) through which you access the Services immediately if we determine your or an End User's use of the Services (i) violates the terms of this Access Policy (including the Acceptable Use Policy or Service Terms);(ii) poses a security risk to the Services or any other AWS customer, (iii)may harm our systems or the systems or Materials of any other AWS customer; or (iv) may subject us to liability as a result of any of the foregoing. We will provide notice of any suspension as soon as practicable to Provider, who is solely responsible for providing any notices to you under your agreement with them.

1.1 Scope of Interruption. To the extent practicable, we will (i) suspend your right to access or use only those instances, data, or portions of the Services that caused the suspension, and(ii)limit the suspension to those accounts that caused the suspension. If commercially feasible, access to the Services will be restored once the conditions or circumstances giving rise to the suspension have been removed or corrected. Nothing in this Section 3 will operate to limit your rights or remedies otherwise available to you against Provider under your agreement with them or applicable law.

2. Proprietary Rights

2.1 Services. As between you and us, we or our licensors own and reserve all right, title, and interest in and to the Services. You have the right to use the Services solely as a licensee of Provider in accordance with this Access Policy and the agreement between you and Provider. We have no obligation to provide the Service to you under this Access Policy, so you must look exclusively to Provider and your agreement with Provider regarding such obligation. Except as expressly provided in this Section 4, you obtain no rights to the Services, the AWS Materials or any Third Party Materials.

2.2 Materials. As a part of the Services, you may have access to AWS Materials and Third Party Materials, which may be subject to additional terms and conditions (including the Terms of Use and Apache Software License). By using those materials, you are subject to such additional terms. You are solely responsible for securing any necessary approvals for the download and use of such materials.

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2.3 Restrictions. Neither you nor any End User may use the Services in any manner or for any purpose other than as expressly permitted by this Access Policy and the agreement between you and Provider. Neither you nor any End User may, or may attempt to, (a) modify, alter, tamper with, repair, or otherwise create derivative works of any software included in the Services (except to the extent software included in the Services are provided to you under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile the software included in the Services or apply any other process or procedure to derive the source code of any software included in the Services, or (c) access or use the Services in a way intended to avoid incurring fees or exceeding usage limits or quotas. All rights and access granted to you with respect to the Services are conditioned on your continued compliance with this Access Policy, and you will immediately discontinue your use of the Services if you cannot comply with this Access Policy.

2.4 Suggestions. If you provide any Suggestions to us when using the Services, you hereby grant to AWS and its affiliates a perpetual, irrevocable, non-exclusive, worldwide, royalty-free right and license to reproduce, distribute, make derivative works based upon, publicly display, publicly perform, make, have made, use, sell, offer for sale, and import the Suggestions, including the right to sublicense such rights through multiple tiers, alone or in combination.

U.S. Government Rights. In accordance with Federal Acquisition Regulation (FAR) Sections 12.211 and 12.212, and Defense Federal Acquisition Regulation Supplement (DFAR) Sections 227.7202-1 and 227.7202-3, the Services are provided (as applicable) to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Services. If you are using the Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government needs or are inconsistent with federal law, you will immediately discontinue your use of the Services (including any AWS Materials).

3. Representations and Warranties. You represent and warrant that (a) you and your End Users' use of the Services (including any use by your employees and personnel) will not

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violate this Access Policy; (b) you or your licensors own all right, title, and interest in and to Your Materials; (c) Your Materials (including the use, development, design, production, advertising, or marketing of your Materials) or the combination of your Materials with other applications, content or processes, do not and will not violate any applicable laws or infringe or misappropriate any third-party rights; and (d) your use of the Services will not cause harm to any End User.

4. Disclaimers. WE PROVIDE THE SERVICES ON AN "AS IS" BASIS TO PROVIDER. WE AND OUR LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO YOU, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICES OR ANY THIRD PARTY MATERIALS, INCLUDING ANY WARRANTY THAT THE SERVICES OR THIRD PARTY MATERIALS WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY MATERIALS, INCLUDING YOUR MATERIALS OR THE THIRD PARTY MATERIALS, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. EXCEPT TO THE EXTENT PROHIBITED BY LAW, WE AND OUR LICENSORS DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

5. Limitations of Liability. YOU MUST LOOK SOLELY TO PROVIDER AND YOUR AGREEMENT WITH THEM REGARDING ANY CLAIMS OR DAMAGES RELATED TO THE SERVICES. WE AND OUR AFFILIATES OR LICENSOR\$ WILL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, NEITHER WE NOR ANY OF OUR LICENSOR\$ WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES

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ARISING IN CONNECTION WITH: (A) YOUR INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY (I) SUSPENSION OF YOUR USE OF OR ACCESS TO THE SERVICES, (II) OUR DISCONTINUATION OF ANY OR ALL OF THE SERVICES, OR, (III) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SERVICES FOR ANY REASON; OR (B) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR MATERIALS OR OTHER DATA THAT YOU OR ANY END USER SUBMITS OR USES IN CONNECTION WITH THE SERVICES (INCLUDING AS A RESULT OF YOUR OR ANY END USERS' ERRORS, ACT OR OMISSIONS).

6. Definitions.

"Acceptable Use Policy" means the policy currently located at <http://aws.amazon.com/aup>, as it may be updated by us from time to time.

"AWS Materials" means Materials we make available in connection with the Services or on the AWS Site to allow access to and use of the Services, including WSDLs; Documentation; sample code; software libraries; command line tools; and other related technology. AWS Materials do not include the Services.

"AWS Service Level Agreement" means all service level agreements that we offer with respect to the Services and post on the AWS Site, as they may be updated by us from time to time.

"AWS Site" means <http://aws.amazon.com> and any successor or related site designated by us.

"Documentation" means the developer guides, getting started guides, user guides, quick reference guides, and other technical and operations manuals and specifications for the Services located at <http://aws.amazon.com/documentation>, as such documentation may be updated by us from time to time.

"End User" means any individual or entity that directly or indirectly through another user: (a) accesses or uses your Materials; or (b) otherwise accesses or uses the Services through you.

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"Materials" means software (including machine images), data, text, audio, video, images or other content.

"Policies" means the Acceptable Use Policy, the Site Terms, the Service Terms, all restrictions described in the AWS Materials and on the AWS Site, and any other policy or terms referenced in or incorporated into this Access Policy.

"Services" means collectively or individually (as applicable), the web services made commercially available by us to Provider for use under this Access Policy, including (as applicable) those web services described in the Service Terms.

"Service Terms" means the rights and restrictions for particular Services located at

<http://aws.amazon.com/serviceterms>, as they may be updated by us from time to time.

"Suggestions" means all suggested improvements to the Services, the AWS Site or AWS Materials that you provide to us.

"Terms of Use" means the terms of use located at <http://aws.amazon.com/terms/>, as they may be updated by us from time to time.

"Third Party Materials" means Materials made available to you by any third party on the AWS Site or in conjunction with the Services.

"Your Materials" means Materials you or any End User transfer to us for processing, storage or hosting by the Services in connection with your use of the Services and any computational results that you or any End User derive from the foregoing through your use of the Services.