

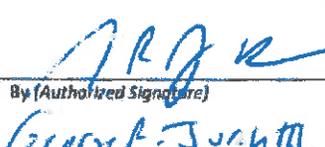
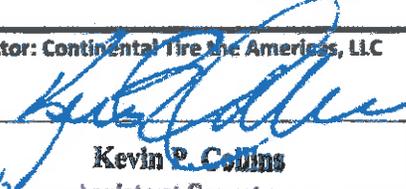
Iowa Department of Administrative Services

Contracts Declaration & Execution Page

Title of Contract: Tires, Tubes and Services – NASPO ValuePoint	Bid Proposal Number RFP1118005083	Contract Number 19103
This Agreement is entered into between the State of Iowa (by and through its agency, the Department of Administrative Services) and the Contractor named below:		
State Agency's Name: Iowa Department of Administrative Services – Central Procurement Bureau		
Contractor's Name: Continental Tire the Americas, LLC		
Contract to Begin: April 1, 2019	Date of Expiration: March 31, 2024	Annual Extensions: None
The parties agree to comply with the terms and conditions and attachments which are by this reference made a part of the Agreement:		
Section 1 – Terms & Conditions		Page 2
Section 2 – Scope of Work.....		Page 23
Section 3 – Pricing.....		Page 31
Section 4 – Contacts		Page 33

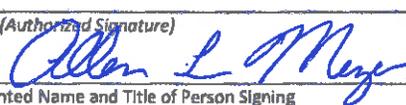
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto

Contractor: Continental Tire the Americas, LLC

 By (Authorized Signature) Printed Name and Title of Person Signing George P. Swartz III, Secretary	 Date Signed 1/8/19 Printed Name and Title of Person Signing Kevin P. Collins Assistant Secretary
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Address
1830 MacMillan Park Dr., Fort Mill, SC 29707

State of Iowa: Department of Administrative Services – Central Procurement Bureau

 By (Authorized Signature) Printed Name and Title of Person Signing Allen Meyer, COO	Date Signed 1/8/19
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Address
1305 E. Walnut Street, Hoover Building, Floor 3, Des Moines, IA 50319

SECTION 1
NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

- a. Any Order placed under this Master Agreement shall consist of the following documents:
- (1) A Participating Entity's Participating Addendum ("PA");
 - (2) NASPO ValuePoint Master Agreement Terms & Conditions;
 - (3) A Purchase Order issued against the Master Agreement;
 - (4) The Specifications or Scope of Work;
 - (5) The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
 - (6) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to 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.

2. Definitions

Acceptance is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

Contractor means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

Embedded Software means one or more software applications which permanently reside on a computing device.

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.

Lead State means the State centrally administering any resulting Master Agreement(s).

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.

NASPO ValuePoint is the NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of NASPO ValuePoint. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions

relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.

Order or Purchase Order means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

Participating Addendum means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

Participating Entity means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

Participating State means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity; however, a Participating State listed in the Request for Proposal is not required to participate through execution of a Participating Addendum.

Product means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

Purchasing Entity means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and 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. Purchasing Entities shall have the rights extended to "User Entities" under the RFP.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

- a. The term of this Master Agreement is for five (5) years. This Master Agreement has no renewal periods.
- b. The Master Agreement may be extended for a reasonable period of time, not to exceed six months, 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 shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. Amendments

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

5. Participants and Scope

- a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The 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. By way 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.
- b. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- c. 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. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. 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 data bases.
- d. NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.
- e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarket Center; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

- f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating 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 in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- g. Resale. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Administrative Fees

- a. The 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 shall be submitted quarterly and is based on all sales of products 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 proposal.
- b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee. The NASPO ValuePoint Administrative Fee in subsection 6a shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

7. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following NASPO ValuePoint reports.

- a. **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 of product made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report

is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

- b. **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 shall 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 shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall 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 **Attachment 7**.
- c. 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 they are participating under the authority of (state and agency, city, county, school district, etc.) 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.
- d. 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.
- e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall 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.

8. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

- a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to 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 qualifying entities can participate in the Master Agreement.

