

Participating Addendum Number 165 – Bob Barker Company, Inc.
for
Products and Supplies for Correctional Facilities and Incarcerated Individuals
between
North Dakota
and
Bob Barker Company, Inc.

This Participating Addendum is entered into by North Dakota ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number 4400036123, executed by Contractor and South Carolina ("Lead State") for Products and Supplies for Correctional Facilities and Incarcerated Individuals ("Master Agreement"):

Bob Barker Company, Inc. ("Contractor")
7925 Purfoy Road
Fuquay Varina, NC 27526

I. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

Sabrina Henner
Contract Specialist
sabinahenner@bobbarker.com
1-800-334-9880

Participating Entity's contact for this Participating Addendum is:

Seth Westby
State Procurement Officer
swestby@nd.gov
701-328-1953

- II. TERM.** This Participating Addendum is effective as of the date of the last signature below and will terminate upon termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- III. PARTICIPATION AND USAGE.** This Participating Addendum is a cooperative purchasing contract established pursuant to North Dakota Century Code (N.D.C.C.) § 54-44.4-13. This Participating Addendum is made available to state entities, institutions under the jurisdiction of the State Board of Higher Education, other government entities (including counties, cities, townships, public primary and secondary educational entities, governmental boards and commissions), nonprofit entities established on behalf of public entities, tribal agencies, transportation providers under N.D.C.C. chapter 39-04.2, and the International Peace Garden. Participating Entity has sole authority to determine which entities are eligible to use this Participating Addendum. If Contractor becomes aware that an entity's use of this Participating Addendum is not authorized, Contractor will notify NASPO ValuePoint to initiate outreach to the appropriate parties.
- IV. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to Contractor and Participating Entity and Purchasing Entities.
- a. Products.** All products available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities with the exclusion of the following categories:
- i. Clothing and Uniforms for Incarcerated /Institutionalized Persons
 - ii. Undergarments for Incarcerated /Institutionalized Persons
 - iii. Mattresses & Linens
- b. Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum.

Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by Participating Entity in writing to Contractor via written amendment hereto.

Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.

- V. ORDERS.** Purchasing Entities may place orders under this Participating Addendum by referencing the Participating Addendum Number on an Order. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to NASPO ValuePoint and Participating Entity, if applicable.
- VI. PARTICIPATING ENTITY REPORTING REQUIREMENTS.** Quarterly reports will be provided within 30 days after the calendar quarter end by Contractor to Participating Entity showing a summary of each sale to include Purchasing Entity, description and amount.
- VII. FEDERAL FUNDING REQUIREMENTS.** 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. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. By accepting the Order, Contractor agrees to comply with the requirements set forth therein.
- VIII. ATTACHMENTS.** This Participating Addendum includes Attachment A: Participating Entity Modifications and Additions to Master Agreement Terms and Conditions.
- IX. NOTICE.** Any notice required herein shall be sent to the following:

For Contractor:

Sabrina Henner
Contract Specialist
sabinahenner@bobbarker.com
1-800-334-9880

For Participating Entity:

Seth Westby
State Procurement Officer
swestby@nd.gov
701-328-1953

- X. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT.** Upon execution, Contractor shall promptly email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. The Parties acknowledge and agree that the Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

**Participating Addendum Number 165 – Bob Barker Company, Inc. for
Products and Supplies for Correctional Facilities and Incarcerated Individuals**
Between **North Dakota** and
Bob Barker Company, Inc.

SIGNATURE

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

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

CONTRACTOR:

PARTICIPATING ENTITY:



Signature

Sabrina Henner

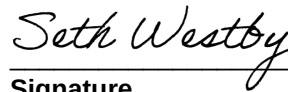
Printed Name

Contract Specialist

Title

2/5/2025

Date



Signature

Seth Westby

Printed Name

State Procurement Officer

Title

2/5/2025

Date

Attachment A – Participating Entity Modifications and Additions to Master Agreement Terms and Conditions

- I. Taxpayer ID: Contractor's federal employer ID number is: 56-1558062.
- II. Confidentiality: Contractor shall not use or disclose any information it receives from Participating Entity under this Participating Addendum that Participating Entity has previously identified as confidential or exempt from mandatory public disclosure except from mandatory public disclosure except as necessary to carry out the purposes of this Participating Addendum or as authorized in advance by Participating Entity. Participating Entity shall not disclose any information it receives from Contractor that Contractor has previously identified as confidential and that Participating Entity determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. ch. 44-04. The duty of Participating Entity and Contractor to maintain confidentiality of information under this section continues beyond the term of this Participating Addendum.
- III. Compliance with Public Records Laws: Under the North Dakota public records law and subject to the Confidentiality clause of this Participating Addendum, certain records may be open to the public upon request.

