



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT #: 4
 CONTRACT #: PD180
 Starting Date: No Change
 Expiration Date: No Change

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and DiscountCell (Referred to as CONTRACTOR).

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

- Clarification: It is within the scope of the Master Agreement that the Contractor may authorize subcontractors at their discretion to oversee and install equipment being purchased by eligible users. This includes site surveys, installation, and any other related labor or services related to the purchase of eligible equipment.
- The Contractor is responsible for its subcontractor’s compliance to all terms and conditions of the Master Agreement.
- Contractor must provide and maintain a list of authorized subcontractors to the Lead State/NASPO, which will be posted on the NASPO website.

Effective Date of Amendment: Upon signature of all parties

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

<p style="text-align: center;">CONTRACTOR</p> <p>Signed by: <i>Jennifer King</i> <small>A6524823E1B94B2...</small></p> <p style="text-align: right;">10/26/2024</p> <hr/> <p>Contractor's Signature Date</p> <p>Jennifer King</p> <hr/> <p>Contractor's Name (Print)</p> <p>President</p> <hr/> <p>Title (Print)</p>	<p style="text-align: center;">STATE OF UTAH</p> <p>DocuSigned by: <i>Jennifer King</i> <small>C38BE9DAC528424...</small></p> <p style="text-align: right;">10/28/2024</p> <hr/> <p>Director, State of Utah Division of Purchasing Date</p>
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For Division of Purchasing Internal Use			
Purchasing Agent	Phone #	E-mail Address	Contract #
Brett Whitelaw	801-957-7149	bwhitelaw@utah.gov	PD180



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT #: 3
 CONTRACT #: PD180
 Starting Date: 7/1/2019
 Expiration Date: 8/11/2029

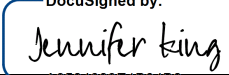
TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and DiscountCell LLC (Referred to as CONTRACTOR).

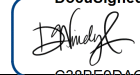
BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:
 To change the name of the vendor from DiscountCell Inc to DiscountCell LLC
 Effective Date of Amendment: Upon all parties' signature

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.
 IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

DocuSigned by:

 7/16/2024
A6522823E1894B2
 Contractor's Signature Date

DocuSigned by:

 7/17/2024
C38BE9DAC528424
 Director, State of Utah Division of Purchasing Date

Jennifer King
 Contractor's Name (Print)
 President
 Title (Print)

For Division of Purchasing Internal Use			
Purchasing Agent	Phone #	E-mail Address	Contract #
Cherilyn Hess	801-957-7133	chess@utah.gov	PD180



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT #: 2

CONTRACT #: PD180

Starting Date: 11/6/2019

Expiration Date (before this amendment): 8/11/2024

Expiration Date (changed to by this amendment): 8/11/2029

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and Discountcell Inc (Referred to as CONTRACTOR).

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

The contract’s expiration date is hereby changed from 8/11/2024 to 8/11/2029. [*Note: this is an amendment to the NASPO Master Agreement.*]

Clarifying the General purpose of contract to state: Equipment and Accessories. This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

Effective Date of Amendment: 3/14/2024

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR
 DocuSigned by:

 A6524823E1B94B2...
 3/25/2024

Contractor’s Signature _____ Date
 Jennifer King

Contractor’s Name (Print)
 President

Title (Print)

STATE OF UTAH
 DocuSigned by:

 C38BE9DAC528424...
 3/29/2024

Director, State of Utah Division of Purchasing _____ Date

For Division of Purchasing Internal Use			
Purchasing Agent	Phone #	E-mail Address	Contract #
Marci Woodward	801-957-7145	mwoodward@utah.gov	PD180



STATE OF UTAH

CONTRACT AMENDMENT

AMENDMENT # 1 To CONTRACT # PD180-1

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract by and between the State of Utah, **Division of Purchasing** referred to as **State Entity** and, **Discountcell Inc.**, referred to as **Contractor**.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

1. Contract period:

7/1/2019 (original starting date)

6/30/2024 (current ending date)

8/11/2024 **new ending date**

2. Agreed to changes:

The Parties Agree as follows:

Rename the Master Agreement from "PD180-1" to "PD180"

To set the term end at 8/11/2024 to align the termination dates with all contracts in the wireless portfolio.

Change contract cover page provision 3 General Purpose of the Contract from "Wireless Accessories" to ~~Equipment and Accessories.~~

4. Effective Date of Amendment: 2/14/2019

All other conditions and terms in the original contract and previous amendments remain the same.

