

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Computer Equipment
Administered by the State of Minnesota (hereinafter "Lead State")

MASTER AGREEMENT
Master Agreement No: MNWNC-108
Dell Marketing, L.P. (hereinafter "Contractor")
Dell Master Agreement No: 91AGY
And
State of Iowa (hereinafter "Participating State")
Dell Contract Code WN12AGW

1. **Scope:** This addendum allows for purchase from the Computer Equipment, Peripherals and Related Services cooperative purchasing program, led by the State of Minnesota along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State that is authorized by that state's statutes to utilize Participating State contracts, and which receives prior written approval of the state's chief procurement official.

The original solicitation contains the requirements and definitions establishing the Product Bands allowed on the Master Agreement. The Master Agreement identifies the bands awarded to the Contract Vendor, eligible for purchase under this Addendum to include: Band 1 – Desktop, Band 2 – Laptop, Band 3 – Tablet, Band 4 – Server, and Band 5 – Storage. The configuration limits and restrictions for the Master Agreement are provided with revisions identified by the Participating State in this Participating Addendum.

This Addendum, executed by the Parties, will be effective as of the last date signed below and will be coterminous with the Master Agreement and any extensions of the Master Agreement, unless terminated pursuant to EXHIBIT A – MASTER AGREEMENT TERMS AND CONDITIONS SECTION B. WSCA-NASPO TERMS AND CONDITIONS, Section 6 Cancellation.

2. **Participation:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use State of Iowa contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

Within the State of Iowa, all state agencies, state facilities, cities, counties or education entities or any entity funded in part with state tax dollars, are eligible purchasers and authorized to purchase Products and Services under the terms of this Participating Addendum in lieu of a separate competitive selection process. (Exception: State of Iowa executive branch agencies must purchase according to applicable system standards and seek approval from the State of Iowa - Office of the Chief Information Officer when required as directed by administrative code before purchasing from this contract.)

3. Order of Precedence:

1. A Participating State's Participating Addendum ("PA"); A Participating State's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contract Vendor under the Terms of Minnesota NASPO ValuePoint Master Agreement
2. Minnesota NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions)
3. The Solicitation including all Addendums; and
4. Contract Vendor's response to the Solicitation

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. Contract Vendor 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 the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contract Vendor's response to the Solicitation, or terms listed or referenced on the Contract Vendor's website, in the Contract Vendor quotation/sales order or in similar documents subsequently provided by the Contract Vendor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

4. Contractor Modifications or Additional Terms and Conditions to the Master Agreement:

- A. Use of Purchasing-card is at time of order placement only, and not permitted for payment of invoices issued by Contractor.
- B. Any assignment by Participating State of its purchase order to a third-party financing company (other than Dell Financial Services, LLC) must be approved in advance in writing by Contractor, and in no case shall any such approval excuse Participating State from its obligations hereunder.
- C. **Returns and Exchanges.** Additional fees, including up to a 15% restocking fee, may apply.
- D. **Dispute Resolution.** Participating State and Contractor will attempt to resolve any Dispute through face-to-face negotiation with persons fully authorized to resolve the Dispute or through mediation utilizing a mediator agreed to by the parties, rather than through litigation. The existence or results of any negotiation or mediation will be treated as Confidential Information. Notwithstanding the foregoing, either party will have the right to seek from a state or federal court a temporary restraining order, preliminary injunction, or other equitable relief to preserve the status quo, prevent irreparable harm, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors, although the merits of the underlying Dispute will be resolved in accordance with this paragraph. In the event the parties are unable to resolve the Dispute within thirty (30) days of notice of the Dispute to the other party, the parties shall be free to pursue all remedies available at law or in equity.
- E. Contractor may not subcontract or delegate the performance of its obligations under this Agreement in whole or in part, or any rights, duties, obligations or liabilities under this Agreement, by operation of law or otherwise, without the prior written consent of Participating State (*other than subcontractors retained by Contractor*)

from time to time in the ordinary course of business to perform CFL, warranty, break/fix, administrative and back office services who will not have access to Buyer's confidential data other than billing and contact information) and provided that Contractor shall remain responsible for the performance of its obligations under this Agreement.

