



Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Voice: 651.296.2600
- - - - -

March 26, 2025

SENT VIA EMAIL TO: jim.losinski@thomassci.com

James P. Losinski
Thomas Scientific, LLC
1654 High Hill Rd
Swedesboro, NJ 08085

Dear James P. Losinski:

The following documents are enclosed for you to complete and return:

Participating Addendum 000000000000000000252522 (252522) for Laboratory Equipment and Supplies, Band 1 Full-Line Catalog, through NASPO ValuePoint Contract No. MA2024004 for Laboratory Equipment and Supplies, Band 1 Full-Line Catalog.

Minnesota Exhibit A, showing the Minnesota General Terms, Conditions, and Specifications, which includes the following:

- Workforce and Equal Pay Declaration Page
- Service and Delivery Form

Please sign and return **the** documents, **VIA EMAIL**, to Brian Mulhern at the following email address, brian.mulhern@state.mn.us, as soon as possible.

Instructions for properly completing the Contract documents are enclosed. Documents that are not properly executed will be returned to you. Failure to submit executed forms in the time required may result in cancellation of the award. Upon receipt of the properly executed forms, and after signatures are obtained from the appropriate State authorities, a copy of the completed Contract documents will be sent to your company.

If you have any questions, please contact me.

Sincerely,

Brian C. Mulhern

Brian Mulhern
Buyer III
Enclosure

INSTRUCTIONS

Return the signed sets of documents to the OSP office.

REQUIRED SIGNATURES:

- ◆ The documents must be signed by an **officer** of your company, e.g., president, vice president, assistant vice president, corporate secretary, assistant corporate secretary, treasurer, or assistant treasurer.
- ◆ If your company is a corporation, the signature of one corporate officer is binding. If your company is a partnership, the signature of one partner is binding.

If someone other than the corporate officers listed above signs the document (e.g., manager, sales manager, executive assistant, etc.), evidence of his or her authority to do so must accompany the document. The evidence can be either:
 - A corporate power of attorney, or
 - A **certified copy** of a board resolution authorizing the alternate signature with a letter attached and signed by a corporate officer stating the resolution is in force and effective.

PARTICIPATING ADDENDUM

NASPO ValuePoint

For Laboratory Equipment and Supplies

Between the State of Minnesota and Thomas Scientific, LLC.

NASPO ValuePoint Contract No. MA2024004

State of Minnesota Contract No. 252522

1. **Scope:** Minnesota and Cooperative Purchasing Venture Program members, as defined in the attached Minnesota Exhibit A, may purchase the products and/or services available in the Participating Addendum. The Participating Addendum is not a purchase order, nor does it guarantee any purchases will be made.
2. **Changes:** The additional terms and conditions contained in Minnesota Exhibit A, which is attached and made part of the Participating Addendum, are hereby incorporated by reference. In the event of a conflict between the terms contained within Minnesota Exhibit A and the NASPO ValuePoint Master Agreement, Minnesota Exhibit A shall prevail. The parties agree that this provision of the Participating Addendum supersedes the Standard Contract Terms and Conditions set forth in the NASPO ValuePoint Master Agreement. In the event that any provision of the Participating Addendum or NASPO ValuePoint Master Price Agreement is contrary to Minnesota law, such provision shall be null and void. The Participating Addendum shall be governed by Minnesota law.

No price adjustments are allowed unless approved by the Lead State for the NASPO ValuePoint Master Agreement and adopted by the State of Minnesota through a fully executed Participating Addendum amendment.

3. **State's Authorized Representative and Primary Contact:** The State's Authorized Representative and the primary contact individual for the Participating Addendum is identified below. All notifications to the State shall be in writing and addressed as follows:

Name: Brian Mulhern or successor
Title: Buyer III
Address: Minnesota Department of Administration
Office of State Procurement
50 Sherburne Ave., 112 Administration Bldg.
St. Paul, MN 55155
Telephone: 651.201.2449
E-mail: brian.mulhern@state.mn.us

4. **Responsible Contractor:** Pursuant to Minn. Stat. § 16C.285, Contractors must certify compliance with the following items:

4.1 I am an owner or officer of the responding company, and I certify under oath that my company is in compliance with each of the applicable provisions as set forth in Minn. Stat. § 16C.285, subd. 3, and will provide verification upon request by the contracting agency.

4.1.1. By signing the Certification section below, I am certifying that my company has filed a certificate of authority to transact business in Minnesota with the secretary of state if a foreign corporation or cooperative.

Contact the Office of the Minnesota Secretary of State with questions about satisfying this requirement.

4.2 If my company retains subcontractors, I will submit a supplemental verification confirming subcontractor compliance with Minn. Stat. § 16C.285, subd. 5 (see Exhibit A, Supplement 2).

- 4.3 If my company retains additional subcontractors with which it will have a direct contractual relationship following contract award, I will submit supplemental verification confirming subcontractor compliance with Minn. Stat. § 16C.285, subd. 5, within 14 days after retaining any such additional subcontractors (see Exhibit A, Supplement 3).

Signing the section below constitutes a signed statement affirming compliance with each of the applicable provisions as set forth in Minn. Stat. § 16C.285, subd. 3.

5. **Authorized Signature:** The Participating Addendum must be fully and properly executed by an officer or other authorized representative of the responder. If the responder is a corporation, a secretarial certificate or the corporate minutes showing that the signing officer has authority to contractually obligate the corporation should be furnished. Where the corporation has designated an attorney-in-fact, the power of attorney form should be furnished. If the responder is a partnership, a letter of authorization should be furnished signed by one of the general partners. A sole proprietor must sign the response. Proof of authority of the person signing the response must be furnished upon request.

The following documents, in order of precedence, are incorporated herein by reference and constitutes the entire Contract between the Contractor and the State:

1. The Minnesota Participating Addendum:
 - a. Exhibit A: General Terms
 - b. Exhibit B: Insurance Requirements
 - c. Exhibit C: Price Schedule
 - i. Exhibit C: Supplement 1: Sample Invoice and Sample Quote
2. The NASPO ValuePoint Master Agreement
3. The NASPO ValuePoint Solicitation
4. Response to the NASPO ValuePoint Solicitation
 - a. Appendix A – Scope of Work
 - b. Thomas Scientific General Discounts

In the event of a conflict in language among any of these documents, the terms and conditions set forth and/or referenced in this Participating Addendum shall prevail over conflicting terms and conditions.

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

1. Contractor: Thomas Scientific, LLC. The Contractor certifies that the appropriate person(s) have executed this Participating Addendum on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances. By: DocuSigned by: Jim Losinski Signature Jim Losinski Printed Name Title: Sr. Director-State and Local Govt. Date: 3/26/2025 By: DocuSigned by: Signature Printed Name Title: Date:	2. Government Entity: State of Minnesota Office of State Procurement In accordance with Minn. Stat. § 16C.03, Subd. 3. By: DocuSigned by: Brian Mullern Signature Title: Buyer III Date: 5/9/2025 3. State of Minnesota Commissioner of Administration Or delegated representative. By: DocuSigned by: Justin Patrick Signature Date: 5/9/2025
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Exhibit A
Minnesota General Terms, Conditions, and Specifications

1. Definitions.

- a. CPV Members.** The Cooperative Purchasing Venture (CPV) program was established by Minn. Stat. § 16C.03, subd. 10, which authorizes the commissioner of the Minnesota Department of Administration (Commissioner of Administration) through its Office of State Procurement (OSP) to enter into a cooperative purchasing agreement for the provision of goods, services, and utilities” with one or more governmental units and other entities as described in Minn. Stat. § 471.59, subd. 1 and Minn. Stat. § 16C.03, subd. 10. Based on this authority, the Commissioner of Administration enters into a joint powers agreement that designates OSP as the authorized purchasing agent for the governmental unit or other entity. Governmental units and other entities joining the program are given an access code which identifies them as CPV members and permits them to access the OSP website to get information about commodities and/or services available on the State of Minnesota (State) contracts. Governmental units and other entities who are not members of the CPV program are not authorized to use the contract prices. The Contractor agrees to provide the contract to CPV members at the same prices, terms, conditions, and specifications. For additional information, visit the OSP website at www.mmd.admin.state.mn.us.
- b. State Agencies.** This term applies only to State agencies and departments, as defined in Minn. Stat. §§ 15.01 and 15.021.
- c. Ordering Entity.** This term applies to any State Agency or CPV Member when allowed in the Participating Addendum.
- d. State and State of Minnesota.** These two terms apply to the Minnesota Department of Administration, Office of State Procurement (OSP), representing the State of Minnesota as the contracting agency for the Participating Addendum.
- e. Contractor and Contractor.** These two terms apply to the awarded vendor from the NASPO ValuePoint Master Agreement that OSP selects to receive a Participating Addendum.
- f. Contract.** Contract is defined as the NASPO ValuePoint Master Agreement and the Minnesota Participating Addendum.