IN WITNESS WHEREOF, the parties sign and cause the amendment to be executed.

CONTRACTOR

Jennifer King 02/20/2020
Contractor's signature Date

Jennifer King
Type or Print Name and Title

STATE

[Signature] Feb 25, 2020

Director, Division of Purchasing Date

Christopher Jennings Agency Contact Person	801-957-7151 Telephone Number	N/A Fax Number	ctjennings@utah.gov Email
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STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This contract is between the Utah Division of Purchasing and the following Contractor:

Discountcell Inc

Name

350 west 100 south

Street Address

Provo

UT

84601

City

State

Zip

Vendor# VC0000164107 Commodity Code#: 81110 Legal Status of Contractor: For-Profit Corporation

Contact Name: Jennifer King Phone Number: +1 801-235-9809 Email: apdept@discmmtcell.com

2. CONTRACT PORTFOLIO NAME: NASPO ValuePoint Wireless Data, Voice, and Accessories.

3. GENERAL PURPOSE OF CONTRACT: Equipment and Accessories. This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

4. PROCUREMENT: This contract is entered into as a result of the procurement process on FY 2019. Solicitation# CJ18012

5. CONTRACT PERIOD: Effective Date: Monday, July 01, 2019. Termination Date: Sunday, June 30, 2024 unless terminated early or extended in accordance with the terms and conditions of this contract. Contract may be extended an additional 5 year.

6. Administrative Fee (if any): 0.25% on Corporate/Government Responsible (CRU) accounts and 0.10% on all Individual Responsible (IR).

Prompt Payment Discount Details (if any): N/A.

8. ATTACHMENT A: Standard Terms and Conditions for Goods

ATTACHMENT B: Scope of Work

ATTACHMENT C: Cost Sheet

ATTACHMENT D: Reporting

Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

9. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:

- a. All other governmental law, regulations, or actions applicable to the goods and/or services authorized by this contract.
- b. Utah Procurement Code, Procurement Rules, and Contractor's response to solicitation #CJ18012.

10. Each signatory below represents that he or she has the requisite authority to enter into this contract.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 5 above.

CONTRACTOR

DIVISION OF PURCHASING

Jennifer King
Contractor's signature

02/19/2019
Date

Christopher Hughes
Christopher Hughes (Feb 22, 2019)

Feb 22, 2019

Jennifer King President

Director, Division of Purchasing

Date

Type or Print Name and Title

Internal Contract Tracking#: PD180-1

Solicitation#: CJ18012

Vendor#: VC0000164107



Attachment A: 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 Statement 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.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

a. The initial term of this Master Agreement is for Five (5) years. This Master Agreement may be extended beyond the original contract period for up to Five (5) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time in adherence to the Utah Procurement Code, 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 eMarketCenter; 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 0.25% on Corporate/Government Responsible (CRU) accounts and 0.10% on all Individual Responsible (IRU) accounts 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 and services for both Corporate/Government Responsible (CRU) and Individual Response (IRU) accounts 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>. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state for Government Responsible accounts. A separate report shall be submitted and reported as cumulative totals by state for Individual Responsible (IRU) accounts. 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 using the format provided in Attachments H, I, J and K. 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.

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.

c. 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.

d. 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.

e. 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 vendor 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 one year 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.

f. 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-part 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.

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 term of the Master Agreement. Following the initial Master Agreement period, any request for price or rate adjustment must be for an equal guarantee period, and must be made at least (90 Days) days prior to the effective date. Requests for price or rate adjustment must include 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 compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm

commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

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. 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. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the 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.

e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in this Master Agreement or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

17. Payment

Payment after Acceptance 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. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per

month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, 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

Warranty provisions govern where specified elsewhere in the documents that constitute the Master Agreement; otherwise this section governs. The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

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. 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.

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, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, 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. 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 Participating Addenda, as well as 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 identify 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 must 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 reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

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) Impose liquidated damages as provided in this Master Agreement; and
- (4) Suspend Contractor from being able to respond to future bid solicitations; and

- (5) Suspend Contractor's performance; and
- (6) Withhold payment 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 arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

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

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

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.



