

ADDENDUM

Contract #000000000000000000087052

This Addendum ("Addendum") is entered into by and between Indiana Department of Administration (the "**State**") and the entity designated as the "Contractor" below. In consideration of those mutual undertakings and covenants, the parties agree as follows:

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached **NASPO ValuePoint Master Agreement #PO-10700-00012990**, prepared by the Contractor (the "**Form Contract**"). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document (this "**Contract**"). Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

Contractor Name: ODP BUSINESS SOLUTIONS, LLC

Contractor Address: 6600 NORTH MILITARY TRAIL
BOCA RATON, FL 33496

Title of the Form Contract: NASPO ValuePoint Master Agreement #PO-10700-00012990, as amended, with its associated and embedded exhibits is attached hereto and incorporated herein:

- Exhibit 1 - NASPO ValuePoint Master Agreement Terms and Conditions
- Exhibit 2 - Sample Participating Addendum
- Exhibit 3 - Description of Goods and Discount Rates
- Exhibit 4 - Provisions Required by Federal Law
- Exhibit 5 - NASPO ValuePoint Detailed Sales Report Form

1. By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:
 - A. Any provision requiring the State of Indiana to provide insurance
 - B. Any provision requiring the State of Indiana to provide indemnity
 - C. Any provision providing that the Contract be construed in accordance with laws other than those of the State of Indiana
 - D. Any provision providing that suit be brought in any state other than Indiana
 - E. Any provision providing for resolution of contract disputes
 - F. Any provision requiring the State of Indiana to pay any taxes
 - G. Any provision requiring the State of Indiana to pay penalties, liquidated damages, interest or attorney's fees
 - H. Any provision modifying the applicable Indiana statute of limitations
 - I. Any provision relating to the time within which a claim must be made.
 - J. Any provision requiring payment of consideration in advance unless authorized by an exception listed in IC § 4-13-2-20

- K. Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, IC § 5-14-3. This is a Public Contract and will be posted on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2.
- L. Any provision requiring payment in less than 35 days
- M. Any provision providing for automatic renewal
- N. Any provision giving the Form Contract precedence over this Addendum

2. **Form Contract/Duties of Contractor.** The Indiana Department of Administration on behalf of All State Entities, herein referred to as “**State**,” is establishing a quantity purchase agreement (QPA) for Office Supplies.

The Contractor shall provide the products described in the Form Contract. The following contract exhibits are hereby included in this Contract, attached hereto and incorporated herein by reference as follows:

- Exhibit A**- Scope of Work
- Exhibit B**- Administrative Fee
- Exhibit C**- Service Level Agreement
- Exhibit D**- Performance Evaluation

3. **Term.** This Contract begins on August 01, 2025 (“**Effective Date**”) and ends December 31, 2027.

4. **Consideration.**

- A. Purchases under this Contract will be made at the discretion of Ordering Agencies (as defined hereunder in **Exhibit A**). Contractor will be paid at the rates established in **Exhibit 3** of the **Form Contract**, attached hereto and incorporated herein, for providing office supplies to eligible purchasing entities, as ordered, under this QPA.

Contractor understands and agrees that this Contract does not guarantee the Contractor a minimum quantity of orders or remuneration amount. Payment shall be made to the Contractor by the Ordering Agency in accordance with Section 38 – Payments and all other applicable provisions of this Contract.

The Contractor understands and agrees that the State shall not accept any responsibility for purchase orders issued by Other Governmental Entities.

The total number and quantity of purchases made by ordering agencies cannot be determined in advance, therefore this Contract does not have a total remuneration amount.

- B. **Administrative Fee.** Contractor agrees to pay an administrative fee, as further described in **Exhibit B**, based on net sales by the State and Participating Entities.

Administrative Fee = 2% of Net Sales

5. **Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make non-confidential and non-proprietary materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees in accordance with the terms of the **Form Contract**.

6. Assignment; Successors.

- A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
- B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

7. Assignment of Antitrust Claims. Reserved.

8. Audits. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

9. Authority to Bind Contractor. The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed and accepted by the State.

10. Changes in Work. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

11. Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with**

reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory, or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that:
 - A. the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - i. IC § 24-4-7 [Telephone Solicitation Of Consumers];
 - ii. IC § 24-5-12 [Telephone Solicitations]; or
 - iii. IC § 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

B. the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

A. has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

B. will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.

12. Condition of Payment. All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

13. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

14. Continuity of Services.

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires.

- C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract.
- D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

15. Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.
- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

16. Default by State. If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

17. Disputes.

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.
- C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into

further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

- D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.
- E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.
- F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the State should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

18. Drug-Free Workplace Certification. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute

conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

19. Employment Eligibility Verification. As a condition precedent to entering this contract, and as required by IC § 22-5-1.7 and Executive Order 25-29, the Contractor swears or affirms under the penalties of perjury that the Contractor has not knowingly employed, and will not knowingly employ, an unauthorized alien. The Contractor further affirms that:

- A. The Contractor has enrolled in, and verified the work eligibility status of all his/her/its employees through, the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor has not knowingly employed or contracted with, and shall not knowingly employ or contract with, an unauthorized alien. The Contractor has not retained, and shall not retain, an employee, and has not contracted and shall not contract with a person, that the Contractor subsequently learned or learns is an unauthorized alien.
- C. The Contractor has required and shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor and to provide any and all such certifications to the State promptly upon request.

The State may terminate this agreement for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

20. Employment Option. Reserved.

21. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

- 22. Funding Cancellation.** As required by Financial Management Circular 3.3 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- 23. Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.
- 24. HIPAA Compliance.** If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.
- 25. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.
- 26. Independent Contractor; Workers' Compensation Insurance.** The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and Contractor shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.
- 27. Indiana Veteran Owned Small Business Enterprise Compliance.** Award of this Contract was based, in part, on the Indiana Veteran Owned Small Business Enterprise ("IVOSB") participation plan, as detailed in the IVOSB Subcontractor Commitment Form, commonly referred to as "Attachment A-1" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by IDOA's Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term. The following certified IVOSB subcontractor(s) will be participating in this Contract:

IVOSB	PHONE	COMPANY NAME and Contact's email	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION DATES	PERCENT
NONE					

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to IndianaVeteransPreference@idoa.IN.gov, or mailed to IDOA, 402 W. Washington Street, Room W-462, Indianapolis, IN 46204. Failure to provide a copy of

any subcontractor agreement may be deemed a violation of the rules governing IVOSB procurement and may result in sanctions allowable under 25 IAC 9-5-2. Requests for changes must be submitted to IndianaVeteransPreference@idoa.IN.gov for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to certified IVOSB subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: www.in.gov/idoa/mwbe/payaudit.htm. The Contractor may also be required to report IVOSB certified subcontractor payments directly to the Division of Supplier Diversity, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

28. Information Technology Enterprise Architecture Requirements. If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/policies-procedures-and-standards/> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

29. Insurance.

- A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:
 1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured.
 2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
 3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
 4. Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
 5. Surety or Fidelity Bond(s) if required by statute or by the agency.
 6. Cyber Liability addressing risks associated with electronic transmissions, the internet, networks, and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage

meeting all statutory requirements of IC §22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

- B. The Contractor's insurance coverage must meet the following additional requirements:
1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
 2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
 3. The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
 4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
 5. Except for Cyber Liability insurance, the Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.
- C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

30. Key Person(s).

- A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days' prior written notice.
- B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are: None

31. Licensing Standards. Reserved.

32. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be

modified, supplemented, or amended, except by written agreement signed by all necessary parties.

33. Minority and Women's Business Enterprises Compliance.

Award of this Contract was based, in part, on the Minority and/or Women's Business Enterprise ("MBE" and/or "WBE") participation plan as detailed in the Minority and Women's Business Enterprises Subcontractor Commitment Form, commonly referred to as "Attachment A" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following Division of Supplier Diversity certified MBE and/or WBE subcontractors will be participating in this Contract:

MBE/ WBE	PHONE	COMPANY NAME and Contact's email	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION DATES	PERCENT
NONE					

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to MWBECompliance@idoa.IN.gov, or mailed to Division of Supplier Diversity, 402 W. Washington Street, Room W-462, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to MWBECompliance@idoa.IN.gov for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division of Supplier Diversity certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: www.in.gov/idoa/mwbe/payaudit.htm. The Contractor may also be required to report Division of Supplier Diversity certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of this Contract.

34. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act:

- A. The Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with

applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this subparagraph may be regarded as a material breach of this Contract, including for purposes of Indiana Code § 5-11-5.5-2, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

- B. Contractor covenants that it does not and shall not operate any programs or engage in any practices promoting Diversity, Equity, and Inclusion (DEI), or other similar goals, that violate Indiana or Federal Civil Rights Laws by treating a person differently on the basis of race or sex, such as by considering race or sex when making recruitment, hiring, disciplinary, promotion, or employment decisions; requiring employees to participate in training or educational programs that employ racial or sex stereotypes; or attempting to achieve racial or sex balancing in the Contractor's workforce. The Parties agree that a breach of this subparagraph is a material breach of this Contract, including for purposes

35. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

- A. Notices to the State shall be sent to:

IDOA Vendor Management
Indiana Department of Administration
402 W. Washington St. Room W468
Indianapolis, IN 46204

E-mail: vendormanagement@idoa.in.gov

- B. Notices to the Contractor shall be sent to:

ODP Business Solutions, LLC
6600 N. Military Trail
Boca Raton, FL 33496
Attn: Joseph Gorman, Vice President

With a copy to:
ODP Business Solutions, LLC
6600 N. Military Trail
Boca Raton, FL 33496
Attn: Office of General Counsel

As required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana State Comptroller.

36. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Addendum, (2) the Form Contract, (3) other attachments mutually agreed to by the parties. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

37. Ownership of Documents and Materials.

- A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy, and create derivative works of the Materials.
- B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense.

38. Payments.

- A. All payments shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana State Comptroller. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.
- B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

39. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2-3.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

40. Progress Reports. The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

41. Public Record. The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and the State will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

42. Renewal Option. Reserved.

43. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

44. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

45. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

46. Termination for Convenience. This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration (IDOA) and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

47. Termination for Default

- A. With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:
 - 1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
 - 2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract.
- B. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- C. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

48. Travel. Reserved.

49. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

50. Work Standards. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

51. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the most current *State of Indiana SCM Template*) in any way except as follows:

5. Access to Records-modified

7. Assignment of Antitrust Claims-Deleted

14. Continuity of Services- Modified

20. Employment Option- Deleted

29. Insurance- modified

31. Licensing Standards- Deleted

36. Order of Precedence; Incorporation by Reference-Modified

37. Ownership of Documents and Materials- Modified

42. Renewal- Deleted

47. Termination for Default – Modified

48. Travel- Deleted

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: <https://secure.in.gov/apps/idoa/contractsearch/>

In Witness Whereof, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

ODP BUSINESS SOLUTIONS LLC

DocuSigned by:
By: *Joseph Gorman*
3FBB8EF101754E0...

Title: VP, Business Development

Date: 8/8/2025 | 15:56 EDT

INDIANA DEPARTMENT OF ADMINISTRATION

Signed by:
By: *Eric Skaggs*
A30AC56668964C8...

Title: Director of Vendor Management

Date: 8/8/2025 | 17:35 EDT

Electronically Approved by: Department of Administration By: _____ (for) Brandon Clifton, Commissioner	
Electronically Approved by: State Budget Agency By: _____ (for) Chad Ranney, State Budget Director	Electronically Approved as to Form and Legality by: Office of the Attorney General By: _____ (for) Theodore E Rokita, Attorney General





NASPO ValuePoint Master Agreement #PO-10700-00012990

This NASPO ValuePoint Master Agreement (“Master Agreement”) is between the State of Oregon, acting by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services (“DAS PS”), as the Lead State, on behalf of the member states of the NASPO ValuePoint Cooperative Purchasing Program and other Participating Entities and ODP Business Solutions, Inc. (“Contractor”). This Master Agreement is effective on the date it has been signed by the parties and has been approved as required by applicable law (“Effective Date”).

This Master Agreement sets forth the terms and conditions applicable to Purchasing Entity’s purchase of Goods that are subject to this Master Agreement. Purchasing Entities intend to enter into binding and enforceable Contracts with Contractor for the purchase of Goods by execution of an ordering instrument in accordance with the Terms and Conditions of this Master Agreement and a particular Participating Entity’s Participating Addendum. Each such ordering instrument creates a separate Contract between the parties (consisting of the ordering instrument together with the terms and conditions) enforceable in accordance with the terms thereof and independent of all other such contracts.

1. Master Agreement; Order of Precedence

1.1. This Agreement consists of the following:

- 1) This cover sheet;
- 2) Exhibit 1, NASPO ValuePoint Master Agreement Terms and Conditions;
- 3) Exhibit 2, Sample Participating Addendum (“PA”);
- 4) Exhibit 3, Description of Goods and Discount Rates;
- 5) Exhibit 4 – Provisions Required by Federal Law
- 6) Exhibit 5 – NASPO ValuePoint Detailed Sales Report Form

1.2. Any Order placed under this Master Agreement consists of the following documents:

- 1) A Participating Entity’s Participating Addendum (“PA”), substantially in the form attached hereto as Exhibit 2;
- 2) NASPO ValuePoint Master Agreement and its exhibits; and
- 3) A Purchase Order issued against a PA.

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- 1.3. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed in Section 1.2 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. Notwithstanding any provision to the contrary, unless otherwise agreed by the Contractor in writing, all Purchase Orders issued by a Purchasing Entity shall be governed only by the terms and conditions of this Master Agreement and the applicable Participating Addendum notwithstanding any preprinted language on the Purchase Order or Contractor's acknowledgement thereof.

2. Definitions

Terms for the Master Agreement are defined in Exhibit 1, and terms for specific PAs are in the applicable PA.

3. Goods

Contractor may provide and Purchasing Entity may acquire the Goods described in Exhibit 3.

4. Pricing

Except as provided in this Section, during the term of the Master Agreement, Contractor shall offer Goods to Purchasing Entities at the discount percentage listed in Exhibit 3. The discount percentage will remain the same (or increase) throughout the term of the Master Agreement, including any renewals. The discount percentage may never decrease.

5. Counterparts

This Master Agreement may be executed in several counterparts, by facsimile or otherwise, all of which when taken together shall constitute one contract binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Master Agreement so executed shall constitute an original.

6. Representations and Warranties

Contractor certifies that the representations, warranties, and certifications contained in Exhibit 1 of the Master Agreement or as set forth elsewhere in the Master Agreement are true and correct as of the Effective Date and with the same effect as though made at the time of execution of the Master Agreement.

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7. Governing Law; Jurisdiction and Venue

This Master Agreement is 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.

Venue for any claim, dispute or action concerning the terms of the Master Agreement is 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 is in the Purchasing Entity's State.

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 Master Agreement 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.

CONTRACTOR BY EXECUTION OF THIS MASTER AGREEMENT AND AN APPLICABLE PARTICIPATING ADDENDUM HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF THE APPLICABLE COURTS, WAIVES ANY OBJECTION TO VENUE IN THESE COURTS, AND WAIVES ANY CLAIM THAT THESE COURTS ARE INCONVENIENT FORUMS.

8. Certifications

By signature on this Master Agreement, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge,

- Contractor is not subject to backup withholding because: (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding;
- The individual signing on behalf of Contractor is authorized to act on Contractor's behalf, has authority and knowledge regarding Contractor's payment of taxes, and to the best of the signatory's knowledge, Contractor is not in violation of any Oregon tax laws, including, without limitation: i) Those tax laws listed in ORS 305.380(4), ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that apply to Contractor, to Contractor's property,

Form Contract

operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of this state that apply to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions. Contractor is an independent contractor as defined in ORS 670.600.

- The supplied Contractor tax identification number below is true and accurate.

Authorized Signatures:

Contractor:

12/5/2022

Signature and Date: Brian Abromovage

Brian Abromovage

Brian Abromovage

Printed Name and Title: _____

Tax ID: [REDACTED]



**The State of Oregon acting by and through its Department of Administrative Services,
Enterprise Goods and Services, Procurement Services (Lead State)**

12/8/2022

Signature and Date: Keri Ashford

Printed Name and Title: Keri Ashford, State Procurement Analyst

Approved Pursuant to ORS 291.047

Printed Name and Title and Date Approved: Karen Johnson, Senior. Assistant Attorney General,
via email dated 11/16/2023

Matter: 107090-GF1324-21

Form Contract

Exhibit 1 NASPO ValuePoint Master Agreement Terms and Conditions

1. Definitions

- 1.1 **Acceptance** means acceptance of Goods as set forth in Section 9 of this Master Agreement.
- 1.2 **Contract** means any Order or Purchase Order or other agreed-upon ordering instrument issued by a Purchasing Entity under this Master Agreement, together with the terms and conditions of this Master Agreement.
- 1.3 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers Goods under the terms set forth in this Master Agreement.
- 1.4 **Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.5 **Forced Substitution** means the act of replacing any item with an alternative item via the use of software or any other method, resulting in the substitution of any item on any order without the prior consent of the ordering agency.
- 1.6 **Goods** means supplies, equipment or materials supplied by the Contractor pursuant to this Master Agreement.
- 1.7 **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.
- 1.8 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.9 **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.
- 1.10 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving

Form Contract

reports, as well as other contract administration functions as assigned by the Lead State.

- 1.11 Order or Purchase Order** means any purchase order, sales order, contract, or other document used by a Purchasing Entity to order the Goods.
- 1.12 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.).
- 1.13 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.
- 1.14 Participating State** means a state, the District of Columbia, or one of the territories of the United States that is listed in the RFP as intending to participate. Upon execution of a Participating Addendum, a Participating State becomes a Participating Entity.
- 1.15 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.