- b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the participating state. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the participating state.
- c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.
- d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.
- e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.
- f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to section 28, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may 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 two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to section 28 or to terminate for default pursuant to section 30.
- g. Contractor agrees, within 30 days of their effective date, to 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.

9. NASPO ValuePoint eMarket Center

- a. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint's customers to access a central online website to view and/or shop the goods and services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.
- b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide customers information regarding the Contractors website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

- c. At a minimum, the Contractor agrees to the following timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with NASPO ValuePoint to provide any unique information and ordering instructions that the Contractor would like the customer to have.
- d. If a catalog-hosted on or integration of a punchout site with eMarket Center is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

10. Right to Publish

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. The Contractor shall not make any representations of NASPO ValuePoint'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. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

11. Price and Rate Guarantee Period

All prices and rates must be guaranteed for the initial one-year period of the Master Agreement. Following the initial one-year period of the Master Agreement, any rate adjustment must be made at least sixty (60) days prior to the effective date and not more frequently than two (2X) times per calendar year. Notifications of price or rate adjustment must include reasonably sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

12. Individual Customers

Except to the extent modified by a Participating Addendum, 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, 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.

Administration of Orders

13. Ordering

- a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
- b. Purchasing Entities may define entity or project-specific requirements and informally complete 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.

- c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.
- f. All Orders pursuant to this Master Agreement, at a minimum, shall include:
 - (1) The services or supplies being delivered;
 - (2) The place and requested time of delivery;
 - (3) A billing address;
 - (4) The name, phone number, and address of the Purchasing Entity representative;
 - (5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
 - (6) A ceiling amount of the order for services being ordered; and
 - (7) The Master Agreement identifier.
- g. All communications concerning administration of Orders placed shall 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.
- h. 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. Contractor is reminded that 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.
- i. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to 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 otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, 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.

14. Shipping and Delivery

- a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. In accordance with section 5.1.4 of the RFP, orders to different agencies of a

Purchasing Entity shall be shipped with no additional fees or freight charges added. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

- b. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the Purchasing Entity's, including User Entity's, building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.
- c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

15. Laws and Regulations

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. Inspection and Acceptance

- a. Where the Master Agreement or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.
- b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- c. 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.
- d. The warranty period shall begin upon Acceptance.

17. Payment

Payment shall be made within 30 days following the date Products are delivered or the date a correct invoice is received, whichever is later.

After 30 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

18. Warranty

Products manufactured by Contractor and supplied to a Purchasing Entity hereunder shall be warranted in accordance with Contractor's Standard Limited Warranty and Adjustment Policy in effect at the time of delivery. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

Any tire which fails the Contractor's Standard Limited Warranty must either be satisfactorily repaired by the Contractor or replaced with a new tire, charging only for the mileage used based on the tread depth, or as agreed upon by the Purchasing Entity. Allowances and replacement charges shall be based upon the Master Agreement tire price.

The Contractor shall pay all transportation costs on both the defective tire(s) and replacement tire(s). The Contractor shall provide a one (1) year warranty on all tubes and parts beginning on the date of installation, to repair and/or replace as necessary, as determined by the Using Entity, AT NO COST TO THE PURCHASING ENTITY. If such items are not normally warranted for one year, maintenance to supply the equivalent of a one (1) year warranty must be included in the cost. Shipping cost for returned tubes and parts warranty service SHALL BE PAID BY THE CONTRACTOR.

19. Title of Product

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

20. License of Pre-Existing Intellectual Property

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third party rights in the Pre-existing Intellectual Property.

General Provisions

21. Insurance

- a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section, or maintain self-insurance, acceptable to the Lead State or any Participating Entity, that would be equal to or greater than the minimum fully-insured requirements as an alternative to the prescribed insurance coverage. 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.

Unless otherwise agreed in a Participating Addendum, an exception to the requirement to buy and maintain the required insurance is allowed when Contractor is one hundred (100%) percent self-insured. In this case, Contractor may self-insure all of its obligations under this Contract provided that such program of self-insurance is in compliance with the laws of the Participating State(s) in which Contractor conducts business. Regardless of whether the insurance is through a third party insurer or self-insurance, the certificate of insurance will show the minimum dollar amount per occurrence and policy maximum per 21.b.(1) below.