Public records may include: (a) records Participating Entity receives from Contractor under this Participating Addendum, (b) records obtained by either Party under this Participating Addendum, and (c) records generated by either Party under this Participating Addendum.

Contractor agrees to contact Participating Entity immediately upon receiving a request for information under the public records law and to comply with Participating Entity's instructions on how to respond to such request.
- IV. Spoliation: Contractor shall notify Participating Entity of all potential claims that Contractor is aware of that arise as a result of Contractor's performance under this Participating Addendum. Contractor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Participating Entity the opportunity to review and inspect the evidence, including the scene of an accident.
- V. Governing Law and Venue: This Participating Addendum is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Participating Addendum must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.
- VI. Indemnification: In addition to any indemnity obligations found within the Master Agreement, Contractor agrees that any attorney appointed to represent the Participating Entity must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08.
- VII. Insurance (Supplements Master Agreement Item 13.3.1): Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- VIII. Alternative dispute resolution – Jury Trial: Participating Entity does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the

right to enforce their rights and remedies in judicial proceedings. Participating Entity does not waive any right to a jury trial.

- IX.** Attorney Fees: In the event a lawsuit is instituted by Participating Entity to obtain performance due under this Participating Addendum, and Participating Entity is the prevailing party, Contractor shall, except when prohibited by N.D.C.C. § 28-26-04, pay Participating Entity's reasonable attorney fees and costs in connection with the lawsuit.
- X.** Nondiscrimination and Compliance with Laws: Contractor agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums.

Contractor shall have and keep current all licenses and permits required by law during the Term of this Participating Addendum.

Contractor is prohibited from boycotting Israel for the duration of this Participating Addendum. (See N.D.C.C. § 54-44.4-15.) Contractor represents that it does not and will not engage in a boycotting Israel during the term of this Participating Addendum. If Participating Entity receives evidence that Contractor boycotts Israel, Participating Entity shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if Contractor has fewer than ten (10) full-time employees.

Contractor's failure to comply with this section may be deemed a material breach by Contractor entitling Participating Entity to terminate in accordance with the Termination for Cause section of this Participating Addendum.

- XI.** Termination (Supplements Master Agreement Item #14.6)

Termination for Lack of Funding or Authority.

Participating Entity, by written notice to Contractor, may terminate the whole or any part of this Participating Addendum under any of the following conditions:

- a. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services or goods in the indicated quantities or term.
- b. If federal or state laws or rules are modified or interpreted in a way that the services or good are no longer allowable or appropriate for purchase under this Participating Addendum or are no longer eligible for the funding proposed for payments authorized by this Participating Addendum.
- c. If any license, permit, or certificate required by law or rule, or by the terms of this Participating Addendum, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Participating Addendum under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

- XII.** Injunctive Relief (Supplements Master Agreement Item 14.2.3)

Contractor shall immediately report to Participating Entity any and all unauthorized disclosures or uses of Participating Entity's confidential information or proprietary information of which Contractor or its staff is aware or has knowledge. Contractor acknowledges that any unauthorized publication or disclosure of

Participating Entity's confidential information or proprietary information to others may cause immediate and irreparable harm to Participating Entity. If Contractor should publish or disclose such confidential information or proprietary information without authorization, Participating Entity shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period. Contractor shall indemnify, defend, and hold harmless Participating Entity from all damages, costs, liabilities, and expenses (including without limitation reasonable attorneys' fees) caused by or arising from Contractor's unauthorized use or disclosure of Participating Entity's confidential information or proprietary information. As a condition to these indemnity obligations, Participating Entity will provide Contractor with prompt notice of any claim of which Participating Entity is aware and for which indemnification shall be sought under this Participating Addendum and shall cooperate in all reasonable respects with Contractor in connection with any such claim.

- XIII.** Severability: If any term of this contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this contract did not contain that term.
- XIV.** State Audit: Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of Contractor relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. Contractor shall maintain these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. Participating Entity, State Auditor, or Auditor's designee shall provide reasonable notice to Contractor prior to conducting examination.