

**PARTICIPATING ADDENDUM
TO THE
NASPO VALUEPOINT COOPERATIVE PURCHASING ORGANIZATION
AUTOMATIC EXTERNAL DEFIBRILLATOR AND ACCESSORIES
CONTRACT NO. SW0300**

This participating addendum for automated external defibrillator (AED) and accessories is entered into between the **Commonwealth of Pennsylvania** (Commonwealth), acting through the **Department of General Services** (DGS), with its principal offices located at 515 North Office Building, Harrisburg, Pennsylvania 17125-0001, and **Philips Healthcare**, with its principal offices located at 222 Jacob Street, 3rd Floor, Cambridge, Massachusetts 02141, pursuant to AED and Accessories Contract No. SW0300 (Master Agreement) between the Contractor and the State of Oklahoma (Oklahoma) on behalf of the NASPO ValuePoint Cooperative Purchasing Organization (NASPO VaulePoint).

The Commonwealth is entering into this participating addendum to procure AED and accessories from the Contractor under the Master Agreement. DGS is authorized under Sections 1902 and 1908 of the Commonwealth Procurement Code, 62 Pa. C.S. §§ 1902, 1908, to undertake this type of contractual arrangement on behalf of the Commonwealth.

The parties, intending to be legally bound, agree as follows:

1. **Order of Precedence.** To the extent that there is a conflict between the contract documents, the order of precedence shall be:
 - a. The participating addendum contained herein.
 - b. The Commonwealth of Pennsylvania Terms and Conditions (Exhibit A).
 - c. The Master Agreement (Exhibit B).
2. **Effective Date and Term.** This participating addendum shall become effective on the date the Commonwealth sends the fully executed and approved participating addendum to the Contractor ("Effective Date"). This participating addendum shall terminate or expire upon the **earlier** of (a) expiration or termination of the Master Agreement, or (b) termination of this participating addendum in accordance with its terms. If the Master Agreement is renewed or extended, this participating addendum shall automatically renew or extend for a term consistent with the term of the Master Agreement.
3. **Master Agreement.** The Master Agreement is attached as **Exhibit B** to this participating addendum. To the extent language contained in **Exhibit B** requires the Commonwealth to pay late payment fees or overdue account charges, such language is excluded from this Contract. Except as set forth in this participating addendum, DGS and Contractor shall be bound by the terms and conditions as stated in the Master Agreement (Exhibit B).

4. **Participating Addendum Terms.** DGS and Contractor agree to be bound by the Commonwealth Terms and Conditions, attached as **Exhibit A**.
5. **Software Requirements – Commonwealth.**
 - a. **Embedded Software Licenses.** Any software included in the Supplies at the time of delivery (the "Embedded Software"), which includes any subsequent updates, patches or fixes, is licensed as part of the Supplies and not sold separately. Contractor hereby grants to the Commonwealth a non-exclusive, royalty-free, fully-paid, perpetual license to use the Embedded Software only in the operation of the Supply in which it was delivered. The Commonwealth shall not be required to accept and comply with any additional license agreement or terms (including, but not limited to any clickthrough, open source or freeware terms) for any Embedded Software, except as set forth in subsection b below.
 - b. **Commercially Available Software Licenses.** The Contractor may not offer Supplies which require commercially available software, which includes freeware and open-source software, for its use, unless and until the Commonwealth has entered into a software license agreement with the software licensor. The Contractor must inform any such software licensor that the software licensor must enter into a software license agreement with the Commonwealth with terms that are acceptable to the Commonwealth.
 - c. **Clickthrough License Terms.** No license terms and conditions (including, but not limited to, any terms of service, end user licenses agreements) shall be binding or controlling and the terms and conditions of this Contract or any fully executed software license agreement shall govern any licenses provided for Commercially Available or Embedded Software. Any clickthrough terms and conditions that are included with any such software provided with the Supplies are null and void and not binding on the Commonwealth.
6. **Software Requirements – COSTARS.**
 - a. **Embedded Software Licenses.** Any software included in the Supplies at the time of delivery (the "Embedded Software"), which includes any subsequent updates, patches or fixes, is licensed as part of the Supplies and not sold separately. Contractor shall grant to the COSTARS member a non-exclusive, royalty-free, fully-paid, perpetual license to use the Embedded Software only in the operation of the Supply in which it was delivered. The COSTARS member shall not be required to accept and comply with any additional license agreement or terms (including, but not limited to any clickthrough, open source or freeware terms) for any Embedded Software, except as set forth in subsection 2 below.
 - b. **Commercially Available Software Licenses.** The Contractor shall not

provide Supplies which require commercially available software, which includes freeware and open-source software, for its use, unless and until the COSTARS member has entered into a software license agreement with the software licensor. The Contractor shall inform the COSTARS member when the proposed solution requires licensed software and shall inform the software licensor that it must enter into a software license agreement with the COSTARS member. The COSTARS member shall enter into a separate agreement with the appropriate Licensor which will be negotiated outside of this procurement and any resulting contract. All license terms shall be subject to the standard approval processes established for the COSTARS member, either by policy or statute. COSTARS members are strongly encouraged to discuss individual projects with their legal counsel to ensure full compliance with all statutory and contract requirements. The Commonwealth is not responsible for negotiating or executing any license agreements on behalf of COSTARS members.

- c. **Clickthrough License Terms.** No license terms and conditions (including, but not limited to, any terms of service, end user licenses agreements) shall be binding or controlling and the terms and conditions of this Contract or any fully executed software license agreement shall govern any licenses provided for Commercially Available or Embedded Software. Any clickthrough terms and conditions that are included with any such software provided with the Supplies are null and void and not binding on the COSTARS member.
7. **COSTARS Program.** COSTARS Program members shall be eligible to utilize this Participating Addendum under the same terms and conditions as the Commonwealth. Information related to the COSTARS Program is incorporated in the COSTARS Program Clause contained in Section I.1 IFB-027.1 of **Exhibit A**.
8. **Required Forms.** In accordance with Pennsylvania statutes and policies, the Contractor must provide the following completed and executed certifications:
 - a. Reciprocal Limitations Act Requirements, GSPUR-89;
 - b. Iran Free Procurement Certification Form, BOP-1701;
 - c. Lobbying Certification and Disclosure Form, BOP-1307; and
 - d. Worker Protection and Investment Certification, BOP-2201.
9. **Electronic Signatures.** This agreement may be electronically signed in accordance with the Electronic Transactions Act, 73 P.S. § 2260.301, *et seq.*

The parties, through their authorized representatives, have signed this participating addendum on the dates indicated below.

PHILIPS HEALTHCARE

<i>Jonathan Casey</i>	Electronically signed by: Jonathan Casey Reason: I have reviewed and approve this document. Date: Nov 21, 2024 10:43 EST	21-Nov-2024
Signature		Date
Jonathan Casey		
Commercial Contracts Manager		
Printed Name and Title		
102941		
SAP Number		

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

To be obtained electronically
Deputy Secretary for Procurement Date

PENNSYLVANIA DEPARTMENT OF TREASURY:

To be obtained electronically
Treasurer (or Designee) Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically
Office of Chief Counsel Date

To be obtained electronically
Office of General Counsel Date

To be obtained electronically
Office of Attorney General Date