- b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:
 - (1) Commercial General Liability 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/\$2 million general aggregate;
 - (2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- d. 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) names the Participating States identified in the Request for Proposal as additional insureds by blanket endorsement, (2) [intentionally omitted], and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. In addition, Contractor shall provide the Lead State with written notice of cancellation of any of the above referenced insurance policies. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.
- e. 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 shall 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.

- f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

22. Records Administration and Audit

- a. 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 shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this 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.
- b. 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.
- c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

23. Confidentiality, Non-Disclosure, and Injunctive Relief

- a. **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). 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. 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.

- b. **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. 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. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. 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.
- c. **Injunctive Relief.** Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.
- d. **Purchasing Entity Law.** These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 23. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

24. Public Information

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

25. Assignment/Subcontracts

- a. 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.
- b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint and other third parties.

26. Changes in Contractor Representation

The Contractor shall use reasonable efforts to notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State shall be provided an opportunity to provide input into any changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to use reasonable efforts to propose replacement key personnel having substantially equal or better education, training, and/or experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

27. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have 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 agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

28. Cancellation

Unless otherwise stated, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 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 shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

29. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

30. Defaults and Remedies

- a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
 - (1) Nonperformance of contractual requirements; or
 - (2) A material breach of any term or condition of this Master Agreement; or
 - (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; or
 - (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
 - (5) Any default specified in another section of this Master Agreement.
- b. 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 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.
- c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
 - (1) Exercise any remedy provided by law; and
 - (2) Terminate this Master Agreement and any related Contracts or portions thereof; and
 - (3) [intentionally omitted]; and
 - (4) Suspend Contractor from being able to respond to future bid solicitations; and
 - (5) Suspend Contractor's performance
 - (6) Withhold payment of any amount subject to a good faith dispute until the default is remedied.
- d. 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 a Purchase 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 shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

31. Waiver of Breach

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall 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, Participating Addendum, or Purchase Order.

32. 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 this transaction (contract) 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.

33. Indemnification

a. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as 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 to the extent caused directly by any act(s), error(s), or omission(s) and willful misconduct of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. Notwithstanding anything to the contrary contained herein, Contractor shall have no obligation to indemnify NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, or Purchasing Entities to the extent any such damage is caused by such parties own negligence or willful misconduct.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

(1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

- (a) provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - (b) specified by the Contractor to work with the Product; or
 - (c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 - (d) It would be reasonably expected to use the Product in combination with such product, system or method.
- (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 it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. 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 it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

34. No Waiver of Sovereign Immunity

In no event shall 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.

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.

35. Governing Law and Venue

- a. The procurement, evaluation, and award of the Master Agreement shall 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 shall 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 shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

- b. 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 Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall 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 shall be in the Purchasing Entity's State.
- c. 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.

36. Assignment of Antitrust Rights

Provided that Contractor has elected not to pursue or assert a claim for relief or cause of action which the Contractor now has or which may accrue to Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum (an "Antitrust Claim"), then Contractor would irrevocably assign to a Participating Entity who is a state the right to pursue or assert any claim for relief or cause of action based upon such that Purchasing Entities portion of such Antitrust Claim including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action. If Contractor does pursue or assert such an Antitrust Claim, then Contractor shall retain all rights related to such Antitrust Claim including the right to control any such litigation; provided however, Contractor shall distribute to each affected Purchasing Entity a portion of the proceeds (if any, after deduction for Contractor's reasonable costs in pursuing such claim) obtained as a result of pursuing such Antitrust Claim, based on each Purchasing Entity's respective purchases under this Agreement as determined by Contractor in its reasonable discretion.

In order to give effect to this clause, the Contractor will use commercially reasonable efforts to notify the Lead State of any such claim for relief or cause of action it chooses to not assert within three years of learning of the claim or cause of action.

37. 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.