- 2. Effective Date and Contract Period.** The Contract shall be effective upon the date of final execution by the State of Minnesota. The Contract term will begin on March 26, 2025, or on the date of Participating Addendum execution, whichever is later, to February 28, 2029, with the option to extend up to 36 months, upon agreement by all parties.
- 3. State Audits.** Under Minn. Stat. § 16C.05, subd. 5, the Contractor’s books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Contract.
- 4. Assignment Of Antitrust.** Upon the request of the State of Minnesota, Contractor will irrevocably assign to State any state or federal antitrust claim or cause of action that the Contractor now has, or which may accrue to the Contractor in the future, in connection with any goods, services, or combination provided by Contractor under the terms of this Contract.
- 5. Insurance.** If applicable, prior to execution of the Participating Addendum, the Contractor will be required to provide a copy of a Certificate of Insurance, including workers’ compensation insurance coverage requirements of Minn. Stat. § 176.181 subd. 2, and other coverages per the insurance requirements if included in the Participating Addendum.

6. Indemnification

- 6.1. In the performance of this Contract, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:
- Intentional, willful, or negligent acts or omissions; or
 - Actions that give rise to strict liability; or
 - Breach of contract or warranty.

The Indemnifying Party is defined to include the Contractor, Contractor's reseller, any third party that has a business relationship with the Contractor, or Contractor's agents or employees, and to the fullest extent permitted by law. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for the State's failure to fulfill its obligation under this Contract.

- 6.2. Nothing within this Contract, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This shall extend to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.

7. **Governing Law, Jurisdiction, and Venue.** Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

8. **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the 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 State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

9. **Risk Of Loss or Damage.** The State is relieved of all risks of loss or damage to the goods and equipment during periods of transportation, and installation by the Contractor and in the possession of the Contractor or their authorized agent.
10. **Governing Law, Jurisdiction, and Venue.** Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.
11. **Contract Use by State Agencies.** To the extent applicable, the Contract does not prohibit state agencies from using their delegated purchasing authority to procure similar goods and services from other sources.

12. Affirmative Action.

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

- 12.1. **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.

- 12.2. **General.** Minn. R. 5000.3400-5000.3600 implements 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 non-compliance. 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, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.

- 12.3. Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- 12.3.1. 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.
- 12.3.2. 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.
- 12.3.3. 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.
- 12.3.4. 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. 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.
- 12.3.5. 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.
- 12.4. Consequences. The consequences for the 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 this Contract by the Commissioner or the State.
- 12.5. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

13. **Equal Pay Certification.** If the Response to this solicitation could be in excess of \$500,000, the Responder must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption prior to contract execution. A responder is exempt if it has not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where it has its primary place of business. Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or at compliance.MDHR@state.mn.us.

14. **Prompt Payment and Invoicing.**

- 14.1. Prompt Payment. The State will pay the Contractor pursuant to Minn. Stat. § 16A.124, which requires payment within 30 days following receipt of an undisputed invoice, or merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read "Net 30 days." Notwithstanding the foregoing, the State may pay the Contractor in advance for purchases as allowed pursuant to Minn. Stat. §16A.065.

- 14.2. The payment for each order will only be made for goods received or services actually performed that have been accepted by the ordering entity, and meet all terms, conditions, and specifications of the Contract and the ordering document.

15. Compensation And Conditions of Payment

- 15.1. Compensation. The State will pay for performance by the Contractor under this Contract in accordance with the breakdown of costs as set forth in Thomas Scientific General Discounts, which is attached and incorporated into this Contract in Exhibit C: Price Schedule.
- 15.2. Conditions of Payment. All duties performed by the Contractor under this Contract must be performed to the State's satisfaction and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

16. **Purchase Orders (PO).** The State requires that there will be no minimum order requirements or charges to process an individual purchase order unless otherwise stated in the Contract. The Contract 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.

17. **Purchasing Cards.** Contractor will accept a purchasing card for order placement in addition to accepting a purchase order, without passing the processing fees for the purchasing card back to the State. The State's single purchase limit is \$5,000 on the purchasing card.

18. Taxes.

- 18.1. For Purchases which include installation: The State's Direct Pay permit will not apply for orders through this contract. The Contractor must include in their pricing any applicable State or Federal sales, excise, or use tax on all materials, supplies, and equipment that are to be utilized on a project.
- 18.2. For Purchases for Equipment only: Do not add sales tax to the prices being offered. State Agencies hold a Direct Payment Authorization Letter which is used to pay applicable taxes directly to the Department of Revenue. Contractors may go to <http://www.revenue.state.mn.us> to learn about the applicable sales tax (search "Fact Sheet 142").
- 18.3. If orders are issued by Cooperative Purchasing Venture (CPV) Members: The Contractor should confirm all of the tax requirements with the ordering entity.

19. **Shipping Requirements.** All shipments shall be FOB Destination. Freight charges shall be prepaid and allowed, with all transportation and handling charges paid by the Contractor.

20. Additional Contract Terms.

- 20.1. All commodities and services furnished will be subject to inspection and acceptance by the Ordering Entity after delivery.
- 20.2. No substitutions or cancellations are permitted without approval of the Ordering Entity.
- 20.3. Back orders, failure to meet delivery requirements, or failures to meet specifications in the purchase order and/or the Contract authorizes the Ordering Entity to cancel the purchase order, or any portion of it, purchase elsewhere, and charge the full increase in cost and administrative handling to the defaulting Contractor.
- 20.4. In the event of default, the State reserves the right to pursue any other remedy available by law.
- 20.5. A Contractor may be removed from the vendor's list, suspended, or debarred from receiving a Contract for failure to comply with the terms and conditions of the Contract, or for failure to pay the State for the cost incurred on the defaulted Contract.

21. Amendments, Waiver, and Contract Complete.

- 21.1. Assignment. The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.
- 21.2. Amendments. Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.
- 21.3. Waiver. If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.
- 21.4. Contract Complete. This Contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

22. Intellectual Property Rights.

- 22.1. Definitions. For the purpose of this Section, the following words and phrases have the assigned definitions:
 - 22.1.1. "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this Contract.
 - 22.1.2. "Pre-Existing Intellectual Property" means intellectual property developed prior to or outside the scope of this Contract, and any derivatives of that intellectual property.
 - 22.1.3. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created, or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this Contract. "Works" includes Documents.
- 22.2. Ownership. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this Contract. The Documents shall be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.
- 22.3. Pre-existing Intellectual Property. Each Party shall retain ownership of its respective Pre-Existing Intellectual Property. The Contractor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for Contractor's Pre-Existing Intellectual Property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Contract.
- 22.4. Obligations.
 - 22.4.1. Notification. Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this Contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the State's Authorized Representative with complete information and/or disclosure thereon.
 - 22.4.2. Representation. The Contractor must perform all acts and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to

the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities.