Contract PD180-1

Wireless Data, Voice, and Accessories RFP

Attachment B

Scope of Work

Section 1: General

1.1 Background

The purpose of this Master Agreement is to provide Wireless Data, Voice, and Accessories for all Participating States. The objective of this RFP is to obtain best value, and in some cases achieve more favorable pricing, than is obtainable by an individual state or local government entity because of the collective volume of potential purchases by numerous state and local government entities. The Master Agreement may be used by state governments (including departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), the District of Columbia, territories of the United States, and other eligible entities subject to approval of the individual chief procurement official and compliance with local statutory and regulatory provisions. The initial term of the master agreement shall be 5 (Five) years with renewal provisions for an additional 5 (Five) as outlined in Section 3 of the NASPO ValuePoint Master Terms and Conditions (Attachment A).

1.2 Order of precedence

Per the NASPO ValuePoint Master Terms and Conditions, Participating Addenda (called "PA") will have precedence over the Master Agreement within the participating jurisdiction.

1.3 Green Awards

End users of this Master Agreements may have requirements to purchase products and services that adhere best practices of sustainability and environmental consciousness. Contractor should anticipate addressing these needs as they arise in the Participating Addendum process.

1.4 E-Rate

To the extent the services offered are subject to the E-rate discount program, all award Contract Vendors must commit to participation in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the Contract Vendor.

1.5 Net Neutrality

Recent changes by the Federal Communications Commission in their rules related to the issue of Net Neutrality have increased state's interest in promulgating their own law, rule and policies on this topic. This solicitation will have no requirements related to Net Neutrality for the Master Agreements. It is anticipated, that this issue will be pertinent in the Participating Addendum process. Potential participating entities will be made aware of this consideration by the Lead State in a reasonable fashion.

Section 2: Categories of Award

2.0 Overview of Award Categories

The products and services for this contract have been awarded in 1 (one) category:

Category 2- Equipment and Accessories: This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

2.1 Category 2- Equipment and Accessories

This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

This Award Category is for National Award only.

2.1.1 Definitions

Accessories Any equipment, component or add-on accessory intended for use with cellular connected devices.

Equipment Any device operating over cellular carrier provided network. Does not include servers, desktops or laptop computing devices.

Cellular Devices Any phones or other equipment used to connect over wireless services offered by cellular carriers (Category 1).

2.1.2 Eligible Equipment and Accessories

Those products eligible as equipment and accessories under this solicitation, currently includes and may be expanded as technology advances:

- ⌚ Basic Cellular Devices
- ⌚ Smartphones - iOS, Android, Other
- ⌚ Stand Alone, Integrated or USB Dongle Cellular Modems
- ⌚ Wi-Fi/Cellular Routers
- ⌚ Tablets that are cellular-network connected
- ⌚ Other equipment with a primary purpose for communicating over the cellular carrier network, currently including:
 - Sensors
 - Cellular-enabled Video cameras
- ⌚ Accessories:
 - Replacement Batteries
 - Cases & related accessories
 - Screen Protectors
 - Chargers
 - Cords / cables
 - Signal Boosters / antennae
 - Headsets and speakers for use with wireless devices

2.1.3 Service Requirements

Condition of Equipment and Accessories

All equipment and accessories provided under this contact must be new, unused and properly functioning when received by participating entity if priced as a new product.

Superseded, used, returned, or reconditioned items will be accepted if labelled as such in the sales order.

Trial Period

Contractor may allow for a designated trial period for testing/evaluating equipment and accessories without additional charges or fees if applicable. Contractor will describe the timeframe for the 'trial period' and procedures for implementing this policy in the sales invoice or purchase order.

Return of Equipment and Accessories

Any equipment or accessories that are not properly functioning when received by the participating entity must be replaced by the contractor with new and properly functioning equipment or accessories within 5 business days of the defective equipment or accessories being reported to the contractor.

Participating entities shall not be responsible for any costs related to the return and/ or replacement of any equipment or accessories that are returned due to quality problems, duplicate shipments or other shipping errors, outdated products or other issues related to non-compliance with terms of this agreement. Contractors must confirm in writing to the end user when returns are received.

Participating entities shall not be assessed restocking fees or any other fees for items trialed and then returned as unacceptable for any reason.

Contractor will allow for equipment and accessory purchases at all retail stores open to the public. Sales personnel at retail stores will be aware of pricing from the Master Agreement that results from this solicitation.

2.1.4 Pricing

Cost Sheet

See Attachment C for details.

Financing

Financing is allowed under the Master Agreement, but may be subject to each PA as some jurisdictions may not allow Financing.