2. Term of Master Agreement

- 2.1 Initial Term.** The Initial Term of this Master Agreement begins on the Effective Date and ends December 31, 2024. 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 term of this Master Agreement may be amended beyond the Initial Term, provided however, the Initial Term and any renewals of the agreement may not exceed 3 years beyond the end date of the Initial Term.
- 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.

Form Contract

3. 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 This Master Agreement, including all exhibits thereto;

3.1.3 A Purchase Order issued against the Master Agreement;

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.

4. Participants and Scope

4.1 Requirement for a Participating Addendum. Contractor may not deliver Goods under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed, in accordance with state law.

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 3. 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

Form Contract

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 Goods purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: a) payments by employees of a Purchasing Entity for Goods; b) sales of Goods to the general public as surplus property; and c) 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.

Form Contract

- 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.

5. NASPO ValuePoint Provisions

- 5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section 5 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 Goods 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 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 Summary Sales Data.** The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. All sales made under this Master Agreement must be reported as cumulative totals by state. Contractor must submit a report for each quarter, including quarters

Form Contract

during which a Contractor has no sales, in which case this will be indicated in the Reporting Tool. Reports must be submitted no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

- 5.3.2 Detailed Sales Data.** Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report must be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports must be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports must include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is shown in Exhibit 5.
- 5.3.3 Reporting on Personal Use.** Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity ((state and agency, city, county, school district, etc.) under whose authority the employee is purchasing Goods for personal use and the amount of sales. No personal identification numbers (e.g., names, addresses, **social security numbers or any other numerical identifier**) may be submitted with any report.
- 5.3.4 Executive Summary.** Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

Form Contract

5.3.5 Use of Data. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports will have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

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 Addenda 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 Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

Form Contract

- 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 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 the end of the Initial Term 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 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.

6. 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** Following the first six (6) months of the Initial Term, Contractor may request unit price increases, for everything other than Category 49, no more than every six (6) months. Contractor must submit a request to the Lead State at least thirty (30) days before the proposed effective date of the increase. The request must show all proposed increases by line item and include supporting documentation acceptable to the Lead State.
- 6.1.2** Paper price changes will be based on the Resource Information Systems, Inc. (RISI) index. Following the first three (3) months of the Initial Term, Contractor may adjust paper prices for approved paper items one time in any given calendar quarter at any time during the calendar quarter. Contractor may only adjust paper prices if the RISI Table 6 (Delivered Printing and Writing Paper Prices for Most Common Transactions) index for such products has changed from the date of the Proposal or from the date of the last approved change, whichever is later. Contractor must give the Lead State thirty (30) days' prior written notice before the effective date of any change in paper prices.
- 6.1.3** No retroactive adjustments to prices or rates will be allowed.

Form Contract

- 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 entire order is delivered or the date a correct invoice is received, whichever is later. After forty-five (45) days, the Contractor may assess overdue account charges up to a maximum rate of one and one half percent (1.5%) 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 provided purchasing card is used at time of order.
- 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 Goods 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.

7. Ordering

- 7.1 Ordering Methods.** Contractor shall have an online ordering system. The online ordering system must provide each Participating Entity the ability to create specific online order configuration at the agency level (i.e., ordering platforms that allow for agency-specific items to be restricted, orders to route for approval, etc.).

Contractor shall establish and maintain a toll-free telephone number as well as an internet-based ordering system for order placement, order inquiry, price and availability inquiries. Contractor shall implement a wait time to reach customer service for order placement, order inquiries, delivery inquiries, etc. of less than three (3) minutes.

- 7.2 Website Online Catalog and Ordering Capabilities.** Contractor shall provide an online catalog with help function, order tracking, and related prompts that open automatically to an item's description, part number, catalog price, contract price and photo.

- 7.2.1** The online catalog must include information about all the products that the Master Agreement awardee has been awarded. Master Agreement awardee's online catalog must include the current contract price for all qualifying items and labels identifying products that meet the environmental specifications of this RFP.

Online ordering capability must be available to all Participating Entities within 60 days of the execution of a Participating Addendum.

Form Contract

- 7.2.2** Online orders placed by 4:00 pm in the Purchasing Entity's time zone must qualify for delivery within 2 business days.

Customer service agents and technical support staff must be available to handle all orders and mitigate all order-related technical issues from 8:00 am to 5:00 pm across the nation per the Participating Entity's own time zone for each Participating Entity that has a Participating Addendum. This can be negotiated by each Participating Entity.

- 7.2.3** Contractor's online ordering system must identify the environmental certifications (e.g., ENERGY STAR, Forest Stewardship Council (FSC), Green Seal, UL/EcoLogo, US EPA's Design for Environment (DfE) Recognition, etc.), amount of total and post-consumer recycled content, and/or other environmental attributes of the products consistent with any environmental specifications identified in Request for Proposals S-10700-00001355. Whenever available, the Contractor's ordering system must provide a link to the certification document verifying the environmental attribute(s) of the product

- 7.2.4 Training.** Contractor shall provide training, including instructions for how Participating Entities can use Contractor's online ordering system at no addition cost. This training shall cover, at a minimum, online ordering, product deliver, product returns and customer service processes.

- 7.3 Order Numbers.** Master Agreement and Purchase Order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

- 7.4 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.

- 7.5 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 Goods contemplated by this Master Agreement.

- 7.6 Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

Form Contract

- 7.7 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.
- 7.7.1** 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.
 - 7.7.2** 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.
 - 7.7.3** 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.
 - 7.7.4** 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.
 - 7.7.5** 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.
 - 7.7.6** If an ordered item is out of stock, Contractor shall notify the Participating Entity for prior approval before substituting the out-of-stock item. The practice of Forced Substitution will not be accepted.
- 7.8 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:
- 7.8.1** The Goods being delivered;
 - 7.8.2** A shipping address and other delivery requirements, if any;
 - 7.8.3** A billing address;
 - 7.8.4** Purchasing Entity contact information;
 - 7.8.5** Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;
 - 7.8.6** A not-to-exceed total for the Goods being ordered; and

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7.8.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

7.9 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.

7.10 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.

8. 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. All emergency and rush deliveries that require special shipping and handling will be at the Participating Entity's expense, with prior approval from the Participating Entity. Emergency or rush shipping charges must be added to an invoice as a separate line item. In the event emergency or rush delivery is required as the result of Contractor's error, all shipping costs shall be paid by the Contractor.

All shipments are to be delivered directly to the ordering department/division address of the Participating Entity, unless prior arrangements with the Participating Entity have been made to address other needed shipping locations.

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. Contractor shall be responsible for filing and expediting all freight claims with carriers. Contractor shall pay title and risk of loss or damage charges.

8.2 Minimum Shipping. There shall be a \$25.00 purchase minimum. Orders that do not comply with such minimum order value will be processed subject to a special handling fee in the amount of \$5.99. Additional freight charges may apply for items exceeding certain attributes regarding weight and/or dimensions, furniture, bulk items, cases of bottled water and other beverages, Hawaii, Alaska and Puerto Rico orders, special orders and/or rush deliveries. Handling fees and additional freight charges will be clearly identified as separate line items on quotes and invoices. Any order for less than the specified amount is to be shipped with the freight prepaid and

Form Contract

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. To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. 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. Contractor shall comply with all Purchasing Entity's facility access policies and procedures.

8.4 Packaging. All Goods must be delivered in the manufacturer's standard package or other packaging of durable construction if less than manufacturer's standard package is ordered. Costs must include all packing and/or crating charges. Packaging must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each package must be marked with the commodity, brand, quantity, item code number. The Purchasing Entity's Purchase Order number must appear on every package.

All shipments must include a packing label that includes, at a minimum, the following information on the outside of the package:

- Participating Entity Name
- Delivery Address
- Additional Delivery Instructions (floor, room, etc.)
- Contact Name
- Contact Telephone Number

A packing slip must also be included with each shipment, and must include, at a minimum, the following information:

- Line item description
- Quantity ordered
- Quantity included in shipment
- Any backordered items
- Unit price and extension
- Number of parcels
- Purchase order number
- Delivery order number
- Ordering individual's name

All products must be manufactured and packaged under modern sanitary conditions in with federal and state law and standard industry practice.

Form Contract

Each case, bottle and container of cleaning and maintenance chemicals must have the following markings in English:

- Name and address of manufacturer
- Brand name of product
- Net contents in U.S. standard pounds, ounces, gallons, or fluid ounces
- Directions for use, including recommended use dilution and precautionary handling instructions
- Recommended antidotal action, if applicable (English & Spanish)

Packaging must be constructed to assure safe delivery.

Shipments not in accordance with the above will be refused or returned to Contractor, freight collect.

Cleaning products, art supplies and other office products offered under this Master Agreement that contain chemicals that are known by the State of California to cause cancer, birth defects or other reproductive harm must contain a "Proposition 65" warning label on its primary packaging and on the ordering website.

Contractor shall not use polystyrene packing peanuts to fulfill any orders. Other types of difficult-to-recycle packaging such as rigid polystyrene or polyurethane foam, polyvinyl chloride (PVC), or multi-material packaging is strongly discouraged. Contractor is encouraged to minimize the quantity of packaging it uses to deliver products.