- 22.4.3. Indemnification. Notwithstanding any other indemnification obligations addressed within this Contract, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State 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, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State 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 State will be in addition to and not exclusive of other remedies provided by law.

23. Termination of the Participating Addendum.

- 23.1. Termination for Convenience. The State or Commissioner of Administration may cancel this Contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination for convenience, the Contractor will be entitled to payment, determined on a pro rata basis, for services or goods satisfactorily performed or delivered.
- 23.2. Termination for Breach. If the Contractor fails to perform according to the contract terms and conditions, the State is authorized to immediately cancel the Contract or purchase order, or any portion of it, and may obtain replacement goods or services and charge the difference of costs to the defaulting Contractor. In the event of default, the State reserves the right to pursue any other remedy available by law. A Contractor may be removed from the vendors list, suspended, or debarred from receiving a Contract for failure to comply with terms and conditions of the Contract, or for failure to pay the State for the cost incurred on the defaulted Contract.
- 23.3. Termination for Insufficient Funding. The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Contract. Termination must be by written notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that dedicated funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding. This notice will be provided within a reasonable time of the State's receiving notice.

24. **Administrative Personnel Changes.** After execution of this Participating Addendum the State must be notified of intended changes in the Contractor's administrative personnel as soon as practicable.

25. Publicity and Endorsement.

- 25.1. Publicity. Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, information posted on corporate or other websites, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.
- 25.2. Endorsement. The Contractor must not claim that the State endorses its products or services.

26. **Americans with Disabilities Act (ADA).** Products provided under the Contract 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 Contract 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.

27. **Nonvisual Access Standards.**

Minn. Stat. § 16C.145, the Contractor must comply with the following nonvisual technology access standards to the extent required by law:

- 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;
- 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;
- That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- 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; and
- Executive branch state agencies subject to Section 16E.03, subdivision 9, are not required to include nonvisual technology access standards developed under this Section in contracts for the procurement of information technology.

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.

28. **Usage Report.**

Contractor must track and report to the State usage data on this Contract (Usage Reports). Usage Reports should be sent via email to osp.usagereports@state.mn.us. A Usage Report must identify the State Contract Number and provide the following information:

- The total amount of spend under the Contract by the State and other entities,
- The total amount of spend by State agencies, and
- The total amount of spend by other entities (CPV members).

Contractor must send a quarterly Usage Report, or as otherwise requested. Quarters are as follows:

- First Quarter, from July 1 to September 30,
- Second Quarter, from October 1 to December 31,
- Third Quarter, from January 1 to March 31, and
- Fourth Quarter, from April 1 to June 30.

A quarterly Usage Report is due within thirty days of the end of a quarter. A requested Usage Report is due within thirty days from when the request was made. Contractor must provide the State with a final Usage Report within 30 calendar days of the expiration or termination of the Contract. Failure to provide a Usage Report may result in the State cancelling the Contract. This term survives the expiration or termination of the Contract.

29. **Administrative Fee.**

Contractor must remit to the Department of Administration, Office of State Procurement on a quarterly basis an administration fee of 1% (.01 multiplication factor) of the total amount of spend under the Contract as reported in the Usage Report (Administrative Fee). The Administrative Fee is due within thirty days of the end of a quarter. The Administrative Fee may be submitted through Automated Clearing House (ACH) or by check. Contact CPV.Program@state.mn.us for detailed information on the ACH payment option. If paying by check, the check should be made payable to the State of Minnesota, and submitted to:

Office of State Procurement
112 Administration Building
50 Sherburne Avenue

St. Paul, MN 55155

30. **Severability.** If any provision of the Contract, including items incorporated by reference, is declared, or found to be illegal, unenforceable, or void, then both the State and the Contractor shall be relieved of all obligations arising under such provisions; if the remainder of the Contract is capable of performance it will not be affected by the declaration or finding and will be fully performed.
31. **Electronic Funds Transfer (EFT) Payment Method And Structure.** In accordance with Minn. Stat. § 16A.40 the Contractor is required to provide their bank routing information to the Minnesota Department of Finance to enable payments to be made through EFT.
32. **Copyright.** The Contractor shall save and hold harmless the State of Minnesota, its officers, agents, servants and employees, from liability of any kind or nature, arising from the use of any copyrighted or noncopyrighted compositions, secret process, patented or nonpatented invention, article or appliance furnished or used in the performance of the Contract.
33. **Survivability.** In the event the term of any order or Professional/Technical Services work order ("Order") placed under this Contract extends past the termination or expiration of this Contract, the terms and conditions of this Contract shall remain in full force and effect as it applies to such order and will continue in effect for such order until the term of that order expires or the order is cancelled or terminated in accordance with the terms of this Contract.
34. **IT Accessibility Standards.**
Contractor acknowledges and is fully aware that the State of Minnesota (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 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 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 State to consider the Contractor in default.
35. **E-Verify Certification (in accordance with Minn. Stat. § 16C.075).**
For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.
36. **Hazardous Substances.**
To the extent that the goods to be supplied to the State 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 the State with Material Safety Data Sheets regarding those substances. A copy must be provided upon request. Goods and containers supplied to the State must be labeled in compliance with state and federal laws, rules, and regulations.

These terms apply to goods supplied under this contract:

- 36.1. Products Containing Triclosan Banned. The Contractor must comply with Minn. Stat. § 145.945.
 - 36.2. Products Containing Certain Types of Polybrominated Diphenyl Ether Banned. The Contractor must comply with Minn. Stat. § 325E.385-325E.388).
 - 36.3. Coal Tar Sealant Use and Sale Prohibited. The Contractor must comply with Minn. Stat. § 116.202.
 - 36.4. Products Containing Mercury. The Contractor must comply with Minn. Stat. 116.92.
 - 36.5. Products containing PFAS. [Amara's Law \(Minn. Stat. § 116.943\)](#) will take effect in Minnesota January 1, 2025, and applies all products sold or distributed under the contract. The law prohibits the sale or distribution of some products with intentionally added PFAS within Minnesota.
37. **Software And Licensing Agreements.** Prior to the State signing the Participating Addendum, Contractor must submit to the State of Minnesota for approval any license agreements, maintenance agreements, or any other documents pertinent to the products and/or services in this Participating Addendum.
38. **Taxpayer Identification:** The Contractor shall be registered as a vendor to the State in the SWIFT Procurement System. Registration must be done online at <http://www.mmb.state.mn.us/vendorresources>.
39. **Certification Of Nondiscrimination (In accordance with Minn. Stat. § 16C.053).** The following term applies to any contract for which the value, 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 vendor'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.
40. **PCI Language.** All of Contractor's systems and components that process, store, or transmit Cardholder Data shall comply with the most recent version of the Payment Card Industry Data Security Standard ("PCI DSS") promulgated by the PCI Security Standards Council, available online at: https://www.pcisecuritystandards.org/document_library. The Contractor shall, upon request, provide the State with Contractor's current Attestation of Compliance signed by a PCI QSA ("Qualified Security Assessor"). For purposes of this sub-section, "Cardholder Data" has the meaning defined by the PCI Security Standards Council, Payment Card Industry (PCI) Data Security Standard (DSS) and Payment Application Data Security Standard (PA-DSS), **Glossary of Terms, Abbreviations, and Acronyms**, available online at: https://www.pcisecuritystandards.org/document_library.