Individual Responsible (IRU) Plan Discount

Pricing Discounts for equipment and accessories offered to public employees with Individual Responsible plans are to be stated on the Cost sheet (Attachment C). See section 5 for additional details.

Shipping

Contractor if a Carrier must activate service on new equipment within 72 hours of request or shipping.

Section 3: Adding New Products and Services

The Lead State anticipates establishing a process for regular communication with contractors and addition of new products and services. Addition of new products will be treated differently based on which category of award covers the product or service.

3.1 General Requirements

The Lead State, along with the sourcing committee of this Solicitation will review and add new products and services to the Master Agreements outlined below. The Lead State reserves the right to modify this process to ensure open, transparent and reasonable review of proposed new products and services.

3.2 New Products added under Award Category 2

Contractors may add new products under Award Category 2 at any time as long as they fall within the scope of that award category. The Lead State reserves the right to make the determination of whether a product falls within award category 2.

3.3 Quarterly Call/Meeting

The Lead State expects to have a call with contractors every quarter to discuss the status of the contracts, discuss proposed new products and services, and any other issues that may arise regarding the contract. These calls/meetings will be scheduled at mutually agreed upon times.

3.4 Terms and Conditions Compliance with Master Agreement

Any and all Products offered and furnished under any award category shall comply fully with all applicable Federal and State laws and regulations. The Order of Precedence clause in the NASPO ValuePoint Master Agreement Terms and Conditions and/or Participating Addendum will control in the event of any conflict between the NASPO ValuePoint Master Agreement and/or Participating Addendum and the Product Terms and Conditions. Any third-party product provider must agree to the Master Agreement Terms and Conditions.

Section 4: Individual Responsible Account Discounts

4.1 Individual Responsible Account Definition

Individual Responsible Accounts (“IRU”) are accounts for products and services between Contractors awarded a contract under this solicitation and individuals who are employees of eligible users of the Master Agreement. IRU accounts are for the personal use of individual employees of eligible end users of the Master Agreement.

4.2 Corporate Responsible Account Definition

Corporate Responsible Accounts (“CRU”) are accounts for end users of the Master Agreement.

4.3 Discount for Individual Responsible Account offerings

Contractors will indicate what, if any discount they allow for IRU accounts under this Master Agreement. This discount is entered in their Costsheets (Attachment C) and be included in the Master Agreement.

Section 5: Reporting

5.1 General Requirements

5.1.1 Reporting shall be provided in the format required by NASPO ValuePoint:

6.1.1.2 Attachment I (Award Category 2)

5.1.2 Individual participating entities may request specific equipment sales summaries, which shall be provided at no cost.

Upon request, provide reporting elements and/or management reports related to usage for services that are available and would optimize the participating entity's ability to assess utilization and cost.

Be able to provide custom reports as may be requested by individual participating entities. Describe in general, the level of sophistication and complexity, custom usage report data that you can provide to the participating entities. Vendors should provide a sample report with their proposal.

Upon request, provide subscribers with usage reports which include full itemization of call details (such as the information on the Contractor's standard bill for consumer accounts) to enable verification of usage including: (1) call date, call number call length, call time, and (2) plan cost, per minute charges, overage cost, additional features charges and other fees, etc.

5.2 Quarterly Call/Meeting

Contractors must be available for a quarterly meeting by phone, video conference, or in person to discuss contract concerns, developments and any upcoming additional products or services related to reporting.

5.3 Usage Reports (Other States)

Other States and participating entities may have alternate reporting requirements and will be addressed by their Participating Addendum.

Section 6: Administration of Contracts

6.1 Quarterly Amendment

The Lead State anticipates it will provide for regular quarterly amendments to the Master Agreement if there is a need to add new products or services. (Section 3). The Lead State at its discretion may elect to amend the Master Agreement at any time.

6.2 Quarterly Call

The Lead State and sourcing team intend to hold quarterly calls to facilitate new products/services, discuss the administration of the Master Agreements, and all other applicable aspects of the master agreement.

6.3 Annual Meeting

Contractors must be available for an annual meeting in person to discuss continuing administration of the contract. The Lead State anticipates meeting once a year in person to facilitate more in depth communication. The location of in-person meetings will be in The Salt Lake City area, or elsewhere at the discretion of the Lead State.

