



**The State of Oregon (“State”), acting by and through its Department of Administrative Services, Procurement Services (“DAS PS”), for member states of the NASPO ValuePoint Cooperative Purchasing Program (“NASPO ValuePoint”) and other Purchasing Entities,**

**Request for Proposals  
Oregon Solicitation Number DASPS-2183-17**

**FOR**

**NASPO ValuePoint Master Agreement(s) for  
Facilities Maintenance and Repair & Operations  
(MRO), Industrial Supplies**

Date of Issue: November 15, 2017 Closing Date and Time: December 29, 2017

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Exhibit B – Description of Products and Services

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ATTACHMENT C HISTORICAL SALES REPORT

ATTACHMENT D MARKET BASKET COST PROPOSAL

ATTACHMENT D-1 MARKET BASKET COST PROPOSAL (Electronic Excel Spreadsheet)

ATTACHMENT E OFFEROR INFORMATION AND CERTIFICATION SHEET

ATTACHMENT F OREGON AFFIDAVIT OF TRADE SECRET

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ATTACHMENT I - O ADDITIONAL PARTICIPATING STATES TERMS AND CONDITIONS

## SECTION 1: NASPO ValuePoint Solicitation - General Information

### 1.1 Purpose

The State of Oregon (Lead State), Department of Administrative Services, Procurement Services (DAS PS) is requesting proposals for Facilities Maintenance and Repair & Operations (MRO), Industrial Supplies on behalf of the members of the NASPO ValuePoint Cooperative Purchasing Program. The purpose of this Request for Proposals (RFP) is to establish one or more Master Agreement(s) with qualified offerors to provide Janitorial Equipment & Supplies, Sanitation Cleaning Chemicals & Supplies, Fasteners, Material Handling, Plumbing, Power Sources, Outdoor Garden, Lamps & Lighting and Ballasts, Heating Ventilation Air Conditioning (HVAC), Hand Tools, Power Tools (excluding automotive related tools and products), Electrical, Paint, Security, and Safety (does not include any Public Safety Equipment) products, as more particularly described on Attachment A, for all Participating States/Participating Entities. 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(s) resulting from this procurement 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 state procurement director and compliance with local statutory and regulatory provisions.

The initial term of the Master Agreement(s) is anticipated to be 1 year with options to renew up to a cumulative maximum of 5 years per the provisions outlined in Section 3 of the NASPO ValuePoint Master Agreement (Attachment B).

DAS PS anticipates that this RFP may result in Master Agreement awards to multiple contractors, in the Lead State's discretion. While the primary purpose of this solicitation is to select an Offeror(s) who can offer the Products or Services for all members participating in the NASPO ValuePoint Cooperative Purchasing Program, Offerors will be permitted to submit a Proposal on more limited geographical areas or regions, but not less area than one entire member State. Offerors must clearly describe the geographical limits (e.g. by State name) if proposing a geographical area less than that of all member States. If an Offeror elects to submit a Proposal for a single State or region, then the Offeror must be willing to supply the entire State or region and will not be allowed to add additional States following award or at any time during the term of the Master Agreement(s) or any renewals.

The Lead State/Sourcing Team, with the assistance as deemed advisable of the relevant Participating State (or relevant group of Participating States), may evaluate and select an Offeror for award in more limited geographical areas (e.g. a single state or region) where judged to be in the best interests of the State or States involved.

This RFP is designed to provide interested Offerors with sufficient information to submit Proposals meeting minimum requirements, but is not intended to limit a Proposal's content or

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exclude any relevant or essential data. Offerors are encouraged to expand upon the specifications to add service and value consistent with States requirements.

This State of Oregon Solicitation is for Master Agreement(s) intended to replace the expiring Master Agreements for the State of Nevada.