Packaging may not contain more than 100 parts per million of lead, cadmium, mercury or hexavalent chromium, which is consistent with the Toxics in Packaging legislation developed by the Council of Northeastern Governors and adopted by at least 19 States. For more information, see <http://www.toxicsinpackaging.org>.

Contractor shall label its environmentally preferable products by including the ecolabels and standards (such as total recycled content and post-consumer recycled content) listed below in the product description in their online ordering system and catalog in order to help Participating Entities easily identify them. Products that do not meet these standards should not be labeled as environmentally preferable (green) products. For example, a product that contains a lower amount of recycled content than the amount listed below may not be labeled as an environmentally preferable product.

Participating Entities reserve the right to add or restrict other products from their Participating Addenda based on environmental health or environmental considerations.

Form Contract

8.5 Recycling Services. Contractor shall provide a system for the collection and recycling of all toner and ink cartridges that is free of charge to Purchasing Entities. Contractor shall also offer free collection and recycling services for rechargeable batteries, which may be through the industry-financed Charge2recycle Program or a similar service.

9. Inspection and Acceptance

9.1 Laws and Regulations. Any and all Goods 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 9 will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

9.3 Inspection. All Goods 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 Goods 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 substantial 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 Goods 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 ascertaining whether the Goods meet the 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 Good is delivered or, if installed by Contractor, the day after the Good is

Form Contract

installed and Contractor certifies that the Good is ready for Acceptance Testing.

9.5.2 If the Good does not meet the specifications, Purchasing Entity may, at its discretion, reject the Good or continue Acceptance Testing on a day-to-day basis until the specifications are met.

9.5.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Good still has not met the specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Good 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 Goods returned pursuant to the section.

9.5.5 No Good will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

10. Warranty

10.1 Applicability. Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section 10 will apply.

10.2 Warranty. The Contractor warrants for a period of 1 year from the date of Acceptance that: (a) the Good performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Good is suitable for the ordinary purposes for which such Good is used, (c) the Good 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 Good is designed and manufactured in a commercially reasonable manner, and (e) the Good 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 Good whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Good proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made for the non-conforming Goods.

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; however, in no event shall any party be liable for any indirect, incidental, special, punitive or consequential damages, including without limitation damages for lost profits, even if that party has been advised as to the possibility of such damages.

Form Contract

10.5 Warranty Period Start Date. The warranty period will begin upon Acceptance, as set forth in Section 9.

11. Title to Goods

11.1 Conveyance of Title. Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Good free and clear of all liens, encumbrances, or other security interests.

11.2 Embedded Software. Transfer of title to the Good must include an irrevocable and perpetual license to use any Embedded Software in the Good. 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 Good 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 Good, 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"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

12. 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.

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 damages including reasonable attorneys' fees and related costs arising out of a third-party claim or cause of action that the Good 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 Good with any other product, system, or method, unless the other product, system or method is:

12.2.1.1 provided by the Contractor or the Contractor's

Form Contract

subsidiaries or affiliates specifically for use in connection with the Good;

12.2.1.2 specified by the Contractor to work with the Good;

12.2.1.3 reasonably required to use the Good 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 Good.

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 reasonable 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.

13. 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 its Participating Addendum.

Form Contract

- 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 fifteen calendar 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 13, 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

Form Contract

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.

14. 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. Subject to confidentiality agreements between Contractor and third parties, and no more than annually by each entity, 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 Goods 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

Form Contract

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 within 48 hours if Contractor learns or has reason to believe that any person who has had access to Confidential Information

Form Contract

has violated or intends to violate the confidentiality obligations set forth in 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 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. Notwithstanding anything to the contrary, in no event shall Contractor be liable for any indirect, incidental, special, punitive, or consequential damages, including without limitation damages for lost profits, even if Contractor has been advised as to the possibility of such damages. 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

Form Contract

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 identify 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, except that Contractor, without obtaining written consent from Lead State, may subcontract duties under the Master Agreement to those subcontractors who are generally involved in the day-to-day business operations of Contractor, including, but not limited to, third-party logistics vendors, delivery carriers, and customer service providers. Contractor may, with prior written approval of the Lead State, assign the Master Agreement (i) to any of its subsidiaries or affiliates, or (ii) in connection with the transfer or sale of all or substantially all of its business related to the resulting contract.

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.

14.3.3 Authorization of Tier/Diversity Partner to act as Contractor's Agent. Notwithstanding any other provision of this Master Agreement or Participating Addendum, Contractor is hereby authorized to engage Tier/Diversity Partner(s) ("Tier 1 Partner") to act as Contractor's authorized agent(s) for purposes of performing the following responsibilities: (i) implementation, (ii) invoicing and billing, (iii) E-commerce interface setup and training, (iv) establishing and maintaining a funds account ("Control Account"), and (v) First-level customer support, including general service issues and addressing questions with any Purchasing Entity.

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 Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. 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

Form Contract

- 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 Goods delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit.
- 14.7 Force Majeure.** Neither party to this Master Agreement shall be held responsible for delay or default caused by an event 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.

Form Contract

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 thirty (30) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure 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 fails to cure the default within the thirty (30) cure 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 Suspension of Contractor from being able to respond to future bid solicitations;

14.8.3.4 Suspension of Contractor's performance; and

14.8.3.5 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

Form Contract

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.

Form Contract

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 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.

Form Contract

Exhibit 2 Sample Participating Addendum

Master Agreement #: **PO-10700-00012990**
 Contractor: **ODP Business Solutions, LLC**
 Participating Entity: **STATE OF [PARTICIPATING STATE]**

This Participating Addendum is entered into by Contractor and Participating Entity (collectively, the "Parties").

Scope and Participation:

[Removable Instruction: Check one of the boxes below. If Participating Entity has no exclusions or limitations to the scope of the Master Agreement, check the first box.]

1. Scope:

- ☐ This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above.
- ☐ This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above, except the following:
 - *[Removable Example: Product modifications.]*
 - *[Removable Example: Installation services.]*

Any scope exclusions specified herein apply only to this Participating Addendum and shall not amend or affect other participating addendums or the Master Agreement itself.

[Removable Instruction: Participating States should ensure that Section 2 properly defines the scope of participation, including any excluded entities.]

2. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Oregon and Contractor for office supplies. This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

[Removable Instruction: Check one of the boxes below. If Participating Entity wishes to co-term the Participating Addendum with the Master Agreement, check the first box.]

3. Term:

- ☐ This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- ☐ This Participating Addendum shall become effective as of the date of the last signature below and shall terminate on [date], unless terminated sooner or otherwise amended in accordance with the terms set forth herein. Notwithstanding the previous, in no event shall

Form Contract

the term of the Participating Addendum exceed the term of the Master Agreement, as amended.

4. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

CONTRACTOR:

Name:	
Address:	
Telephone:	
Fax:	
Email:	

PARTICIPATING ENTITY:

Name:	
Address:	
Telephone:	
Fax:	
Email:	

Participating Entity Modifications and Additions to the Master Agreement

[Removable Instruction: Check one of the boxes below. If Participating Entity has no changes or additions to the terms and conditions of the Master Agreement, check the first box.]

- ☐ This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor.
- ☐ This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, **subject to the following limitations, modifications, and additions:**

[Removable Instruction: Insert text here to describe any changes or additions to the terms and conditions of the Master Agreement. Indicate which section numbers of the Master Agreement are being modified.]

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

5. Lease Agreements: *[Removable Instruction: If applicable, specify if lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating Entity, and include any restrictions or requirements for the use of the lease agreement language in the Master Agreement. If not applicable, mark Section 4 as "Reserved".]*
6. Subcontractors: All contractors, dealers, and resellers authorized to provide sales and service support in Participating Entity's state, as shown on Contractor's NASPO ValuePoint-

Form Contract

specific webpage, may provide sales and service support to users of this Participating Addendum. Participation of Contractor's contractors, dealers, and resellers will be in accordance with the terms and conditions set forth in the Master Agreement.

- 7. Orders: Any order placed by Participating Entity or a Purchasing Entity for a product or service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to the order.

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

PARTICIPATING ENTITY

CONTRACTOR

Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

[Removable Instruction: Additional signatures may be added if required by the Participating Entity.]

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at info@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.