38. Leasing or Alternative Financing Methods

The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

39. Notice

Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by a reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the Contract Declarations & Execution Page(s) at the address specified on the forms. Each such notice shall be deemed to have been provided:

39.1 At the time it is actually received; or,

39.2 Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

eMarket Center Appendix

- a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.
- b. **Supplier's Interface with the eMarket Center.** There is no cost charged by JAGGAER to the Contractor for loading a hosted catalog or integrating a punchout site.
- c. At a minimum, the Contractor agrees to the following:
 - (1) **Implementation Timeline:** NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and JAGGAER to set up an enablement schedule, at which time JAGGAER's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.
 - (2) NASPO ValuePoint and JAGGAER will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).**

- (a) **Hosted Catalog.** By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to JAGGAER, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data 60 days prior to the Contract renewal date to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.
 - (b) **Punch-Out Catalog.** By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update annually to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.
- d. **Revising Pricing and Product Offerings:** Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per year. The following conditions apply with respect to hosted catalogs:
 - (1) Updated pricing files are required by the 1st of the month and shall go into effect in the eMarket Center on the 1st day of the following month (i.e. file received on 3/01/20 would be effective in the eMarket Center on 4/01/20). Files received after the 1st of the month may be delayed up to a month (i.e. file received on 3/15/20 would be effect in the eMarket Center on 5/01/20).
 - (2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.
- e. **Supplier Network Requirements:** Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use JAGGAER's Supplier Portal to import the Contractor's catalog and pricing, into the JAGGAER system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: www.sciquest.com or call the JAGGAER Supplier Network Services team at 800-233-1121.
- f. **Minimum Requirements:** Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:
 - (1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

- (2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract; and
 - (3) The Catalog must include a Lead State contract identification number; and
 - (4) The Catalog must include detailed product line item descriptions; and
 - (5) The Catalog must include pictures when possible; and
 - (6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.
- g. **Order Acceptance Requirements:** Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.
- h. **UNSPSC Requirements:** Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by JAGGAER for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity.
- i. **Applicability:** Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.
- j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.
- k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

SECTION 2

Scope of Work

The scope of this Contract includes specific full lines of tires and tubes as covered in the Manufacturer's Price List (MPL) and related services in the following subcategories:

2.1. Tires and Tubes Subcategories

- 2.1.1.** Pursuit and Performance Tires
- 2.1.2.** Automobile/Passenger Vehicles
- 2.1.3.** Light Duty Trucks: Radial and Bias
- 2.1.4.** Medium Commercial/Heavy Duty Trucks /Buses
- 2.1.5.** Off-the Road OTR: Radial and Bias
- 2.1.6.** Agriculture/Farm
- 2.1.7.** Industrial Tires
- 2.1.8.** Specialty Tires

2.2. Product and Service Specifications

2.2.1. General Tire Specifications

All tires will be of quality not less than the tires normally furnished in representative quantities by Original Equipment Manufacturers (OEM) as original equipment for automobiles, trucks, tractors, buses, backhoes, loaders, motor graders, and other heavy equipment. Tires supplied must be marked with Federal Department of Transportation (DOT) compliance symbol. Tires shall conform to all applicable Federal Specifications.

All tires, with the exception of tires which are not manufactured annually, must be NEW and must have been produced or manufactured within the last one (1) year prior to delivery to the Purchasing Entity. Tires which are not manufactured annually, such as low volume tires, will be accepted when produced or manufactured within the last two (2) years prior to delivery to the Purchasing Entity.

Should an Authorized Distributor deliver a tire(s) with a manufacturing date exceeding the one year limit, excluding low volume tires which are not manufactured annually, the Authorized Distributor will pick up the expired tire(s) and replace them with tire(s) that meet the manufacturing date requirement for no additional fee to the Purchasing Entity.

All tires must have the size (including load range), manufacturer's name and DOT number, serial number and indication of body material molded in side-wall at time of cure. The application of any of the above by any other means such as branding, application of decals, etc. will not be acceptable.

Tires offered must have been tested to meet or exceed ASTM (American Society of Testing and Materials) Standard F1922 for highway tires, F1923 for Off Road/Low Speed tires, and meet operational performance levels and marking requirements of Federal Standards FMVSS 109 for new pneumatic passenger tires, FMVSS 139 for new pneumatic radial tires for light vehicles, and FMVSS 119 for new pneumatic non-passenger Multi-Passenger Vehicles (MPVs), trucks, buses, and trailers.