Exhibit B: Insurance Requirements

1. Notice to Contractor.

- 1.1. The Contractor is required to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements prior to commencing work under this Contract.
- 1.2. The Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of this Contract, unless otherwise specified in this Contract
- 1.3. The failure of the Contractor to provide a Certificate of Insurance, for the policies required under this Contract or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the State to the Contractor to provide such insurance.
- 1.4. The State reserves the right to immediately terminate this Contract if the Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's Authorized Representative upon written request.
- 1.5. If the Contractor uses another entity, including but not limited to a dealer, reseller, or distributor (collectively referred to as "Contractor's reseller") to provide goods or services under this contract, the following terms apply:
 - 1.5.1. Because the Contractor's reseller(s) are independently owned and operated, and maintain their own insurance, the Contractor's reseller's insurance coverage must be evidenced by its own Certificate of Insurance. The Contractor's reseller's Certificate of Insurance must meet all the insurance requirements and limits set forth in the Contract.
 - 1.5.2. The Contractor shall collect, review, approve, and maintain the applicable Certificates of Insurance, including but not limited to General Liability, Auto Liability, Umbrella, Workers' Compensation, and Garagekeepers or Property of Others, for all Contractor's resellers that will be providing goods or services under this contract. The Contractor acknowledges compliance with this provision. The Contractor must provide copies of the dealers' insurance documentation to the State upon request.
 - 1.5.3. If a claim is made against a Contractor's reseller, and the Contractor's reseller's insurance coverage did or does not cover the claim, the Contractor is responsible for the claim because the contract is with the Contractor. The Contractor must pay any uninsured claims out-of-pocket. The State may enforce the indemnity clause in the contract.

2. Notice to Contractor.

- 2.1. The Contractor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.
- 2.2. Insurance certificate holder should be addressed as follows:
 State of Minnesota
 50 Sherburne Avenue, Room 112
 St. Paul, MN 55155

3. Additional Insurance Conditions. The following apply to the Contractor, or the Contractor's subcontractor:

- 3.1. Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Contractor's performance under this Contract.
- 3.2. If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State;
- 3.3. Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 3.4. If Contractor is self-insured, a Certificate of Self-Insurance must be attached;

- 3.5. Contractor's policy(ies) shall include legal defense fees in addition to its policy limits with the exception of professional liability.
- 3.6. Contractor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.
- 3.7. An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.
4. **Coverages. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:**
 - 4.1. **Commercial General Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence

\$2,000,000 – annual aggregate

\$2,000,000 – annual aggregate – applying to Products/Completed Operations

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage
 - Personal and Advertising Injury
 - Blanket Contractual Liability
 - Products and Completed Operations Liability
 - Other
 - **State of Minnesota named as an Additional Insured**, to the extent permitted by law
- 4.2. **Commercial Automobile Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile. Evidence of Subcontractor insurance shall be filed with the Contractor.

- 4.3. **Workers' Compensation Insurance.** Statutory Compensation Coverage. Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:

\$100,000 – Bodily Injury by Disease per employee

\$500,000 – Bodily Injury by Disease aggregate

\$100,000 – Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State with a certificate of insurance.

- 4.4. **Product Liability Insurance.** Contractor is required to maintain product liability insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise due to a product's malfunction or defect. This form of insurance covers a manufacturer's or seller's liability for bodily injury or property damage sustained by a third party due to a product's malfunction or defect. It protects a company against claims arising from the company's products. Insurance minimum limits are as follows:

\$2,000,000 - per occurrence

\$2,000,000 - annual aggregate

Exhibit C: Price Schedule

The following documents are incorporated by reference into the Contract:

1. Thomas Scientific General Discounts from Response to the NASPO ValuePoint Solicitation
2. Thomas Scientific 2025 Retail Price List (file dated 3/26/2025)

Exhibit C – Supplement 1
Sample Invoice & Sample Quote

Contractor is required to use the sample quote and sample invoice for all transactions under this Contract. Contractor may not materially change either document unless the change has been approved in writing by the State's Authorized Representative. Contractor may not modify the sample quote or sample invoice to provide less detail regarding purchases under this Contract. Contractor hereby waives the right to enforce any term in either sample which contradicts or modifies any term of the solicitation or any Contract that may result, including subsequent amendments to the Contract, or would result in an unencumbered expense if enforced against the state or its CPV members. The State anticipates the sample quote and sample invoice will contain, at a minimum:

- Customer name
- State Contract number field
- Item number and description
- Item quantity or service hours
- List price
- Contract discount
- Price after discount
- Total Price
- PO number



ThomasSci.com
833.544.SHIP (7447)

CustomerService@ThomasSci.com

Connect With Us:



SALES QUOTATION

Sales Quotation

Quote Number	00208440	Customer Account Number	30999000
		Account #	30999800
Created Date	9/30/2024	Contact Name	James Morrel
Quote Name	TEMPLATE	Contact Email	james.morrel@thomassci.com
Account Name	THOMAS SCIENTIFIC	Expiration Date	9/30/2024
Ship To Name	THOMAS SCIENTIFIC	Bill To Name	THOMAS SCIENTIFIC
		Bill To	185 Flint Street San Jose, ca 95134 United States of America
State Contract No:	252522		

Product Code	Line Item Description	Sales Price	Quantity	Pkg Size / UOM	Total Price
special-nhp	EXAMPLE PRODUCT	\$10.00	1.00	1/EA	\$10.00
Subtotal			\$10.00		
Total Price			\$10.00		
Grand Total			\$10.00		

Robin Slough
Vice President, Sales Operations and
Administration
robin.slough@thomassci.com
(856) 579-0548

Quick and simple Equipment Financing now available at Thomas Scientific! Contact us today to get started!
Visit: Thomassci.com/Equipment-Financing

Account Payment CRTCARDS
Terms

We submit for your approval the above prices, subject to the stated terms:
Any applicable taxes are not included in this quotation
For detail specs on catalog items offered see: <http://www.thomassci.com/>
In case of discrepancy in prices, unit price will prevail
Prices quoted are firm for 30 days unless otherwise stated
Prices quoted are in US Dollars

IMPORTANT NOTICE

Due to Thomas Scientific's inability to return un-used inventory of certain products to our manufacturing partners, we must require certain limitations when these items are purchased. Transport Media, Swabs, Automation Pipette Tips, PCR Plates, and Personal Protective Equipment are all considered Final Sale, Non-Cancellable, and Non-Returnable products.

RETURN POLICY

All returns must have prior authorization from Thomas Scientific and must be requested within 30 days of delivery. Products returned without prior authorization will be returned freight collect. [REDACTED] Customer will be responsible for all transportation fees on returns not due to Thomas Scientific error. Products generally not subject to return include:

We Believe You Are Important. How Can We Help?



ThomasSci.com
833.544.SHIP (7447)

CustomerService@ThomasSci.com

Connect With Us:



SALES QUOTATION

Sales Quotation

- Items not purchased from Thomas Scientific.
- Products not in original packaging, including products with damaged, missing, or defaced labeling and packaging.
- All original manuals, instructions, warnings, and warranties must be included.
- Products must not have been customized, modified or damaged in any way.
- Items purchased on a "special order" basis or discontinued products.
- Chemicals, diagnostics, sterile or controlled products.
- Products which are not inventoried by Thomas Scientific and are not able to be returned to the manufacturer.
- Products with an expired shelf life or short expiration dating less than six (6) months.
- Refrigerated products or other perishables.
- Products that may be identified as high demand due to a pandemic, epidemic or other situations of crisis**

To begin your return process, please complete our Return Authorization Form by visiting www.thomassci.com/returns.

** Please note that in times of crisis or emergencies, demand can significantly exceed supply. This can result in allocations of products by our suppliers and for our customers. As a result, our terms may be amended, such as requiring payment in advance, freight charges and products that are considered Final Sale and/or Non-Returnable and/or Non-Cancellable.