5. Participating State Modifications or Additions to Master Agreement:

- A. **Reports:** The Contractor shall submit quarterly reports to the Participating State Contract Administrator showing all sales made quarterly against this Participating Addendum within the State of Iowa. Such reports will show the quantities and dollar volume of purchases by each Purchaser. The report shall be submitted in the format as required under the Master Agreement.
- B. **Administrative Fee:** The State of Iowa shall be entitled to receive a one percent (1.00%) administrative fee on total net sales (gross sales minus returns, credits, and deductions) made within the State of Iowa against this agreement. Contractor's NASPO ValuePoint pricing will be adjusted by this fee and not invoiced or charged to the Purchasing Entity. The administration fee due to the State of Iowa shall be paid quarterly by Contractor directly to the Participating State, made payable to the "Iowa Department of Administrative Services".

Send to:

State of Iowa – DAS/Central Procurement Bureau
Attention: DAS – CPFSE COO
1305 E. Walnut St.
Des Moines, IA 50319

Schedule:

| <u>Quarter Ending</u> | <u>Report Due</u> |
|-----------------------|-------------------|
| March 31 | April 30 |
| June 30 | July 31 |
| September 30 | October 31 |
| December 31 | January 31 |

- C. **Discounts:** Contractor's stated prices on the Contractor's approved State of Iowa NASPO ValuePoint Master Agreement web site shall be discounted using the discounts and price lists approved and agreed to with NASPO ValuePoint Master Price Agreement and by Participating State by signing this Participating Addendum. The stated discounts are considered to be the minimum discount offered. The Contractor and/or its Fulfillment Partners may offer, within written quotes, a higher discount than the approved minimum discount for volume purchases or for competitive reasons.
- D. **Payment Terms:** Payment for completion of a contract order is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. Per Iowa Code § 8A.514, after 60 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may

be made via a State or political subdivision "Purchasing Card" with no additional charge.

E. **Lease Agreements:** Lease financing is an allowable payment option. The terms and conditions of the lease financing arrangement will be set forth between the purchasing agency and the financing entity.

6. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Participating Addendum Contact

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|-----------|--|
| Name | Cyndi Radel |
| Address | One Dell Way, Mail Stop RR 1-33, Round Rock, Texas 78682 |
| Telephone | 231.747.9294 |
| Fax | 512.283.9092 |
| E-mail | Cyndi_Radel@Dell.com |

Contractor

Master Agreement Contact

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|-----------|---|
| Name | Diane Wigington |
| Address | One Dell Way, Mailstop RR1-33, Round Rock, TX 78682 |
| Telephone | 512.728.4805 |
| E-mail | Diane_Wigington@dell.com |

Participating State

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|-----------|--------------------------------------|
| Name | Karl Wendt |
| Address | 1305 E. Walnut, Des Moines, IA 50319 |
| Telephone | 515.281.7073 |
| E-mail | karl.wendt@iowa.gov |

7. Partner Utilization: All Contractor authorized Resellers and Agents in the State of Iowa approved by the Participating State, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. Contractor shall make all determinations about which entities in the State of Iowa that the Contractor authorized Reseller and Agents may support. The Contractor authorized Resellers and Agents participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

a. Contractor authorized Resellers

1. Contractor authorized Resellers shall provide quotes, accept purchase orders, and accept payment from entities ordering under this Participating Addendum.

b. Contractor authorized Agents

1. Contractor authorized Agents are authorized to provide quotes,

sales assistance, configuration guidance and ordering support for hardware, software and services available this Participating Addendum.



2. Contractor authorized Agents ARE NOT authorized to accept orders, purchase orders or payment from entities ordering under this Participating Addendum.

All purchase orders issued by ordering entities with the jurisdiction of this Participating Addendum must include the Participating Addendum number: WN12AGW and the Master Agreement number MNWNC-108 on the order.

8. Terms: The Participating State is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with applicable law.

9. Orders: Any Order placed by an entity ordering under this Participating Addendum for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

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

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|--|---|
| Participating State: | Contractor: |
| By:  | By:  |
| Name: Karl Wendt | Name: Diane Wigington |
| Title: Purchasing Manager | Title: Public Contracts Manager |
| Date: 9/28/15 | Date: 09/25/2015 |