6.4 Published Documents

The Lead State intends to publish all new product/service request forms, new product logs, and any sourcing committee recommendations and notes related for reference. End users may use these documents to aid in their purchasing decisions.

PD180-1 Wireless Voice, Data and Accessories Attachment C: Costsheets

Vendor Name:		DiscountCell, Inc						
Item Number	Item Description	Manufacture/Brand	Model	Price Per Unit	MSRP	Category Percentage off of MSRP (if applicable)	Average Cost	Notes
1	Cases	Otterbox	77-55772	\$24.69	\$39.99	15.00%	\$16.34	Our case brands include but are not limited to Otterbox, Pelican, Spigen, UAG, Speck Griffin, Inciplo, Zizo, STM, Nite Ize, Lifeproof, Magpul, Mophie and Puregear.
		Griffin	GBH42310-2	\$13.09	\$19.99	15.00%		
		Zizo	AIPHONE7HPCSAAS941	\$11.25	\$20.00	15.00%		
2	Screen Protectors	Gadget Guard	GEGEAPO00104	\$10.77	\$39.95	15.00%	\$6.41	Our screen protector brands include but are not limited to Gadget Guard Cellet, Zizo, MyBat, Znitro and Zagg
		MyBat	IPHONE7LCDSCRPR90	\$3.95	\$9.95	15.00%		
		Zizo	LSHD-IPH7	\$4.50	\$14.95	15.00%		
3	Chargers	WireXgroup	BEMICROVER	\$4.95	\$14.95	15.00%	\$6.08	Our charger brands include but are not limited to WireXgroup, Otterbox, Lifeproof, Naztech, Hypergear, Belkin, Griffin, Puregear and Inciplo.
		Naztech	11478NZ	\$7.23	\$18.99	15.00%		
		Hypergear	14167-NZ	\$6.05	\$8.99	15.00%		
4	Headsets for use with wireless devices	Hypergear	13901-NZ	\$6.82	\$9.99	5.00%	\$9.26	Our headset brands include but are not limited to Hypergear, Belkin, Cellet, Naztech, Samsung, Motorola, Plantronics, Griffin, Jabra and Puregear.
		Cellet	EP3585	\$9.86	\$14.99	5.00%		
		Naztech	ECO-V20-12241	\$11.11	\$14.99	5.00%		
5	Speakers for use with wireless devices	Hypergear	13211-NZ	\$18.18	\$19.95	5.00%	\$29.30	Our speaker brands include but are not limited to Braven, Hypergear, Naztech, Plantronics, Jabra and Monster Cable.
		Naztech	13994-NZ	\$26.81	\$29.99	5.00%		
		Braven	B1058BB	\$42.91	\$50.00	5.00%		
6	Basic Cell Phone			\$0.00			\$0.00	
				\$0.00				
				\$0.00				
7	Push to Talk Device			\$0.00			\$0.00	
				\$0.00				
				\$0.00				
8	SmartPhones	Samsung	Galaxy J3	\$154.00	\$169.00	5.00%	\$51.33	
				\$0.00		5.00%		
				\$0.00		5.00%		
9	Tablets	Samsung	SM-T397UZKAXAA	\$530.00	\$624.00	5.00%	\$256.33	
		Samsung	SM-T387VZKAVQW	\$239.00	\$299.00	5.00%		
				\$0.00		5.00%		
10	Cellular Modems stand alone, integrated or USB	NetGear	LB1120-100NAS	\$149.00	\$187.00	5.00%	\$201.33	
		Cradlepoint	MC400LP6	\$363.00	\$449.00	5.00%		
		Multi Tech Systems	MTC-MAT1-B03	\$92.00	\$99.00	5.00%		
11	MiFi Hot Spots	verizon	AC791LVWQ-D	\$199.00	\$219.00	5.00%	\$124.67	
		Novatel	MIFI7730L-D	\$175.00	\$200.00	5.00%		
				\$0.00				
12	WiFi Cellular Routers	Cradlepoint	TA1-020010M-ANN	\$219.00	\$279.00	10.00%	\$346.00	
		Sierra Airlink	1103828	\$460.00	\$499.00	10.00%		
		Peplink	MAX-BR1-MINI-LTEA-W-	\$359.00	\$399.00	10.00%		
13	IoT Sensors	V5 Systems	V5SPPM	\$799.00	\$999.00	5.00%	\$266.33	
				\$0.00		5.00%		
				\$0.00		5.00%		
14	Cellular-enabled video cameras	Arlo Go	VML4030-200NAS	\$440.00	\$667.00	5.00%	\$220.00	
				\$0.00				
				\$0.00				
15	Cords / cables	Otterbox	78-51153	\$27.00	\$35.00	15.00%	\$15.33	
		Griffin	GC39141-3	\$10.50	\$15.00	15.00%		
		Cellet	DAMICROGBK	\$8.50	\$16.00	15.00%		
16	Signal Boosters / Antennas	Wilson	470135	\$187.00	\$200.00	7.00%	\$157.00	
		SureCall	SC-FUSIONTREK	\$166.00	\$200.00	7.00%		
		Panorama	WMMG-7-27-SP	\$118.00	\$154.00	7.00%		
Total							\$67.39	