### 1.2 Lead State, Solicitation Number and Lead State Contract Administrator

The State of Oregon, acting by and through the Department of Administrative Services, Procurement Services, is acting as the Lead State and issuing office for this Solicitation, including all subsequent addenda relating to it and resulting Master Agreement (s). The reference number for the Solicitation is # DASPS-2183-17. This number must be referred to on all Proposals, correspondence, and documentation relating to the RFP.

The Lead State Contract Administrator identified below is the single point of contact during this procurement process. Offerors and interested persons must direct to the Lead State Contract Administrator all questions concerning the procurement process, technical requirements of this RFP, contractual requirements, requests for brand approval, changes, clarifications, protests, award process, and any other questions that may arise related to this solicitation and the resulting Master Agreement(s). The Lead State Contract Administrator designated by the State of Oregon is:

Shirley A. Smith, State Procurement Analyst  
State of Oregon, DAS PS  
1225 Ferry St. SE  
Salem, Oregon 97301  
Shirley.smith@oregon.gov  
Ph#(503) 378-5395 FX#(503) 373-1626

### 1.3 Schedule of Events

RFP Advertised	<i>As stated on the cover page</i>
Pre-Proposal Conference	November 29, 2017
Questions / Requests for Clarification Due	December 15, 2017
Answers / Clarification Issued (approx.)	December 21, 2017
RFP Protest Period Ends	December 8, 2017
Closing (Proposals Due)	December 29, 2017@ 2:00PM PT
Evaluation Period (approx.)	January 5, 2018 thru February 17, 2018
Notice of Intent to Award (approx.)	February 28, 2018
Award Protest Period Ends	Seven calendar days after notice of intent

All times are Pacific Time unless indicated otherwise.

## 1.4 Definitions of Terms

The following definitions apply to this Solicitation. Additional terms also are defined within this Solicitation and in the NASPO ValuePoint Master Agreement (Attachment B).

**"Cost Analysis"** means a review and analysis of the cost elements that make up the price of the individual Maintenance and Facilities Repair & Operations and Industrial Supplies.

**"Environmentally Preferable Product" or "EPP"** means products and services that have a lesser or reduced effect on human health and the environment when compared to competing products or services that serve the same purpose.

**"Lead State"** means the State conducting this cooperative procurement, evaluation, and award. For this RFP, the State of Oregon, acting by and through the Department of Administrative Services, Procurement Services is the Lead State.

**"MSRP"** means the price at which the manufacturer suggests that retailers sell the product.

**"Offeror"** means the company or firm who submits a proposal in response to this Request for Proposal.

**"Products"** include, but are not limited to: Janitorial Equipment & Supplies, Sanitation Cleaning Chemicals & Supplies, Fasteners, Material Handling, Plumbing, Power Sources, Outdoor Garden, Lamps & Lighting and Ballasts, Heating Ventilation Air Conditioning (HVAC), Hand Tools, Power Tools (excluding automotive related tools and products), Electrical, Paint, Security, and Safety (does not include any Public Safety Equipment)

**"Proposal"** means the official written response submitted by an Offeror in response to this Request for Proposal.

**"Request for Proposals" or "RFP"** means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

**"Services"** means installation and additional services as defined in the Master Agreement.


**"UNSPSC"** means the United Nations Standard Products and Services Code (UNSPSC) is a taxonomy of products and services for use in eCommerce. It is a four-level hierarchy coded as an eight-digit number, with an optional fifth level adding two more digits.

## 1.5 NASPO ValuePoint Background Information

NASPO ValuePoint is a cooperative purchasing program of all 50 states, the District of Columbia and the territories of the United States. The Program is facilitated by the NASPO Cooperative Purchasing Organization LLC, a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO), doing business as NASPO ValuePoint. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices

in each of the 50 states, the District of Columbia and the territories of the United States. NASPO ValuePoint facilitates administration of the 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. For more information consult the following websites [www.naspovaluepoint.org](http://www.naspovaluepoint.org) and [www.naspo.org](http://www.naspo.org).