2.2.1.1. Pursuit and Performance Tires

Pursuit and Performance Tires include tires for police and other pursuit vehicles and for other high-speed, performance vehicles. This subcategory includes any tire that is V, W, Y, or ZR rated or above. A V rating is the minimum speed rating for tires in this subcategory.

Tires must be new, standard production tires expressly designed and certified by manufacturer for high speed operation and must exhibit exceptional safety, stability, handling and stopping characteristics. Tires must be of standard OEM quality equal to or superior in every respect to those normally furnished as original equipment for such vehicles. Contractor shall maintain evidence/certifications that such tires meet all laboratory test and size requirements of Federal Standards MVSS 139.

2.2.1.2. Automobile/Passenger Vehicles

These tires include common passenger car tires and are designated with a "P" at the beginning of the tire size. Common applications for these types of tires would be passenger cars and mini vans. The European Tire and Rim Technical Organization (ETRTO) equivalent is an acceptable substitute for the P-metric. Tires must be of quality equal to or superior in every respect to those normally furnished as original equipment in the OEM automotive industry.

2.2.1.3. Light Duty Trucks Radial and Bias

These tires can usually be identified by the letters "LT" at the beginning of the tire size. Common applications for these types of tires would be pickup trucks, sport utility vehicles, full size vans and some trailers.

2.2.1.4. Medium Commercial/Heavy Duty Trucks /Buses

These tires do not have a letter at the beginning of the tire size. Common applications for these types of tires would be medium and heavy trucks, buses, semi-trucks, cargo vans and trailer tires. Tires in this subcategory generally have a diameter that is equal to or greater than twenty (20) inches. Commercial tires with 16, 17.5 and 19.5 inch rims are included in the medium truck tire category.

2.2.1.5. Off-the-Road OTR and Low Speed Off Highway Tires (Radial and Bias)

Common applications are heavy construction equipment such as wheel loaders, backhoes, graders, and trenchers.

2.2.1.6. Agricultural/Farm (Radial and Bias)

Common applications are farm tractors, wagons, harvesters, and other farm implements requiring tires with high traction qualities and tires with high flotation qualities at low inflation pressures.

Tires shall be of standard OEM quality equal to or superior in every respect to those normally furnished as original equipment for such vehicles.

2.2.1.7. Industrial

Common applications are specialty industrial equipment, some construction equipment, and material handling equipment such as skid loaders and forklifts and include pneumatic, non-pneumatic, and press on tires.

Tires shall be of standard OEM quality equal to or superior in every respect to those normally furnished as original equipment for such vehicles.

2.2.1.8. Specialty Tires

Specialty tires may include, but are not limited to, recreational, all-terrain-vehicle (ATV), boat trailer, yard and garden, and aviation tires. This category also includes all other tires not identified above.

Tires shall be of standard OEM quality equal to or superior in every respect to those normally furnished as original equipment for such vehicles.

2.2.2. Low Roll Resistance Tires

Contractor will provide certified (e.g., SAE J1269 and SAE J2452), low rolling resistance tires and identify them as low roll resistance tires in their MPL. Contractor is to also offer the fuel economy rating of the low roll resistance tires offered; e.g. miles per gallon fuel efficiency increase or percentage of fuel economy increase.

2.2.3. Tubes

All inner tubes must be standard production first line, heavy duty butyl tubes or natural rubber of fresh stock. All tubes must be of quality not less than the tubes normally furnished in representative quantities by OEM as original equipment for automobiles, trucks, tractors, buses, backhoes, loaders, motor graders, and other heavy equipment. Tubes must conform to all applicable federal specifications. *All tubes must be NEW and must have been produced or manufactured within the last one (1) year prior to installation or delivery to the Purchasing Entity.*

2.2.4. Detailed Services Specifications

Contractor pricing for each of the services listed below, which may be performed by their Approved Distributors, includes all parts and labor. Approved Distributors must honor the services pricing in this Contract.

The Contractor is responsible for the timeliness and quality of all services provided by the Approved Distributors. NASPO ValuePoint Participating States may elect to use these services listed below at their discretion.