ILU Discount Offering

Offerors are encouraged to offer an Individual Liab (ILU) Discount defined in Section 5 of the Scope of Work (Attachment B). This information will also be scored as a technical scorable criteria (Attachment E). Please Provide a percentage off, if applicable and include a description of what plans, or part of plans this discount will apply to. This information will become part of any Master Agreement that results from this solicitation.

Description	Percentage Off (%)	What aspects of plans does this discount apply to? Please be specific.
Percentage off discount rate offered to ILU accounts as defined by the Scope of Work		Same discounts as government agencies, based on category of accessories

PD180-1 Attachment D

Field Name	Field Description
VENDOR	The awarded Contractor's name
VENDOR CONTRACT NUMBER	Lead State assigned contract number (using Lead State's numbering protocol)
STATE	State postal abbreviation code (Alaska = AK, Missouri = MO, etc.)
CUSTOMER TYPE (SEGMENT)	State Gov't, Education-K12, Education-HED, Local Gov't, Medical, Other - are acceptable segments. [determined by industrial practice for each contract - uniform for each contract]
BILL TO NAME	Customer (agency) Bill to name
BILL TO ADDRESS	Customer (agency) Bill to address
BILL TO CITY	Customer (agency) Bill to city
BILL TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
SHIP TO NAME	Customer (agency) Ship to name
SHIP TO ADDRESS	Customer (agency) Ship to address
SHIP TO CITY	Customer (agency) Ship to city
SHIP TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
ORDER NUMBER	Vendor assigned order number
PO DATE (ORDER DATE)	(mm/dd/ccyy)
INVOICE DATE	(mm/dd/ccyy)
INVOICE NUMBER	Vendor assigned Invoice Number
PRODUCT DESCRIPTION	Product description of purchased product
UNSPSC	Commodity-level code based on UNSPSC code rules (8 Digits)
LIST PRICE/MSRP/CATALOG PRICE	List Price - US Currency (\$99999.999) [determined by industrial practice for each contract - uniform for each contract]
NASPO ValuePoint PRICE	NASPO ValuePoint Price- US Currency (\$99999.999)
QUANTITY	Quantity Invoiced (99999.999)
TOTAL PRICE	Extended Price (unit price multiplied by the quantity invoiced) - US Currency (\$99999999.999)
NASPO ValuePoint ADMIN FEE	Administrative Fee based on Total Price - US Currency (\$999999.999)
VAR/Reseller/Distributor	If a VAR/Reseller/Distributor, name of VAR/Reseller/Distributor and state where located
Energy Star Compliant	Yes = 1 No = 2 Energy Star Does not Apply = 0
Optional	More information

NASPO ValuePoint Cooperative Contract Detailed Sales Report

Contractor:

Quarter:

No Quarterly Sales

Vendor Name	Vendor Contract Number	State	Customer Type	Bill to Agency	Bill to Address	Bill to City	Bill to Zipcode	Ship to Agency	Ship to Address	Ship to City	Ship to Zipcode	Order Number	PO Date	Invoice Date	Invoice Number	Product Description	Quantity	UNSPSC Commodity	IRU or CRU	List Price/MSRP	NASPO ValuePoint Price	Total Price	Admin Fee	EPEAT Compliant	Energy Star Compliant
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Need to match up with Green Language in RFP

Provider lists each Make / Model of equipment sold and the quantity sold of each.

Quantity Sold	Equipment/ Accessory Type	Part Number	Manufacturer	Model	Discount Eligible	List Price	Notes
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yes / no

to be taken
from category
2 cost sheet
examples:
smart phone
tablet
case
etc ...