Thomas Scientific, LLC Family of Companies



INVOICE

1

1654 High Hill Road

Invoice No: #

Swedesboro, NJ 08085

Fed ID # 61-1853692

DUNS # 08-088-7713

Fax:

e-mail:

Sold

To: ADDRESS

ADDRESS

ADDRESS

CITY, STATE ZIP

Ship

To: ADDRESS

ADDRESS

ADDRESS

CITY, STATE ZIP

State Contract No: 252522

Customer Code: #

Order No: #

Invoice Date: 1/1/2019

Customer PO No: #

Terms: N30

Date Shipped: 1/1/2019

Carrier:

FOB: ORIGIN

Ordered	Shipped	UOM	Item No / Description	Unit Price	Ext Amount
1.00	1.00	EA	ITEM #	\$0.00	\$0.00
			ITEM DESCRIPTION		
			** Previously Known AS # **		
1.00	1.00	EA	ITEM #	\$0.00	\$0.00
			ITEM DESCRIPTION		
			** Previously Known AS # **		
1.00	1.00	EA	1156T27	\$0.00	\$0.00
			ITEM DESCRIPTION		
			** Previously Known AS # **		

Sub Total: \$0.00

Tax: \$0.00

Freight: \$0.00

Invoice Total: \$0.00

Payments/Credits: \$0.00

Amount Due: \$0.00

Workforce and Equal Pay Declaration Page

This form is **required for all businesses** executing government contracts under the following:

Select one:

- ☐ Businesses executing a contract with **State or Metropolitan agencies** in excess of \$100,000 ([Workforce Certificate](#)) and, if applicable, \$500,000 ([Equal Pay Certificate](#))
- ☐ Businesses executing a contract with **University of Minnesota** for general obligation bond funded capital projects in excess of \$100,000 ([Workforce Certificate](#)) and, if applicable, \$500,000 ([Equal Pay Certificate](#))
- ☐ Businesses executing a contract with **Political Subdivisions** for general obligation bond funded capital projects in excess of \$250,000 ([Workforce Certificate](#)) and, if applicable, \$1,000,000 ([Equal Pay Certificate](#))

Select all that apply:

We are a certificate holder:

- ☐ Workforce Certificate under the name: _____
- ☐ Equal Pay Certificate under the name: _____

We are applying/have applied for the following certificate(s):

- ☐ Workforce Certificate Application date (MM/DD/YYYY): _____
- ☐ Equal Pay Certificate Application date (MM/DD/YYYY): _____

We have not applied for one or both certificates:

- ☐ Our company does not yet have a Workforce Certificate or Equal Pay Certificate. We acknowledge that a Workforce Certificate and, if applicable, Equal Pay Certificate, or approved exemption by the Minnesota Department of Human Rights is required before a contract can be executed.

We are Exempt:

- ☐ We attest to the Minnesota Department of Human Rights that we have not employed 40 or more employees on a single day during the prior 12 months in Minnesota or the state in where we have our primary place of business. The Minnesota Department of Human Rights may request the names of our employees during the previous 12 months, the date of separation, if applicable, and the current employment status and count.

Business Information

Vendor/Supplier ID	Business Name	Name of Contracting Agency
Authorized Signatory Name	Title	Date
Signature	Email	Phone

For assistance with this form, email the Minnesota Department of Human Rights Compliance.MDHR@state.mn.us

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
OFFICE OF STATE PROCUREMENT

SERVICE AND DELIVERY

Service and delivery are important requirements for all State contracts. The successful responder will be expected to ship all orders within the time specified in its response or, in the case of unanticipated problems causing a delay, notify the agency of the problem and when the shipment will be made. All requests for information from State agencies will be answered promptly. A copy of all correspondence to State agencies shall be sent to Acquisitions, Office of State Procurement, 112 Administration Building, St. Paul, MN 55155. **Any Contractor found to be providing unsatisfactory service during the Contract period may be disqualified for a subsequent Contract award.**

SUBSEQUENT CONTRACT REVISIONS. No verbal or written instructions from State agencies or officials to change any provision of the resulting Contract shall be accepted by the Contractor without the approval of the Acquisition Management Specialist (AMS). The Contractor shall report any such requests to the AMS who will issue approval or denial in writing.

CONTACT PERSON FOR ORDERS:

NAME:	_____	TITLE:	_____
TELEPHONE NUMBER:	_____	FAX NUMBER:	_____
TOLL FREE NUMBER:	_____	E-MAIL:	_____

CONTACT PERSON TO EXPEDITE ORDERS (if different from above):

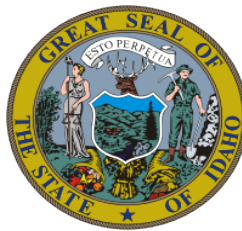
NAME:	_____	TITLE:	_____
TELEPHONE NUMBER:	_____	FAX NUMBER:	_____
TOLL FREE NUMBER:	_____	E-MAIL:	_____

ORDER ADDRESS:

STREET/PO BOX:	_____		
CITY/STATE:	_____	ZIPCODE:	_____
TELEPHONE NUMBER:	_____	FAX NUMBER:	_____
TOLL FREE NUMBER:	_____	E-MAIL:	_____

REMIT-TO ADDRESS:

STREET/PO BOX:	_____		
CITY/STATE:	_____	ZIPCODE:	_____
TELEPHONE NUMBER:	_____	FAX NUMBER:	_____
TOLL FREE NUMBER:	_____	E-MAIL:	_____



MASTER AGREEMENT

State of Idaho Contract MA2024004

Parties

Department of Administration, Division of Purchasing	Thomas Scientific, LLC
Division of Purchasing 650 W. State St., Room 100 Boise, ID 83720-0075	Thomas Scientific, LLC 1654 High Hill Rd Swedesboro, NJ 08085

Contract Summary

Contract Number MA2024004 Contract Title: Laboratory Equipment and Suppliers Contract Effective: December 1, 2023	Service Start Date: March 1, 2024 Service End Date: February 28, 2029
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Recitals

1. This Master Agreement number MA2024004 for Laboratory Equipment and Supplies, Band 1 Full-Line Catalog ("the Master Agreement") is awarded in collaboration with NASPO ValuePoint by and through the Department of Administration, Division of Purchasing pursuant to state of Idaho solicitation number RFP20232032 ("the Solicitation").
2. The Contract is issued under the authority provided in the State Procurement Act, title 67, chapter 92, Idaho Code.
3. Thomas Scientific, LLC ("Contractor") agrees to provide Property as detailed herein.

Agreement

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

- 1.1 Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 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.

- 1.5 Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 NASPO ValuePoint** is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) corporation. 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.
- 1.8 Order or Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.
- 1.9 Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 Participating Entity** means a state (as well as the District of Columbia and US 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.
- 1.11 Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 Product or Products and Services** 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 Product includes goods and services.
- 1.13 Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- 2.1 Initial Term.** The initial term of this Master Agreement is for five (5) years. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State’s discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.
- 2.2 Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period 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 will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

- 3.1 Order.** Any Order placed under this Master Agreement will consist of the following documents:

- 3.1.1 A Participating Entity's Participating Addendum ("PA");
 - 3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;
 - 3.1.3 A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;
 - 3.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
 - 3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will 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.
- 3.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

IV. Participants and Scope

- 4.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 **Applicability of Master Agreement.** 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, subject to Section III. For the purposes 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.
- 4.3 **Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and 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.
- 4.4 **Obligated Entities.** 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. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 **Notice of Participating Addendum.** 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 databases.
- 4.6 **Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the 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; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.

- 4.7 Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. 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.
- 4.8 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, 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 and as the Participating Entity has in the Participating Addendum, 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.
- 4.9 Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the 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.
- 4.10 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity'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.

V. NASPO ValuePoint Provisions

- 5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.
- 5.2 Administrative Fees**
- 5.2.1 NASPO ValuePoint Fee.** Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.
- 5.2.2 State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.
- 5.3 NASPO ValuePoint Summary and Detailed Usage Reports**
- 5.3.1 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.