Form Contract

Exhibit 3 Description of Goods and Discount Rates

Category	Category Description	Discount from List Vendor Catalog	Discount from List Wholesaler Catalog
1	Adhesives, Glues, Glue Sticks, Adhesive Removers	63.00%	48.00%
2	Dictionaries, Thesaurus, Diaries, Tickets, Reference Sets	48.00%	33.00%
3	Archive Boxes, Cardboard Boxes, Storage Containers	61.00%	50.00%
4	Award Frames, Displays, Plaques, Certificates	53.00%	39.00%
5	Badges, Badge Holders, Lanyards	60.00%	45.00%
6	Batteries, Chargers, UPS Power Supply, Surge Protectors, Extension Cords	57.00%	47.00%
7	Binder Clips, Paper Clips, Panel Clips, Push Pins, Thumb Tacks, Safety Pins, Rubber Bands, Scissors, Shears, Cutters, Trimmers, Hole Punches	72.00%	46.00%
8	Binders, Combs, Rings, Splines	65.00%	55.00%
9	Book Cases, Book Shelves	51.00%	37.00%
10	Bulletin Boards, Cork Boards, Easels, Easel Pads, Poster Boards, Display Rails	55.00%	36.00%
11	Appointment Books, Phone Message Books, Statement Books, Fax Message Books, "While You Were Out" Books, Forms, Calendars, Deskpads, Refills, Planners	58.00%	46.00%
12	Garbage/Trash Can Liners, Shredder Bags, Recycling Bags	47.00%	40.00%
13	Carts, Hand Trucks	47.00%	32.00%
14	CDs, DVDs, Cassette Tapes, Tape Cartridges, CD and DVD Cases, CD and DVD Storage, VHS Tapes, Computer Disks and Diskettes, CD Mailers, Ribbons, Computer Bags and Cases, Camera Film, Photo Paper, Camera Bags and Cases	46.00%	31.00%
15	Chair Mats, Door Mats, Floor Mats, Anti-Fatigue Mats	70.00%	50.00%

Form Contract

Category	Category Description	Discount from List Vendor Catalog	Discount from List Wholesaler Catalog
16	Clocks, Hooks, Lamps (Including Desk Lamps and Light Bulbs)	50.00%	36.00%
17	Correction Fluid, Correction Tape, Correction Pens	61.00%	48.00%
18	Food Service Ware (Cups, Spoons, Forks, Plates, Bowls)	55.00%	44.00%
19	Breakroom Cleaners: Dusters, Computer Air Dusters, Wipes, All Purpose Cleaners, Bathroom Cleaners, Disinfectants, Sanitizers, Hand Soaps, Glass Cleaners, Air Fresheners, Dust Pans, Stainless Steel Cleaners, Microfiber Cloths, Kitchen Cleaners, Furniture Cleaners, and Other Cleaning Supplies	50.00%	45.00%
20	Chalk Erasers, Dry Erase Erasers, Chalk, Crayons	58.00%	47.00%
21	Calculators, Digital Voice Recorders, Typewriters, Cameras, Fans, Heaters, Laminators, Shredders, Pencil Sharpeners, Air Cleaners	42.00%	29.00%
22	First Aid, Hand Lotions, Hand Sanitizers, Pain Relief, Gloves, Safety Supplies	52.00%	41.00%
23	Headsets, Headset Accessories, Headphones	37.00%	30.00%
24	Ink Pads, Refills, Calculator Ink, Stamps, Calculator Spools, Adding Machine Tape, Cash Register Tape, Wide Format Paper Rolls	63.00%	55.00%
25	Knives, Cutters, Blades, Scrapers	61.00%	49.00%
26	Labels, Label Makers, Label Holders	56.00%	44.00%
27	Mailing Tubes, Mailing Tubs, Packaging, Envelopes, Finger Tips, Finger Tip Covers and Moisteners, Letter Openers, Butcher Paper	67.00%	58.00%
28	Markers, Highlighters, Felt Pens	63.00%	48.00%
29	Mouse, Keyboards, Wrist Rests, Keyboard Pads, mouse Pads, Keyboard Trays	43.00%	30.00%
30	Notebooks, Notepads, Pads of Paper, Sticky Notes	73.00%	58.00%

Form Contract

Category	Category Description	Discount from List Vendor Catalog	Discount from List Wholesaler Catalog
31	Office Organizers, In Boxes, Copyholders, Pen and Pencil Holders, Wastebaskets, Drawers, desktop Shelves, Shredders, Bookends	64.00%	49.00%
32	Paper (including Copy Paper, Writing Paper, Stationery, etc.)	75.00%	65.00%
33	Pencils, Pencil Erasers, mechanical Pencils, Lead Refills, Pens, Pen Refills	65.00%	55.00%
34	Protractors, Rulers, Yardsticks, Compasses, Engineer Triangles, Measuring Tapes	70.00%	55.00%
35	Report Covers, Files, File Folders, Pocket Files, Portfolios, Jackets, Inserts, Folder Frames, Dividers, Wallet Files, File Guides, Index Cards, Business Cards, Card Holders, File Indexes, Tabs, ledgers, Tab Reinforcement, Tags, Sheet Protectors, Letters, Numbers, Fasteners, Fastener Bases, Clipboards, Flag Tape	70.00%	60.00%
36	Signs, Sign Holders, Flyer Holders, Racks, Literature Displays, Name Plates	60.00%	36.00%
37	Staplers, Staples, Staple Removers	65.00%	50.00%
38	Storage Cabinets, Filing Cabinets, File Storage Systems, Rails	51.00%	36.00%
39	Tape, Tape Dispensers, Embossing Tape, Velcro Products	60.00%	50.00%
40	Breakroom Paper Products: Tissues, Paper Towels, Napkins	52.00%	44.00%
41	Toner Cartridges, LaserJet HP Brand Only	45.00%	37.00%
42	All Other HP Brand Toner and Ink Cartridges, Fusers, Kits, Drums and Accessories	42.00%	31.00%
43	Toner and Ink Cartridges, Fusers, Kits, Drums, All Other Brands	35.00%	30.00%
44	Remanufactured and Bio-based Toner and Ink Cartridges	52.00%	50.00%
45	Transparency Film, Transparency Paper, Laminating Supplies, Laminating Pouches	63.00%	35.00%
46	USB Drives, Flash Memory, Zip Disks	35.00%	18.00%

Form Contract

Category	Category Description	Discount from List Vendor Catalog	Discount from List Wholesaler Catalog
47	“School Supplies”: Art Paper, Art Supplies, Construction Paper, Crepe Paper, Paint, Game/Learning Tools	57.00%	50.00%
48	Un-Categorized Spend	42.00%	30.00%

Form Contract

Exhibit 4 Provisions Required by Federal Law

Contractor shall comply with all applicable federal law, regulations, and executive orders, as indicated, and shall require all subcontractors to comply with all applicable federal law, regulations and executive orders including the following. For purposes of this Master Agreement, all references to federal laws are references to federal laws as they may be amended from time to time.

1. Equal Employment Opportunity. If this Master Agreement, including amendments, is for more than \$10,000, then Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Executive Order prohibits contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

During the performance of the Master Agreement, Contractor agrees as follows:

- 1.1 Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 1.2 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- 1.3 Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.
- 1.4 Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1.5 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 1.6 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 1.7 In the event of Contractor's noncompliance with the nondiscrimination clauses of this Master Agreement or with any of the said rules, regulations, or orders, this Master Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order

Form Contract

11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 1.8 Contractor will include the portion of the sentence immediately preceding subsection 1.1 and the provisions of subsection 1.1 through subsection 1.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency Contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. Davis-Bacon Act.

- 2.1. All transactions regarding this Master Agreement will be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt.5 as may be applicable. Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2.2. Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 2.3. Additionally, Contractor shall pay wages not less than once a week.

3. Copeland "Anti-Kickback" Act.

- 3.1. Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. §3145, and the requirements of 29 C.F.R. pt.3 as may be applicable, which are incorporated by reference into this Master Agreement.
- 3.2. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Emergency Management Agency (FEMA) may be appropriate instruction require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontract with all of these Master Agreement clauses.
- 3.3. A breach of the contract clauses above may be grounds for termination of the Master Agreement and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.

4. Contract Work Hours and Safety Standards Act.

- 4.1. Overtime requirements. No contractor or subcontractor contracting for any part of the Master Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such workweek.
- 4.2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subsection 4.1, Contractor or subcontractor responsible therefor shall be liable for the unpaid wages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subsection 4.1, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by subsection 4.1.
- 4.3. Withholding for unpaid wages and liquidated damages. The Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under the Master Agreement or any other Federal contract with Contractor or subcontractor or any other federally-assisted contract subject to the same Contract Work Hours and Safety Standards Act, which is held by Contractor or subcontractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in subsection 4.2.

Form Contract

4.4. Subcontracts. Contractor or subcontractor shall insert in any subcontract the clauses set forth in subsections 4.1 through 4.4 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor with these provisions.

5. Clean Air Regulations. Contractor shall comply with all applicable standards, orders, or requirements issued pursuant to the Clean Air Act (42 U.S.C. §7401 et. seq.). The Act provides, in part:

- 5.1.** No agency may enter into any contract with any person who is convicted of any offense under the Act for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under the Act, the condition giving rise to the conviction also shall be considered to include any substantive violation of the Act associated with the violation of the Act.
- 5.2.** The Administrator may extend this prohibition to other facilities owned or operated by the convicted person. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
- 5.3.** In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- 5.4.** The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- 5.5.** The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]
- 5.6.** Contractor shall report each violation to Agency and understands that Agency will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.
- 5.7.** Contractor shall include these provisions in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

6. Clean Water Regulations. Contractor shall comply with all applicable standards, orders, or requirements issued under the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387).

- 6.1.** No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- 6.2.** The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
 - 6.2.1.** Requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
 - 6.2.2.** Setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

Form Contract

6.3. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

6.4. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

6.4.1. No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

6.4.2. In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

6.5. Contractor shall report each violation to Purchasing Entity and understands that Purchasing Entity will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.