Product installation and repairs, such as mounting, rotation, and balancing, must be in accordance with manufacturer's recommended procedures of warranted new virgin-product tires for each product subcategory. This Contract covers the following tire services. Service pricing is shown in Section 5 of this Contract.

2.2.4.1. Tire Installation with purchase in store includes dismount of used tires and tubes.

2.2.4.2. Change tire, dismount and mount

- 2.2.4.3. Flat repair, remove, repair and mount
- 2.2.4.4. Flat repair, off vehicle
- 2.2.4.5. Rotate mounted tires (per tire)
- 2.2.4.6. New valve stem rubber or metal
- 2.2.4.7. Wheel balance - computer spin balance (per tire)
- 2.2.4.8. Wheel balance – computer spin balance and valve stem combination
- 2.2.4.9. Alignment Services - Standard two and four wheel alignments

2.2.4.10. Used tire recycle and disposal fee (per tire)

Some NASPO ValuePoint Participating States have statutes that only allow up to a specific fee to be charged. The Participating States with statute regulated fee caps will only pay the statute price.

For Participating States which do not have a statute regulating the disposal fee, the maximum fees which can be charged for tire disposal are as follows:

\$2.50/Tire Passenger Car Tire

\$5.00/Tire Truck Tire

These maximum fees can be adjusted during the life of the Contract to meet current market trends.

2.2.4.11. Bulk Disposal of Tires

This is considered an additional chargeable service. Contractor, when requested by a Purchasing Entity, will place trailers on-site for the disposal of scrap tires. Contractor must, on a will-call basis, within five (5) days' notification from requesting Purchasing Entity, remove and replace full trailers with empty trailers. Trailer capacity shall be a minimum of six (6) tons of scrap tires. Contractor shall dispose of scrap tires that are removed in Contractor-provided trailers at an approved waste tire recovery area, or other approved disposal methods. Contractor must invoice for disposal of scrap tires at the price negotiated between parties. Contractor shall submit with invoice, documentation of scrap tire disposal weight from a disposal site, if this is the method of disposal utilized by the Contractor. Contractor may return scrap tires mounted to wheels to Purchasing Entity if dismounting is required. With prior approval from the designated Purchasing Entity Contract representative, Contractor may dismount scrap tires from wheels and invoice at the price negotiated between parties for such service. Contractor must return wheels to the Purchasing Entity for disposition unless instructed otherwise by the Purchasing Entity.

2.2.4.12. Tire pressure monitoring system (TPMS)

When new tires are mounted on a vehicle with a TPMS system, the TPMS system will be reinstalled with a new washer, valve, and valve cap (TPMS service kit).

This Contract is not meant for purposes of general vehicle maintenance and repair services. Alignment service pricing should include all minor parts such as alignment shims and alignment cam bolts. However, the alignment shims and alignment cam bolts can be invoiced as a separate line item if not included in the price of the alignment.

Parts needed to repair a vehicle in order to obtain proper alignment such as tie rod ends/sleeves, ball joints, bushings, sway bar links, center links, idler arms/pitman arms, rack and pinion units, shock absorbers, struts/cartridges and coil springs are not authorized under this Contract.

2.3. Approved Distributors List

Contractor will provide a list of its Approved Distributors for each Participating State for this Contract. The Approved Distributor list will, at a minimum, provide the following approved distributor information:

- Approved Distributor's Business Name
- Street Address, City, State, Zip Code
- Phone Number
- Fax Number
- Contact Name
- Contact Email Address
- Tire Categories Sold (Passenger, Lt. Truck, Med. Truck, Off Road, etc.)
- Delivery Service Provider (Y or N)
- Delivery Rates
- Delivery Terms

Other reporting fields may be required by Participating States in their respective participating addendums.

The Approved Distributor list will be updated within fifteen (15) calendar days of Contractor's knowledge of a change regarding an Approved Distributor's ownership, business closing, new participation in Contract, delivery service rate or terms, and contact information.

2.4. Customer Service

2.4.1. The Contractor will provide a dedicated customer service representative(s) for the Contract. The representative will be available to acknowledge all Purchasing Entities inquiries within one business day. The representative's responsibilities include, but are not limited to, the following:

2.4.1.1 Respond and resolve Participating States' questions and/or complaints about the products and services being provided through the successful Contractor's Approved Distributors network. The customer service representative should acknowledge receipt of Participating States' inquiries within one business day.