- 5.3.2 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.
- 5.3.3 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.
- 5.3.4 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.
- 5.3.5 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.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

- 5.4.1 Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor’s contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.
- 5.4.2 Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor’s website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

- 5.4.3 Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.
- 5.4.4 Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.
- 5.4.5 Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.
- 5.5 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the 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 execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.
- 5.6 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.
- 5.7 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.

VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.
- 6.1.1** All prices and rates must be guaranteed through the end of the 2024 calendar year. f
- 6.1.2** Contractor may request a price increase no more than once per Contract year by submitting a request to the State at least thirty (30) days prior to the end of the then current term. Price increases must be calculated from the published price list and may only be requested in accordance with changes made by the manufacturer or distributor in their established, nationally distributed price list or published catalog. The Lead State reserves the right to accept or reject any proposed price increase. A price increase will not be effective until approved, in writing, by the Lead State.
- 6.1.3** Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.
- 6.1.4** No retroactive adjustments to prices or rates will be allowed.

- 6.2 Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the goods are 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 or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- 6.3 Leasing or Alternative Financing Methods.** The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

- 7.1 Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 Quotes.** Purchasing Entities may define entity-specific 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.
- 7.3 Applicable Rules.** 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 and/or services contemplated by this Master Agreement.
- 7.4 Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
 - 7.5.1** 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.
 - 7.5.2** Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
 - 7.5.3** 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.
 - 7.5.4** Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall 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 in any manner inconsistent with this Master Agreement’s terms.
 - 7.5.5** Orders for any separate indefinite quantity, task order, 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.
- 7.6 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:
 - 7.6.1** The services or supplies being delivered;
 - 7.6.2** A shipping address and other delivery requirements, if any;
 - 7.6.3** A billing address;
 - 7.6.4** Purchasing Entity contact information;
 - 7.6.5** Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;
 - 7.6.6** A not-to-exceed total for the products or services being ordered; and
 - 7.6.7** The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

- 7.7 Communication.** All communications concerning administration of Orders placed must 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.
- 7.8 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.

VIII. Shipping and Delivery

- 8.1 Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.
 - 8.1.1** Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.
- 8.2 Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. 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 will be shipped without charge.
- 8.3 Inside Deliveries.** Delivery is FOB Destination, inside delivery, to the Purchasing Entity's specified address unless otherwise agreed to by Purchasing Entity.. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.
- 8.4 Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

- 9.1 Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. 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, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.
 - 9.3.1** 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.
 - 9.3.2** 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.

- 9.4 Failure to Conform.** 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.
- 9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.
- 9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.
- 9.5.2** If the Product does not meet the standard of performance or specifications 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.
- 9.5.3** Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, 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.
- 9.5.4** Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.
- 9.5.5** No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- 10.2 Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.
- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Purchasing Entity's remedy under Section 10.3 shall be limited to repair, replacement, or refund detailed above.
- 10.4 Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 10.5 Warranty Period Start Date.** The warranty period will begin upon delivery, as set forth in Section IX.

- 10.6** Contractor hereby disclaims all other warranties, conditions, or guarantees with respect to the subject matter of this agreement, whether statutory, written, oral, express, or implied including, without limitation, any warranty of merchantability, suitability, or fitness for a particular purpose.
- 10.7** To the extent permitted by law, Contractor's cumulative liability to any Purchasing Entity for any loss or damage resulting from any claim, demand, or action under this Agreement shall be limited to the greater of (a) the amount paid by Purchasing Entity to Contractor in the twelve months preceding the claim; or (b) one million dollars (\$1,000,000.00). The foregoing limitation of liability shall not apply to claims that are subject to this Master Agreement's general indemnification and intellectual property indemnification obligations.

XI. Product Title

- 11.1 Conveyance of Title.** 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.
- 11.2 Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"), to the extent necessary to use the Product. The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

- 12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement except to the extent that such claims, damages or causes of action are a result of the negligence or willful misconduct of NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, or their officers or employees..
- 12.2 Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").
- 12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- 12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - 12.2.1.2** specified by the Contractor to work with the Product;
 - 12.2.1.3** reasonably required 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

12.2.1.4 reasonably expected to be used in combination with the Product.

12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

12.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

12.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

13.1 Term. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

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

13.3 Coverage. Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:

13.3.1 Contractor shall maintain Commercial General Liability insurance 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 and \$2 million general aggregate;

13.3.2 Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

13.4 Notice of Cancellation. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

13.5 Notice of Endorsement. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.

13.6 Participating Entities. Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.

13.7 Furnishing of Certificates. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

13.8 Disclaimer. Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.1.1 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 will 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/or 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 will 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 Master 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.

14.1.2 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.

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

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

14.2.1 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.

14.2.1.1 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").

14.2.1.2 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.

14.2.1.3 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.

- 14.2.2 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.
- 14.2.2.1** 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.
- 14.2.2.2** 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.
- 14.2.2.3** 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.
- 14.2.2.4** 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.
- 14.2.3 Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be adequately compensated in monetary 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.
- 14.2.4 Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- 14.2.5 NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, 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 this Master Agreement. 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.

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

14.3 Assignment/Subcontracts

- 14.3.1** 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.

- 14.3.2** 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.

- 14.4 Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Contractor shall 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.

- 14.5 Independent Contractor.** Contractor is an independent contractor. Contractor has 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 shall not hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

- 14.6 Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will 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.

- 14.7 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, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.8 Defaults and Remedies

- 14.8.1** The occurrence of any of the following events will be an event of default under this Master Agreement:

14.8.1.1 Nonperformance of contractual requirements;

14.8.1.2 A material breach of any term or condition of this Master Agreement;

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

14.8.1.4 Institution of proceedings under any bankruptcy, insolvency, 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

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

- 14.8.2** Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) 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 will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.
- 14.8.3** 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:
- 14.8.3.1** Any remedy provided by law;
 - 14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof;
 - 14.8.3.3** Assessment of liquidated damages as provided in this Master Agreement;
 - 14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations;
 - 14.8.3.5** Suspension of Contractor's performance; and
 - 14.8.3.6** Withholding of payment until the default is remedied.
- 14.8.4** 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 an 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 will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.
- 14.9 Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. 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 will 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, any Participating Addendum, or any Purchase Order.
- 14.10 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 public procurement or contracting 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.
- 14.11 No Waiver of Sovereign Immunity**
- 14.11.1** In no event will 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.

- 14.11.2** 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.

14.12 Governing Law and Venue

- 14.12.1** The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will 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 will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

- 14.12.2** Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will 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 will be in the Purchasing Entity's state.

- 14.12.3** If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or 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.

- 14.13 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.

- 14.14 Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

Signatures

Division of Purchasing

Signature: Chelsea Robillard

Name: Chelsea Robillard

Title: State Purchasing Manager

Date: 12/7/2023

Thomas Scientific, LLC

Signature: Stan Haas

Name: Stan Haas

Title: President & CEO

Date: 12/6/2023 | 3:22 PM EST

Attachments

Appendix A – Scope of Work

Appendix B – Cost/Category Discounts

Appendix A SCOPE OF WORK

I. Master Agreement Objectives

The purpose of this competitive solicitation is to develop contracts for the purchase of laboratory equipment and supplies. The RFP is requesting proposals on two (2) defined bands ("Bands") of laboratory equipment and supplies, as follows:

Band 1 FULL-LINE CATALOG of laboratory equipment and supplies, excluding microscopes. Unless otherwise excluded, the resulting contract for this Band will include all laboratory equipment and supplies.

Band 2 MICROSCOPES

Offerors responding to Band 1, Full-Line Catalog and/or Band 2, Microscopes MUST accept orders from and extend contract prices to all 50 states and U.S. territories, to include qualified public entities and qualified non-profits.

II. Master Agreement Deliverables

A. BAND 1 – FULL-LINE CATALOG

Full-line catalog of laboratory equipment and supplies. Unless otherwise excluded, the resulting contract for this Band will include all laboratory equipment and supplies.