6.6. Contractor shall include these provisions in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7. Solid Waste Disposal Act. Contractor shall comply with all applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. EPA Regulations. Contractor shall comply with all applicable standards, orders, or requirements under Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the State, HHS and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000 in Federal Funds, language requiring the subcontractor to comply with the federal laws identified in this section.

9. Resource Conservation and Recovery. Contractor shall comply and cause all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

10. Recycled Materials. In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (i) competitively within a timeframe providing for compliance with the Contract performance schedule, (ii) meeting Contract performance requirements, or (iii) at a reasonable price.

11. Energy Efficiency. Contractor shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163).

12. Byrd Anti-Lobbying Amendment; Truth in Lobbying. This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110. Contractor certifies, to the best of the Contractor's knowledge and belief that:

12.1. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an

Form Contract

officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

- 12.2.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 12.3.** Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure.

13. HIPAA Compliance. If the work performed under this Contract are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to perform the work in compliance with HIPAA. Without limiting the generality of the foregoing, work performed under this Contract is covered by HIPAA. Contractor shall comply and cause all subcontractors to comply with the following:

- 13.1. Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and the State for purposes directly related to the provision of services to clients which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the State's Privacy Rules, OAR 407-014-0000 et. seq., or the State's Notice of Privacy Practices, if done by Purchasing Entity.
- 13.2. Data Transactions Systems.** If Contractor intends to exchange electronic data transactions with Purchasing Entity in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDI Trading Partner Agreement with the State and shall comply with the State's EDI Rules.
- 13.3. Consultation and Testing.** If Contractor reasonably believes that the Contractor's or the State's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the State's HIPAA officer. Contractor or State may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the State's testing schedule.
- 13.4. If Contractor is deemed to be a business associate of State under HIPAA's Privacy Rule, 45 CFR Parts 160 and 164, Contractor hereby provides the State with satisfactory assurances that if it receives from the State or any trading partner any protected health information of any individual, it shall maintain the security and confidentiality of such information as required by the HIPAA's Privacy Rule, and other applicable laws and regulations. Without limiting the foregoing, Contractor agrees that:**
 - 13.4.1.** Contractor will not use or further disclose Protected Health Information otherwise than as permitted or required by this Contract or as required by law;
 - 13.4.2.** Contractor will use appropriate safeguards to prevent use or disclosure of PHI otherwise than as provided for by this Contract;

Form Contract

- 13.4.3. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Contract;
- 13.4.4. Contractor will report to Agency any use or disclosure of PHI not provided for by this Contract of which Contractor becomes aware;
- 13.4.5. Contractor agrees to ensure that any agents, including subcontractors, to whom it provides PHI, agree to the same restrictions and conditions that apply to Contractor with respect to such information;
- 13.4.6. Contractor shall make available to Agency such information as they may require to fulfill their obligations to account for disclosures of such information;
- 13.4.7. Contractor shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the State or trading partner (or created or received by Contractor on behalf of the State or trading partner) available to the State and to the Secretary of the United States Department of Health and Human Services, for purposes of determining the State's or trading partners' compliance with HIPAA; and
- 13.4.8. If feasible, upon termination of this Contract, Contractor shall return or destroy all PHI received from the State or trading partners (or created or received by Contractor on behalf of the State or trading partners) that Contractor still maintains in any form, and shall retain no copies of such information or, if return or destruction is not feasible, Contractor shall continue to extend the protections of this Contract to such information, and limit further use of the information to those purposes that make the return or destruction of the information infeasible.

Subject to the foregoing restrictions, Agency agrees that Contractor may use such PHI in the process of providing transaction mapping, trading partner profiling and training and mentoring services for Agency and trading partners under this Contract.

14. Medicaid Compliance. To the extent Contractor performs any work whose costs are paid in whole or in part by Medicaid, Contractor shall comply with and cause its subcontractors to comply with the federal and State Medicaid statutes and regulations applicable to the work, including but not limited to:

- 14.1. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to Purchasing Entity, the Medicaid Fraud Control Unit of the Oregon Department of Justice and the Secretary of Health and Human Services;
- 14.2. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;
- 14.3. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4); and
- 14.4. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19.
- 14.5. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

15. Substance Abuse Prevention and Treatment and Drug Free Workplace. Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 USC 300x through 300x-64). In addition, the Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, Contractor acknowledges the following:

- 15.1. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.

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- 15.2. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- 15.3. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- 15.4. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the State of Oregon that abuse of this drug will also not be tolerated in the workplace.

Contractor certifies that will provide drug-free workplaces for their employees.

16. Funding Agreements. If Contractor is a small business firm or nonprofit organization and the Contract provides for the performance of experimental, developmental or research work funded in whole or in part by the Federal government, Agency shall comply with the provisions of 37 C.F.R. pt.401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements) and any implementing regulations issued by FEMA. See 2 C.F.R. pt. 200, Appendix II ¶F.

17. Access to Records; Audits. Contractor shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations." Contractor shall provide the State of Oregon, Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcripts. Contractor shall permit the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. If applicable, Contractor shall provide the FEMA Administrator or his authorized representatives access to construction sites pertaining to the work being completed under the Contract. Contractor and Agency acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

18. Debarment and Suspension. Contractor shall comply and shall cause its subcontractors to comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, Contractor principles as defined in 2 C.F.R. §180.995 or its affiliates, as defined in 2 C.F.R. §180.905.). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549 (excluded as defined in 2 C.F.R. §180.940 or disqualified as defined in 2 C.F.R. §180.935). Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor certifies:

- 18.1. Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- 18.2. Contractor has not within a three-year period preceding the Effective Date of this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 18.3. Contractor is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in subsection, 16.2 of this certification; and
- 18.4. Contractor has not within a three-year period preceding the Effective Date of this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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19. Americans with Disabilities Act. Contractor shall comply and cause all subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the performance of work. This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

20. Pro-Children Act. Contractor shall comply and cause all subcontractors to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

21. Federal Tax Information. Contractor shall comply with the provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. §552a et. seq. related to federal tax information.

22. Educational Records. Contractor shall comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq) and the implementing regulations at 6 CFR Part 17 and 44 CFR Part 19.

23. Whistleblower Protection Act. Contractor shall comply with the requirements for whistleblower protections (if applicable) at 10 U.S.C. Section 2409, 10 U.S.C. Section 4712, 10 U.S.C. 2324, 41 U.S.C. Sections 4304 and 4310.

24. US Patriot Act of 2001. Contractor shall comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (US PATRIOT Act), which amends 18 U.S.C. section 175-175c.

25. Rehabilitation Act of 1973. Contractor shall comply with requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794, as amended.

26. Trafficking Victims Protection Act of 2000. Contractor shall comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking of Victims Protection Act of 2000 (TVA), as amended by 22 U.S.C. section 7104.

27. Age Discrimination Act. Contractor shall comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. C. section 6101 et. seq.).

28. Buy American. Contractor shall comply with any applicable provisions of the Buy American Act (41 U.S.C. section 83-1 through 8305 and any other applicable statutes, regulations or rules that require, or provide a preference for, the purchase or acquisition of goods, products, or material produced in the United States.

29. Use of Logos. Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

30. False Statements. Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Contract.

31. General Provisions. The Federal government is not a party to this Contract and is not subject to any obligations or liabilities to Agency, Contractor or any other party pertaining to any matter resulting from the Contract.

Exhibit A
Scope of Work

Exhibit 5

NASPO ValuePoint Detailed Sales Data Report Form

Field Name	Field Description
VENDOR	The awarded Contractor's name
VENDOR CONTRACT NUMBER	Lead State assigned contract number (using Lead State's numbering protocol)
STATE	State postal abbreviation code (Alaska = AK, Missouri = MO, etc.)
CUSTOMER TYPE (SEGMENT)	State Gov't, Education-K12, Education-HED, Local Gov't, Medical, Other - are acceptable segments. [determined by industrial practice for each contract - uniform for each contract]
BILL TO NAME	Customer (agency) Bill to name
BILL TO ADDRESS	Customer (agency) Bill to address
BILL TO CITY	Customer (agency) Bill to city
BILL TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
SHIP TO NAME	Customer (agency) Ship to name
SHIP TO ADDRESS	Customer (agency) Ship to address
SHIP TO CITY	Customer (agency) Ship to city
SHIP TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
ORDER NUMBER	Vendor assigned order number
CUSTOMER PO NUMBER	Customer provided Purchase Order Number
CUSTOMER NUMBER	Vendor assigned account number for the purchasing entity
ORDER TYPE	Sales order, Credit/Return, Upgrade/Downgrade, etc. [determined by industrial practice for each contract - uniform for each contract]
PO DATE (ORDER DATE)	(mm/dd/ccyy)
SHIP DATE	(mm/dd/ccyy)
INVOICE DATE	(mm/dd/ccyy)
INVOICE NUMBER	Vendor assigned Invoice Number
PRODUCT NUMBER	Product number of purchased product
PRODUCT DESCRIPTION	Product description of purchased product
UNSPSC	Commodity-level code based on UNSPSC code rules (8 Digits)
CATEGORY	Product Category
LIST PRICE/MSRP/CATALOG PRICE	List Price - US Currency (\$99999.999) [determined by industrial practice for each contract - uniform for each contract]
QUANTITY	Quantity Invoiced (99999.999)
TOTAL PRICE	Extended Price (unit price multiplied by the quantity invoiced) - US Currency (\$99999999.99)
VAR/Reseller/Distributor	If a VAR/Reseller/Distributor, name of VAR/Reseller/Distributor and state where located
Energy Star Compliant	Yes = 1 No = 2 Energy Star Does not Apply = 0
Optional	More information

Exhibit A
Scope of Work

1. Entities Eligible to Utilize Contract

A. State Agency

As defined in IC 4-13-1, "state agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative department of state government.