2.4.1.2 Contact Approved Distributors who are not complying with the NASPO ValuePoint Contract and Participating State's terms and conditions directly

or through the Contractor's standard channels. Coordinate the education of the Approved Distributor on its Contract responsibilities.

- 2.4.1.3** Contact the Lead State Contract Administrator concerning any unresolved issues concerning all Participating States and work with the Lead State Contract Administrator to resolve these issues. Issues which have not been resolved within thirty (30) days shall be escalated up to the Lead State Contract Administrator.
- 2.4.1.4** Participate in annual meetings with Lead State Contract Administrator to discuss customer service related issues and contract performance.
- 2.4.1.5** Participate in quarterly conference calls with Lead State Contract Administrator to review any current contract issues with Participating States.
- 2.4.1.6** Lead contact for sales reporting and remittance of management fees.
- 2.4.1.7** Main point of contact regardless of the question or issue. If customer service representative cannot answer a question or resolve an issue without additional help, they should contact the necessary staff and obtain the answer or resolve the issue and then contact the Purchasing Entity with the final answer or resolution.

2.5. Website

The Contractor will provide a dedicated website complete with each Participating State's participating addendum, tire/tube price list, Approved Distributor list, ordering information and other information as needed for all products included in this Contract. The dedicated website will be accessible by Purchasing Entities by internet link and be functional for the duration of the Contract. A link to the dedicated website will be posted on the State of Iowa's Contract website and be available for review by Purchasing Entities and the general public. The general public may view the pricing but only qualified public entities would participate in the contracted services and goods.

Pricing and the Approved Distributor list for each Participating State should be available to view within two clicks from the main website window. The Contractor must keep the information on the dedicated website current. Current is considered to be no later than fifteen (15) calendar days from the date Contractor has knowledge of the change. Websites may be linked to the Contractor's main public website.

Contractor will provide a "live" website no later than 60 days from the date of Contract execution. On March 31, 2019, the website will contain the aforementioned information for Participating States who have submitted their participating addendum by February 15, 2019. After April 1, 2019, the uploading of a Participating State's information to the website must be completed within fifteen (15) days of execution of the participating addendum.

Contractor is not required to provide online payment and ordering on its dedicated website.

2.6. Recruiting and Education of Approved Distributors

The Contractor will continue recruiting dealers to become Approved Distributors for Participating States for the duration of the Contract. The Contractor is responsible for providing sufficient coverage in each Participating State by ensuring that its authorized dealers are aware of this Contract and understand how to become an Approved Distributor.

The Contractor will provide continued outreach with regards to the training of Approved Distributors on the requirements of the Master Agreement. The Contractor is responsible for an Approved Distributor's understanding of the tire discounts, service rates, and billing procedures for their respective Participating State upon execution of a Dealer Agreement.

2.7. Shipping and Delivery

All deliveries will be F.O.B. destination. Delivery rates and terms shall be established upon execution of the Contract. Orders to different agencies/departments of a Purchasing Entity shall be shipped according to the delivery rates and terms established in this Contract. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

2.8. Tax Exemption

Sales tax is dynamic and the Contractor must comply with each Participating State's requirements. If Contractor's Approved Distributors cannot invoice the correct tax based upon the location (e.g., delivery location rather than Approved Distributor location) required by a Participating State, Contractor must disclose that to the Participating State prior to execution of a Participating Addendum with that State.

2.9. Multiple Accounts within a Purchasing Entity

Purchasing Entities may have different agencies, departments or divisions utilizing the goods and/or services provided by the Contractor. The Contractor will maintain the ability to process multiple individual accounts and unique users within a Purchasing Entity for the duration of the Contract.

2.10. Payment Types

The Contractor must accept mailed and electronic payments/P-Cards and cannot charge additional transaction fees under this Master Agreement.

2.11. High Volume Product

Participating States may negotiate with Contractor for more favorable tire/tube discounts for their respective high volume products. Contractor will provide a copy of each Participating State's discounts and pricing on the website when they are different from the standard discounts and pricing of this Contract.