B. BAND 2 - MICROSCOPES

Microscopes including parts and components (e.g. illuminators, condensers, eyepieces, objectives, filters, stands, arms, bulbs, heads, power supplies, cases, dust covers, workbenches, cameras, monitors, keyboards, mice, software, maintenance, and support etc.) commonly used in a wide variety of public entity settings for educational, research, clinical requirements; including microscopes designed for applications in life sciences; materials sciences; and forensic sciences; as well as in environmental and industrial settings.

Including, *but not limited to*, the following types:

Student microscope
Monocular/Digital Compound Monocular microscopes
Binocular/Digital Compound Binocular microscopes
Trinocular Compound microscopes
Dual-View Binocular compound microscopes
Stereo/Digital stereo microscopes
Digital Zoom microscopes
Digital Imaging microscopes
Polarizing Microscopy Polarized Light microscopes
Electron Microscopy sample preparation
Confocal instruments
Inverted microscopes
Metallurgical microscopes
Gemological microscopes
Asbestos counting microscopes
Inspection System Stereo microscopes/projector microscopes
Video & Digital, Stereo and compound microscopes with viewing screens
EPI-fluorescent microscopes (binocular/trinocular and inverted models)
Digital microscope cameras
Measuring microscopes

Electron microscopes

A. Items Not Included In This Contract

The following items are NOT included in this RFP:

Equipment and Supplies which may be included in a vendor's catalog, but which are not specifically designed or intended for laboratory use (e.g. reception chairs, couches, coffee tables, general office equipment, etc.)

III. Contractor Responsibilities and Tasks

A. Ordering

1. Contractor must provide and maintain a toll-free phone number for order placement. At a minimum the buyer shall be able to place an order, inquire about orders, and be provided price and availability information. Contractor must establish a wait time to place an order of less than 3 minutes. The toll-free number must also provide customer service Monday-Friday, 8am-8pm EST.
2. Contractor must accept orders via email.
3. Contractor must provide and maintain an Internet-based ordering system consisting of a website that is accessible by both the Purchasing Entity and the Lead State, for the resulting contract. **This requirement is mandatory for Band 1 and optional for Band 2.** The web site, at a minimum, must:
 - a. Allow Participating Entities and Purchasing Entities to search Contractor's catalog based on key word, brand name, description, etc.
 - b. Provide List Price, Discount information and Contract Pricing for the Purchasing Entity (which may vary based on an individual state's Administrative Fee).
 - c. Allow Participating Entities and Purchasing Entities to place an order on-line, with a secure means for storing procurement card information.
 - d. Provide tracking/status information after an order is submitted.
 - e. Maintain a database for each Participating Entity. Purchasing Entities shall be identified by a unique number. The database shall include a comprehensive sales record that includes all sales for that Purchasing Entity for the life of the contract. The sales record shall include at a minimum: the date and status of each order (including the date of shipment); the quantity and pricing; as well as the contact information for the individual at the Purchasing Entity that placed the order.
 - f. Provide training materials and FAQs for use of the website and the contract, as well as troubleshooting tips.
 - g. Provide contact information for ordering, billing, credit, service, and other complaints/issues.
 - h. Provide a current list of names and contact information for all of Contractor's sales representatives assigned to support the Contract, identifying the geographic area assigned to each one.
 - i. The awarded Contractor(s) will have a maximum of sixty (60) calendar days after award to post their fully functional NASPO ValuePoint webpage on their company website. Failure to meet the sixty (60) day requirement will be considered a default and may lead to cancellation of the award.

4. Back-Orders

Contractor must take every available precaution to prevent back-order and out-of-stock contract items necessary for the operation of the Purchasing Entities' facilities. Contractor shall provide communication for back-ordered and/or out-of-stock contracted items. Contractor shall provide assistance to accommodate alternative/substitution items for products that are back-ordered or out-of-stock. Contractor must make effort to provide a price match in the event that the substitution item price is greater than the back-ordered item contract price.

B. Packaging and Delivery

1. Delivery is FOB Destination, inside delivery, to the Purchasing Entity's specified address unless otherwise agreed to by Purchasing Entity.
2. For items ordered under Band 2, Contractor will ship within 45 days, unless otherwise agreed to by Purchasing Entity, after receipt of order (ARO).
3. All other equipment and supplies must be delivered within seven (7) days ARO, unless a longer delivery time is agreed to by the Participating Entity. Contractor will be required to notify the Purchasing Entity within 24 hours of order placement if delivery cannot be completed as required by the Contract. Upon receipt of such notice, or upon failure to deliver within the specified time, the Purchasing Entity may cancel the order without penalty, and make the purchase elsewhere.
4. Delivery FOB destination must be included in pricing, no additional delivery fees may be charged except for items identified below. If any items ordered have special packaging (e.g. dry ice, hazardous materials), handling (e.g. next day delivery required), lift gate delivery or a special pricing arrangement has been made between the manufacturer and the Participating Entity that will require the Contractor to charge additional shipping, these items must be marked/flagged in the ordering system to clearly identify that they are subject to additional charges.
5. Contractor shall properly package and handle all items ordered under the resulting Contract, in accordance with industry standards and all applicable regulations.
6. Any products offered with an applicable shelf life must be date stamped (including gloves).

C. Late Delivery And Failure To Deliver

Contractor must deliver the equipment and supplies ordered pursuant to the resulting Master Agreement in accordance with all of the terms and conditions contained in the Master Agreement. Repeated failure to meet specified delivery requirements may result in Master Agreement termination, or the Lead State may pursue any other remedies that may be available to it, at its discretion. Contractor must complete delivery and installation within the time specified in Section III.B above but may agree to shorter timeframes with Purchasing Entities for specific orders.

D. Return of Items

1. Contractor Error

Equipment or Supplies which are unacceptable because of quality problems, duplicated shipments, outdated product, breakage, or other issues related to Contractor or product performance shall be inspected within three (3) business days and be returned at Contractor's expense within five (5) business days after receipt of notification from the Purchasing Entity, with no restocking charge. If the original packaging cannot be utilized for the return, Contractor must supply the Purchasing Entity with appropriate return packaging within the five (5) business day period. Postage must be paid by Contractor, by issuing an appropriate label to the Purchasing Entity via e-mail and Contractor will assume the risk of loss in transit. The returned product shall either be replaced with acceptable equipment or supplies, or the Purchasing Entity must receive a credit or refund for the purchase price, at the Purchasing Entity's discretion.

2. Purchasing Entity Error

Standard stock equipment and supplies ordered in error by Purchasing Entities will be returned for credit within fifteen (15) days of receipt, at Purchasing Entity's expense. Product must be in resalable condition (original container, unused). There shall be no restocking fee if returned products are resalable.

E. Invoicing

DO NOT INVOICE THE IDAHO DIVISION OF PURCHASING.

Contractor will invoice the Purchasing Entity which placed the order. All invoices must list the Entity name; unique identification number assigned by Contractor; Contract number (State of Idaho Master Agreement Number for resulting contract); date ordered; anticipated delivery date; item description, including manufacturer name and model number; list price; discount applied; and net cost to Participating Entity.

F. Customer Account Numbers

Contractor must establish unique customer/account identification numbers for use by each individual Purchasing Entity. Some Participating Entities may require (and Contractor will provide) multiple customer/account numbers (e.g. Universities with multiple laboratories).

G. State Purchasing Card

In order to be considered for award, the successful vendor must accept both VISA and MasterCard Procurement/Purchasing Cards to a maximum payment value of ten thousand dollars (\$10,000).

H. Training

Contractor must provide training that covers basic use of the website, performing searches, ordering, invoicing, customer service tools, credits, etc. to all Purchasing Entities upon request (no more than one, one (1) hour training session per Purchasing Entity per contract year), at no additional cost to the Participating Entity. Contractor may provide training remotely through videoconferencing, webinars, etc.