## **1.6 Participating States**

In addition to the Lead State conducting this Solicitation, the following Participating States have requested to be named in this RFP as potential users of the resulting Master Agreement(s): Alaska, Arkansas, Connecticut, Hawaii, Maine, Massachusetts, Michigan, Missouri, Montana, Nevada, North Dakota, Oregon, Rhode Island, and Washington. Other entities may become Participating Entities after award of the Master Agreement by entering into a Participating Addendum with the Contractor in a form substantially similar to the one attached hereto as Attachment B, Exhibit A, subject to State Specific Terms and Conditions. The State of Oregon intends to enter into a Participating Addendum under one or more of the resulting Master Agreement(s) in a form substantially similar to the terms and conditions of the State of Oregon's Participating Addendum attached hereto as (Attachment G) and subject to the requirements and selection criteria set forth therein. Additional State-specific terms and conditions that will govern each state's Participating Addendum are included in Attachments I - O, or may be incorporated into the Participating Addendum after award. 

## **1.7 Anticipated Usage**

Attachment C contains the historical usage data from the previous contracts and anticipated usage from additional states who have indicated an interest in participating. No minimum or maximum level of sales volume is guaranteed or implied. This historical data is based upon six (6) years of sales.

## SECTION 2: Solicitation Requirements, Information and Instructions to Offerors

### 2.1 Offerors Requirements

The Proposal must address each of the items listed in this section and all other requirements set forth in this RFP.

This RFP is designed to provide interested Offerors with sufficient information to submit Proposals meeting minimum requirements, but is not intended to limit a Proposal's content or exclude any relevant or essential data. Offerors are encouraged to expand upon the specifications to add service and value consistent with state requirements. However, please do not include marketing or advertising material in the Proposal. Proposals should be straightforward and address the requests of the RFP.

### 2.2 Pre-Proposal Conference

A pre-Proposal conference will be held related to the RFP.

The purpose of the pre-Proposal conference is to:

- Provide additional description of the Products and Services;
- Explain the RFP process; and
- Answer any questions Offerors may have related to the RFP or the process.

Statements made at the pre-Proposal conference are not binding upon DAS PS or any Participating State, Participating Entity, or Purchasing Entity. Offerors may be asked to submit questions in Writing. DAS PS will consider all comments, concerns, questions and protests. If, based upon the comments, questions, concerns or protests, DAS PS, in its sole discretion, believes it should make a change to the solicitation documents including the Sample Master Agreement, DAS PS will post an addendum in ORPIN.

#### 2.2.1 Attendance at Pre-Proposal Conference

Attendance at Pre-Proposal Conference is **voluntary**. Prospective Offerors' participation in this conference is highly encouraged but not mandatory.

The pre-Proposal conference will be held on Wednesday, November 29, 2017, at 8:30 am PT at the Location listed below. Attendance at the conference is optional. Due to limited space, please limit attendance to 2 individuals from Offeror's company. Answers to questions asked during the pre-proposal conference will be provided via an addendum posted in <http://orpin.oregon.gov/open.dll/welcome>

DATE	TIME	LOCATION
November 29, 2017	8:30am PT	Department of Administrative Services 1225 Ferry Street SE, Salem, OR 97301-4285 Mt. Mazama Conference Room, Check in with receptionist on 1 <sup>st</sup> floor.
		Dial In Toll Free: 1-888-557-8511 Access Code Passcode (Participant): 4659387



### **2.3 RFP Question and Answer Process**

All questions, including those about Master Agreement, must be submitted, in writing, to the Lead State Contract Administrator, by the date and time noted above, in order to be considered. Questions must be submitted by the question deadline date and time shown in Section 1.3 (Schedule of Events). Official answers to all written questions shall be posted on the State of Oregon's electronic procurement system, the Oregon Procurement Information Network ("ORPIN") website.

<http://orpin.oregon.gov/open.dll/welcome>. The Lead State may refuse to answer questions received after the Question/Answer deadline.