2.12. NASPO ValuePoint Administrative Fee and Reporting Requirements

The Contractor agrees to pay a NASPO ValuePoint administrative fee as specified in Section 6 of the NASPO ValuePoint Master Agreement Terms and Conditions. Contractor also agrees to provide the specific summary and detailed usage reporting requirements as prescribed by Section 7 of the NASPO ValuePoint Master Agreement Terms and Conditions.

**SECTION 3
Pricing**

3.1 Tires and Tubes Percentage Discounts by Subcategory

Tire and Tube pricing includes all anticipated charges, including but not limited to, freight to dealer locations, cost of product and services, transaction fees, overhead, profits, and other costs or expenses incidental to the Contractor’s performance. Tire and Tube pricing does not include delivery to Purchasing Entities. Contractor’s discount off of Manufacturer’s Price List (MPL) pricing is shown below:

Tire and Tube Percentage Discounts by Subcategory					
Sub-category #	Tire and Tube Type	Percent Discount	MPL Name	MPL Date	MPL REF. Numbers
B1	Pursuit and Performance Tires	63.25%	Government Price List	7/12/2018	G3
B2	Automobile/Passenger Vehicles	49%	Government Price List	7/12/2018	G3
B3	Light Duty Trucks:	49%	Government Price List	7/12/2018	G3
	3a. Radial	49%	Government Price List	7/12/2018	G3
	3b. Bias	49%	Government Price List	7/12/2018	G3
B4	Medium Commercial/Heavy Duty Trucks/Buses	39%	Government Price List	7/12/2018	G3
B5	Off Road		Government Price List	7/12/2018	G3
	5a. Off Road Radial	35%	Government Price List	7/12/2018	G3
	5b. Off Road Bias	35%	Government Price List	7/12/2018	G3
B6	Agriculture/Farm	58%	Government Price List	7/12/2018	G3
B7	Industrial Tires	58%	Government Price List	7/12/2018	G3
B8	Specialty Tires	58%	Government Price List	7/12/2018	G3

3.2 Tire Service Pricing

Tire services include all minor parts and labor as a total service rate. Flat rate pricing and availability of services is shown below:

Type of Service		Product Sub-Category 1 & 2	Product Sub-Category #3
		Pursuit, Performance, Passenger	Light Duty Trucks
1	Tire Installation w/purchase in store includes dismount of used tires and tubes (per tire)	\$10.00	\$12.00
2	Change tire, dismount and mount	\$10.00	\$12.00
3	Flat Repair, remove, repair and mount	\$17.00	\$19.00
4	Flat repair, off vehicle	\$17.00	\$19.00
5	Rotate mounted tires (per tire)	\$5.00	\$7.00
6	New valve stem rubber or metal (per tire)	\$8.00	\$10.00
7	Wheel balance-computer spin balance (Per Tire)	\$13.00	\$15.00
8	Wheel balance/Valve stem combo (per tire)	\$21.00	\$23.00

3.3 Price and Rate Guarantee Period

The percentage discounts off MPL for tires and tubes must remain the same for the duration of the Contract. The Contractor will provide an updated tire and tube price list annually with updated effective dates.

Tire and tube pricing updates are allowed annually. A request for price increase must be submitted to the Lead State Contract Administrator sixty (60) days prior to March 31 each year for approval by the Lead State. Acceptable supporting documentation could include providing a comparison of indices from the Producer Price Index which show an increase in the tire manufacturing costs over a period of several years. Acceptable supporting documentation could also include a copy of a letter from a supplier stating they are increasing their price to the Contractor. The Lead State will determine whether the supporting documentation provided is sufficient to justify the requested price increase and reserves the right to clarify or request additional documentation.

The Lead State will provide written acceptance or denial of the proposed price increases to the Contractor within 30 days of receipt of the request for price adjustment.

SECTION 4
Project Managers

4.1 Account Manager - Contractor

Alex Lair
704-587-6589
alex.2.lair@conti-na.com

4.2 State of Iowa – DAS/Procurement Contact

Nancy Wheelock
515.725-2268
nancy.wheelock@iowa.gov