I. Records Maintenance and Reporting Requirements

Records Maintenance: Contractor must maintain books, records, documents, and other evidence pertaining to this Master Agreement as required in Attachment D.

Reporting Requirements: Contractor must provide summary and detailed usage reports as required in Attachment D and as required by individual states and Participating Entities.

J. Customer Service Requirements

The Contractor must offer sufficient customer service support to ensure timely delivery, competent technical support for the products, and profession and timely response and resolution to any issues.

K. Sustainability

The Contractor should promote corporate and local sustainability practices by aiming to reduce adverse effects on human health and the environment for the entire product lifecycle, including energy, water, safety, delivery, storage, packaging and training.

L. Cost

1. Discounts to Remain Firm or Greater

The percentage category discounts from the Contractor's submitted price worksheet is not to decrease for all updates or revisions of Contractor's price worksheet during the life of the Contract and any subsequent contract renewals; however, Contractor may increase the discount at any time. New items or replacement products are to be discounted at the same (or greater) rate as similar products or replaced items.

2. Price Negotiation During Contract Term

Contractor is expected to continuously negotiate with manufacturers to obtain improved discounts and extend improved pricing to Participating Entities. Contractor must agree to negotiate in good faith to establish ceiling prices or other more favorable terms and conditions between the Contractor and manufacturer that are applicable to future orders during the term of the Contract.

3. Price Lists and Updates

Contractor must furnish a "hard copy" and/or an electronic copy (at Lead State's option) of the price list(s) and periodic updates to the Division of Purchasing. Contractor must also furnish "hard copy" and/or electronic copy (Participating Entity's option) to all Purchasing Entities for which account numbers have been established. Contractor must distribute price lists in a timely manner as they become effective. Price lists may be updated no more often than quarterly. Updated price lists may include new items but may not increase the price of items which previously appeared unless the price increase is requested in accordance with Section M below. Updates must be simultaneous for the entire line of products. All price lists and website access/ordering capabilities must be supplied to the Participating Entities at no additional cost. Contractor must not add new replacement products for the purpose of a price increase. SKUs shall be consistent, and Contractor shall document discontinued items in writing when submitting replacement products.

4. Price List Access

At any time during the Contract and for a three (3) year period following the end of the Contract, the State reserves the right to request from the Contractor access to and/or a copy of the applicable price list used for the Contract's pricing basis for Contract pricing verification. Failure to provide the requested price list within three (3) business days following the State's request may result in Contract termination.

5. Additional Manufacturer Discounts

For contract items, the Contractor agrees to allow any particular Participating Entity to accept additional discounts offered by a Manufacturer for whom the Contractor is a distributor, if those discounts will result in a lower net price to the Participating Entity. The Contractor agrees to furnish these items under the terms and conditions of the Contract, but at the lower net price as agreed by the Manufacturer and the Participating Entity.

M. Price Changes

1. Price decreases or discount increases are permitted and encouraged at any time. Price reductions announced by a manufacturer must be applied at the time of the announcement for the products that have not yet been delivered to the Participating Entities.
2. All discounts offered must remain firm or higher during the term of the contract.
3. Contractor may request a price increase no more than once per Contract year by submitting a request to the State at least thirty (30) days prior to the end of the then current term. Price increases must be calculated from the published price list and may only be requested in accordance with changes made by the manufacturer or distributor in their established, nationally distributed price list or published catalog. The Lead State reserves the right to accept or reject any proposed price increase. A price increase will not be effective until approved, in writing, by the Lead State.

N. Audit Rights

The Contractor agrees to allow State and Federal auditors and State purchasing staff access to all the records relating to this Contract for audit, inspection, and monitoring of services or performance. Such access will be during normal business hours or by appointment.

O. Change In Contractor Representative

The Lead State Procurement Officer, at his/her sole discretion, may require a change in Contractor's Named Representative by giving written notice to Contractor.

P. Contractor Insurance Requirements

The Contract shall minimally meet insurance requirements as defined in the Master Agreement. Participating Entities may have different insurance requirements.

THOMAS SCIENTIFIC GENERAL DISCOUNTS NASPO VALUEPOINT RFP20232032													
Discount Code	UM	Disc % From List	General Product Category Description										
			Chemicals	Chromatography	Clinical	Controlled Environments	Diagnostics	Equipment	Furniture	Instruments	Laboratory Supplies	Life Science	Safety
DC001	All	0%	X	X	X	X	X	X	X	X	X	X	X
DC002	All	0.8%		X							X		
DC003	All	1%	X		X	X	X	X	X	X	X	X	X
DC004	All	2%									X		
DC005	All	3%		X							X		
DC006	All	4%									X		
DC007	All	5%		X						X		X	X
DC008	All	6%					X						X
DC009	All	7%	X	X			X	X			X	X	X
DC010	All	8%	X	X	X	X	X	X	X		X		X
DC011	All	9%	X	X	X	X	X	X	X	X	X	X	X
DC012	All	10%	X	X		X	X	X	X	X	X	X	X
DC013	All	11%	X	X	X	X	X	X	X	X	X	X	X
DC014	All	12%		X				X	X		X		X
DC015	All	13%	X	X		X	X	X	X	X	X	X	X
DC016	All	14%	X		X	X				X			
DC017	All	15%	X		X	X	X	X	X	X	X	X	X
DC018	All	16%				X	X						
DC019	All	17%	X			X	X		X	X	X		
DC020	All	18%	X							X	X	X	
DC021	All	19%			X	X		X	X	X		X	
DC022	All	20%	X	X		X	X	X	X	X	X	X	X
DC023	All	21%			X						X		
DC024	All	22%						X			X		
DC025	All	23%				X		X	X		X		X
DC026	All	24%				X		X	X		X		X
DC027	All	25%	X		X	X		X		X	X	X	X

THOMAS SCIENTIFIC GENERAL DISCOUNTS NASPO VALUEPOINT RFP20232032													
Discount Code	UM	Disc % From List	General Product Category Description										
			Chemicals	Chromatography	Clinical	Controlled Environments	Diagnostics	Equipment	Furniture	Instruments	Laboratory Supplies	Life Science	Safety
DC028	All	27%							X				
DC029	All	30%	X			X		X	X		X	X	X
DC030	All	35%											X
DC031	All	40%						X			X	X	X
DC032	All	56%	X										
NHP01	All other equipment & instruments will be priced at Thomas Scientific's Cost X 14.94% (1.149) (capped)												
NHP02	All other supplies & consumables will be priced at Thomas Scientific's Cost X 23.46% (1.235) (capped)												
As a result of the application of discounts contained above, should any product's price result in selling margin to Thomas Scientific below 11% gross margin, then the customer's net price may be adjusted to equal Thomas' sales cost x 12.36%.													
Note: Thomas agrees to extend to the Purchasing Entity lower pricing in the form of Special Price Quotations ("SPQ's") and/or other Promotional Pricing on goods from certain specific manufacturers and suppliers, as it may be available during the term of any contract award. When this SPQ or Promotion pricing exists, it shall be governed by the terms and effective dates established by the manufacturer or supplier. Should an SPQ or Promotion expire without renewal by the manufacturer, prices will revert to the above discounts.													
All products, with the exception of non-catalog and special order products will be shipped FOB Destination, prepaid and allowed. Fuel surcharges, drop-shipment fees, and hazardous material fees will be waived. Non-catalog and special order products will be quoted FOB Destination, prepaid and added, unless quotation is provided with freight allowed. Exceptions to these freight terms include requests for expedited transportation services, white-glove services, temperature sensitive goods requiring dry-ice and/or air transportation, and lift-gate services which can be quoted upon request. No minimum order shall apply to receive these transportation terms.													
To view contractual pricing, create a profile using your Thomas Scientific Account Number at https://ThomasSci.com/register													