B. K-12Indiana

The Contractor shall extend the pricing and services under this Contract to all K-12 entities and work with Educational Service Centers (ESC) to provide access and the means to make purchases through the K-12Indiana purchasing portal which can be accessed at K12Indiana.com.

C. LibraryIndiana

The Contractor shall extend the pricing and services under this Contract to all Indiana Libraries and work with the State to provide access and the means to make purchases through the LibraryIndiana purchasing portal which can be accessed at LibraryIndiana.com.

D. Extension of Other Governmental Entities/OneIndiana

The Contractor shall extend the pricing and services under this Contract to all other governmental entities within the State of Indiana ("Governmental Entities"). Other Governmental Entities are defined as: An agency, board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following: (1) The judicial branch, (2) The legislative branch, (3) A political subdivision (includes towns, cities, local governments, etc.), (4) A State educational institution, and (5) A body corporate and politic.

Unless otherwise specified within this Contract, the term "Ordering Agency" shall refer to entities/procurement initiatives A-D as set forth in Section 1, Entities Eligible to Utilize Contract. Ordering and/or usage instructions exclusive to State Agencies or Governmental Entities shall be identified within each article.

2. Restricted items

The Contractor shall not supply any items that are restricted and/or part of existing State of Indiana QPA's or "state use" contracts unless authorized in writing by the State's Contract Manager. Restricted categories included but not limited to: furniture, computer hardware and peripherals, computer software, telephone and telephone accessories, food and beverages, general industrial supplies, safety and security supplies, tools, chemical (janitorial) supplies, cleaning products and supplies, paper products (bath tissue, paper towels and facial tissue), and office machine equipment.

3. Contract Implementation

The Contractor shall meet with the State and form an Implementation Plan timeline for the overall Contract Deployment. The Contractor shall customize the program to fit the State's needs and desires for a successful program by participating in a minimum of one meeting per week during the implementation process.

Exhibit A
Scope of Work

4. Account Management and Customer Service

A. Account Management Structure

The Contractor's Dedicated Account Management Team shall include a dedicated Account Manager and National Account Manager. This team shall remain in place throughout the full contract term. The Contractor shall notify the State within 48 hours of notification of any staffing changes from proposed staffing as listed below. The State shall be provided the opportunity to approve or deny any new proposed personnel. The Contractor shall have a back-up plan in place at all times for all Account Management-related personnel and services. The Contractor shall communicate and maintain an up-to-date back-up plan for all Account Management Team members.

i. Dedicated Account Manager

The Account Manager shall serve as the Central Point of Contact and have the authority to negotiate the contract between the State and Contractor. In addition, the Account Manager shall assist with account implementation and maintenance throughout the life of the contract. Daily inquiries such as treatment implantation, missing services, receiving an incorrect treatment, billing errors, and most customer-specific issues can be handled at the Account Manager level. The Account Manager has access to information, including, but not limited to, order status, delivery information, backorder information, contracted pricing, standard offering item availability, and product information. The Account Manager shall also actively market the products and services of this Contract to Governmental Entities and local schools under the K-12Indiana program. The Account Manager shall also work with the State Contract Manager on the details and management of the Savings Model.

ii. National Account Manager

The National Account Manager shall be responsible for assisting with the account management and maintenance and work to ensure contract compliance.

iii. Customer Care Team

The Customer Care Team shall be responsible for assisting the Ordering Agency with any issues related to, but not limited to, scheduling, billing, invoicing, and price adjustments.

iv. Staffing

The Contractor will ensure adequate operational staffing is maintained to ensure the highest level of customer service throughout the term of the contract.

B. Customer Service

i. Hours

The Contractor shall provide customer services for all Ordering Agency locations Monday through Friday from 7:00AM to 5:00PM EST. This on-going support shall be provided via a toll-free telephone number, email, and fax. The Contractor's Dedicated Account Manager shall be accessible by phone for emergencies such as, but not limited to, disaster relief to aid with customer service or service that need to be scheduled.

Exhibit A
Scope of Work

ii. Response Time

The Contractor shall resolve all customer service issues within 48 hours of submission.

C. Disaster Recovery Plan

The Contractor shall have and maintain disaster recovery and continuity of operations plan. The disaster recovery plan shall demonstrate that in the event of a catastrophe, the State's inconvenience would be extremely minimal.

D. Problem Resolution

The Contractor shall provide a copy of the Contractor's most recent problem resolution process. In the event that the Contractor amends the problem resolution process, notification shall be sent to the State Account Manager and an electronic copy provided to the State. The State Contract Manager has the authority to contact the Contractor's Account Manager directly for problem resolution if it is determined that the problem requires action from the Contractor that is swift and appropriate. Members of the Contractor's Account Team shall arrive onsite at the Indiana Government Center in Indianapolis by the next business day, if necessary.

5. Service Requirements

The Contractor shall meet all performance standards set forth in the Contract and outlined in **Exhibit C** and **Exhibit D**. The Contractor shall warrant that all work performed hereunder complies with customary, reasonable, and prudent industry standards and shall perform all services in a professional manner.

A. Subcontracting

The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontract agreements are approved by the State, each shall contain all sections of this Contract. The Contractor shall be the Prime Contractor and shall be responsible for all work performed on this Contract.

B. Damages

In the event the Contractor damages an item or the building (including but not limited to floors, thresholds, walls, doors, doorframes, ceiling sprinkler systems, and elevators) the Contractor will be responsible for notifying the Agency within forty-eight (48) hours and for paying the full repair cost for the damage. If the damage cannot be repaired, the Contractor will be responsible for paying the full replacement cost for the item.

C. Supplier Relationships

In the event of supplier changes and/or disruptions the Contractor shall notify the State of any potential impact on the Contractor's ability to provide the State with the requested office supply products.

The Contractor shall inform the State of supply shortages that may require prioritization of certain orders over others. The Contractor shall defer to the State's preferred prioritization of orders and shall not prioritize orders of one agency or other governmental body over another without State approval.

The Contractor shall uphold their category discounts regardless of supplier changes and/or disruptions.

6. Quality Assurance

Exhibit A
Scope of Work

The Contractor shall provide only unused products, unless otherwise agreed to by the IDOA Vendor Manager.

A. Recalls

The Contractor shall provide recall notification, regardless of level, in writing to the IDOA Vendor Manager and each Ordering Agency through the most expedient method possible. The notices, at a minimum, shall include an item number, complete product description, delivery order number, and disposition instructions.

The Contractor shall pick up, test, destroy, or return recalled products to the manufacturer at no expense to the State. The Contractor shall issue replacement of product or credit for any product removed or recalled. Each Ordering Agency shall have the option of accepting either replacement product or credit in exchange for recalled/removed products.

7. Balance of Offering

There is a mutual understanding of the Parties with respect to this Contract by and between Contractor and The State of Indiana to the **Form Contract**. The State has requested that certain products and services currently offered by Contractor only as "balance of offering" purchases (i.e. items not listed in the then-current contract file under the Office Product Contract) be made available to its end users for convenience purposes alongside products and services available under the Contract, on the same ordering platform and user accounts, invoicing such products and services on the same invoices and including such products and services in the same shipments. The State acknowledges that prices for products purchased "balance of offering" may differ from pricing set forth under the Contract and that The State's purchasers are solely responsible for compliance with applicable laws and regulations relating to the use of open market purchases. This excludes items under the Restricted Items category as referenced in **Exhibit A** section 2.

8. Quarterly Business Reviews (QBR)

The State and the Contractor shall agree upon the reporting model during the first 60 days of contract implementation. The State may request that the Contractor include, but is not limited to, Service Level Agreements, Key Performance Indicator (KPI), Performance Metrics, Usage Reports, local government usage, additional reporting fields, etc. over the life of the Contract. The Contractor shall be responsible for presenting the agreed upon reporting model to the State at the Quarterly Business Review (QBR), as well as, anytime upon the State's request. The Contractor shall work with the State Contract Manager to develop a Savings Model that reflects the actual savings over the life of the Contract. The Contractor shall report on the Savings Model at each QBR and shall provide updates upon request.

Exhibit B
Administrative Fee

The Contractor shall remit to the State an administrative fee. The administrative fee shall be predicated on eligible timely receipts made pursuant to this Contract. Payments related to shipping and handling, sales tax, and integrator fees are not eligible for fee calculation. Payments not received by the Contractor within 10 days of the State's payment terms are deemed untimely. Untimely payment receipts will be subtracted to arrive at the net administrative fee settlement for said contract period. The fee shall be paid annually within the first contract quarter following each consecutive contract year in the form of a single disbursement. The payment shall be made via check, and the Contractor shall provide the State with an activity report to support the administrative fee calculation.

The administrative fee period shall terminate at the end of the Contract term and may only be extended by a written agreement signed by both parties. In the event that the Contract is prematurely terminated by the State for default, the Contractor shall be obligated to pay the State for administrative fees accrued in the current contract year. In the event that the Contract is prematurely terminated by the State for convenience, administrative fees accrued in the current contract year shall be forfeited by the State. The Contract year shall begin on the first of August and end on the 31st of May.

a.) The Contractor must include the Contract number 87052 on the check.

b.) Administrative fee checks shall be submitted to:

State of Indiana Department of Administration
402 W. Washington St., Room W468
Indianapolis, IN 46204

c.) State will receive an activity report separated by eligible entity (State Agency, K-12Indiana, Library Indiana, and Extension of Other Governmental Entities/OneIndiana) to support fee calculation

Administrative Fee = 2.00% Net Sales

Exhibit C

Service Level Agreement

1. Service Level Agreement

A Service Level Agreement ("SLA") defines the service expectations between a Contractor and the State that are tracked over the course of the contractual term. It outlines how service will be measured and identifies what actions will be taken if expectations are not met.

The Contractor agrees to meet the minimum service requirements as outlined in the performance metrics in **Exhibit D**. The State will utilize the Contractor Performance Survey to measure these metrics as well as other methods deemed appropriate. These metrics are used to represent both qualitative and quantitative information. The Contractor shall monitor and fulfill all associated service levels through continuous tracking, surveys, and State account management interaction. These SLAs will then be directly evaluated during the Quarterly Business Review.

1. Contractor Performance Survey

Once per quarter, the Contractor is responsible for obtaining the Contractor Performance Survey, as outlined in **Exhibit D**, from key State stakeholders. The intent of the survey is to obtain real, recurrent feedback on the Contractor's performance as it relates to the Contract. The person completing the survey should be someone who utilizes this Contract on a continuous basis and is answering the survey on behalf of their State Agency. Completed surveys must be signed by the State stakeholders.

The Contractor will then compute and report on the results in the Quarterly Business Review. The Contractor will not round up on any numerical data. The data must be represented as actual statistical information and not presented as averages. The Contractor must be able to provide all original, supporting documentation to the IDOA Vendor Manager.

It is mutually agreed upon that the State may enlist a third party to assist in evaluating Contractor compliance regarding the performance evaluation. If at such time a third-party evaluation system will be used, the Contractor will be notified by the State. The State will then make the third party results available to the Contractor at the Quarterly Business Review.

2. SLA Implementation

The Contractor shall be allowed a ninety days (90) day grace period during the implementation phase of the Contract to ramp up services without scoring on the performance metrics. The service levels shown in this Contract must be followed during the initial implementation phase of the Contract but will not be tracked.

3. SLA Corrective Action Plan

In addition to the other terms and conditions of this Contract, if the State deems that the Contractor has failed to meet the standards contained in the Service Level Agreement, or its associated and embedded exhibits, the State reserves the right to ask the Contractor for a Corrective Action Plan ("CAP"). The State has the discretion to request multiple Corrective Action Plans from the Contractor over the life of the Contract, if deemed appropriate.

Exhibit C

Service Level Agreement

The State will review the qualitative results at a more detailed level by following up with the individual to determine if the respondent has made a fair assessment of the services provided by the Contractor before issuing a CAP.

If the State elects to request a Corrective Action Plan, the Contractor shall have (5) business days to provide the CAP detailing the actionable cure for remedying the issue(s) of each performance metric in need of correction. Upon Corrective Action Plan receipt, the State shall review and advise of any questions. If the State has no objections to the plan, the plan shall be implemented within (24) hours. From that point, the Contractor will have the agreed upon timeline as determined by the State to cure the issues.

At any point, the State has the right to invoke the Termination for Default clause outlined in section 47 of the contract.

Exhibit D

Performance Evaluation

Performance Metrics

A Performance Metric is a measure of an organization's activities and performance. Performance metrics should support a range of stakeholders' needs from customers to shareholders, to employees. A metric will include:

- 1 Critical Process/Customer Requirement
- 2 Developmental measurements
- 3 Targets which the result can be scores against
- 4 An actionable remedy if the metric is not met with the agreed upon timeline

The targeted metric deliverables were developed as tool to evaluate compliance to the Service Level Agreement in **Exhibit C**. These metrics can be changed by the State as deemed necessary with prior notice to the Contractor.

The Contractor shall capture these metrics as designed as well as any additional metric presented from the State over the life of the Contract. In doing so, the Contractor shall facilitate and monitor the performance of all Service Level Agreements identified in **Exhibit C**.

1. Quantitative Metrics

Contractor will report on a quarterly basis the quantitative metrics as outlined in the description and calculation.

A. Report Turnaround

- i. Description: Contractor shall provide the standard reports as outlined in the Contract in a timely manner.
- ii. Calculation: Number of days between day the report is requested and day the report is submitted to State requestor.
- iii. Performance Standard: By (2) Business Days

B. Ad hoc Report Turnaround

- i. Description: Contractor shall provide any non-standard reports not outlined in the Contract in a timely manner.
- ii. Calculation: Number of days between day the report is requested and day the report is submitted to State requestor.
- iii. Performance Standard: By (5) Business Days

Exhibit D

Performance Evaluation

C. Problem Resolution Time

- i. Description: Customer inquiries shall be resolved within one interaction with the Contractor's Customer Service Call Center.
- ii. Calculation: Amount of issues resolved with one call divided by total amount of customer service inquiries.
- iii. Performance Standard: 98.0%

D. Invoice Correction Turnaround

- i. Description: The accuracy of the information provided on the State invoice must be accurate. Corrected invoices will be provided within one day of notification of the invoice error.
- ii. Calculation: Date of error notification-Date of correction
- iii. Performance Standard: (1) Business Day from error identified

2. Qualitative Metrics

Metrics A-I are related to qualitative responses and will be scored with the Contractor Performance Survey. The survey is measured on the below scale.

- 1=Never Meets Expectations
- 2= Rarely Meets Expectation
- 3=Sometimes Meets Expectations
- 4=Meets Expectations
- 5=Sometimes Exceeds Expectations
- 6=Frequently Exceeds Expectations
- 7=Always Exceeds Expectations.

A. Consistent and Reliable Service

- i. Survey Question: How consistent and reliable is the service Contractor is providing?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

B. Responsiveness

- i. Survey question: How responsive is the Contractor service on issues, when applicable?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectation.

Exhibit D

Performance Evaluation

C. Professionalism

- i. Survey Question: How would you rate the professionalism of the employees with Contractor?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

D. Service Delivery

- i. Survey Question: How would you rate the Contractor customer support and response time?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

E. Invoice Accuracy

- i. Survey Question: How would you rate the Contractor agreement Invoice Accuracy?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

F. Overall Customer Support Satisfaction

- i. Survey Question: Overall, how do you rate our services, and did they meet your needs and expectations regarding quality and performance?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

G. Company Recommendation

- i. Survey Question: How likely are you to recommend the Contractor agreement to other departments/people you know?
- ii. The target: 100% of returned responses with a minimum rating of 4=Meets Expectations.

Performance Evaluation

3. Contractor Performance Survey

Contractor Performance Survey										
Contractor Name:										
Quarter/ Period of Review: (MM/YY-MM/YY)				Agency:						
CONTRACTOR SATISFACTION SCALE										
1 NEVER MEETS EXPECTATIONS	2 RARELY MEETS EXPECTATIONS	3 SOMETIMES MEETS EXPECTATIONS	4 MEETS EXPECTATIONS	5 SOMETIMES EXCEEDS EXPECTATIONS	6 FREQUENTLY EXCEEDS EXPECTATIONS	7 ALWAYS EXCEEDS EXPECTATIONS				
Satisfaction Review										
Please insert a check mark in corresponding scale box				1	2	3	4	5	6	7
1. How consistent and reliable is the service Contractor is providing?										
2. How responsive is the Contractor service on issues, when applicable?										
3. How would you rate the professionalism of the employees with Contractor?										
4. How would you rate our customer support and response time?										
5. How would you rate our invoice accuracy?										
6. Overall, how do you rate our services, and did they meet your needs and expectations regarding quality and performance?										
7. How likely are you to recommend the Contractor agreement to other departments/people you know ?										
Totals										
Contract Performance Review										
FINANCIAL PERFORMANCE										
# of Billing discrepancies: (#)				Additional Comments						
INCIDENT REPORTING										
# of incidents reported (#)				Additional Comments						
Reviewed by: (Agency Representative Name)										
Signature									Date:	