The identity of potential Offerors will not be published with the answers, but the text of questions will be restated, so Offerors are cautioned about including context in questions that may reveal the source of questions.

### **2.4 RFP Addenda**

Changes to this RFP including but not limited to the contractual terms and procurement requirements, shall be made only via formal written addenda issued by the Lead State.

The Lead State accepts no responsibility for a prospective Offeror not receiving solicitation documents and/or revisions to the Solicitation. It is the responsibility of the prospective Offeror to monitor the ORPIN website to obtain RFP addenda or other information relating to the RFP.

### **2.5 Protest of RFP**

Prospective Offeror may submit a written protest of anything contained in this RFP, including but not limited to, the RFP process, Specifications, Scope of Work, and the proposed Master Agreement. This is prospective Offeror's only opportunity to protest the provisions of the RFP, except for protests of Addenda or the terms and conditions of the proposed Master Agreement, as provided below.

### **2.6 Protests must:**

- Be emailed to the Sole of Contact
- Reference the RFP number
- Identify prospective Offeror's name and contact information
- Be sent by an authorized representative
- State the reason for the protest, including:
  - the grounds that demonstrate how the Procurement Process is contrary to law, Unnecessarily Restrictive, legally flawed, or improperly specifies a brand name; and
  - evidence or documentation that supports the grounds on which the protest is based
- State the proposed changes to the RFP provisions or other relief sought

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- Protests to the RFP must be received by the due date and time identified in the Schedule
- Protests to Addenda must be received by the due date identified in the respective Addendum

### **2.7 Protest Response**

DASPS will respond timely to all protests submitted by the due date and time listed in the Schedule. Protests that are not received timely or do not include the required information may not be considered.

### **2.8 Proposal Due Date**

Proposal and all required submittal items must be received by the Lead State Contract Administration on or before Closing in Section 1.3 (Schedule of Events) of this RFP. Proposals received after the Closing will not be accepted. All Proposal modifications or withdrawals must be completed prior to Closing.

Proposals received after Closing are considered LATE and will NOT be accepted for evaluation. Late Proposals will be returned to the respective Offeror or destroyed.

### **2.9 Cancellation of Procurement**

This RFP may be canceled at any time prior to award of the Master Agreement(s) if the Lead State determines such action to be in the collective best interests of Participating States.

### **2.10 Governing Laws and Regulations**

This procurement is conducted by the Lead State DAS PS, in accordance with the Lead State Procurement Code. These are available at

[http://arcweb.sos.state.or.us/pages/rules/oars\\_100/oar\\_137/137\\_tofc.html](http://arcweb.sos.state.or.us/pages/rules/oars_100/oar_137/137_tofc.html)

This procurement shall be governed by the regulations and laws of the Lead State. Venue for any administrative or judicial action relating to this procurement, evaluation, and award shall be in Oregon. The provisions governing choice of law and venue for issues arising after award and during contract performance are specified in section 35 of the NASPO ValuePoint Master Agreement (Attachment B).

### **2.11 Firm Offers**

Responses to this RFP, including proposed costs, will be considered firm for one hundred eighty (180) days after the Proposal due date.

### **2.12 Right to Accept All or Portion of Proposal**

Unless otherwise specified in the Solicitation, the Lead State may accept any item or combination of items as specified in the Solicitation or of any Proposal unless the Offeror expressly restricts an item or combination of items in its Proposal and conditions its response

on receiving all items for which it provided a proposal. In the event that the Offeror so restricts its Proposal, the Lead State may consider the Offeror's restriction and evaluate whether the award on such basis will result in the best value to the Lead State and the members of the NASPO ValuePoint program. The Lead State may otherwise determine at its sole discretion that such restriction is non-responsive and renders the Offeror ineligible for further evaluation.

### **2.13 Proposal Content and Format Requirements**

Proposals must be detailed and concise. Each Proposal must be labeled and organized in a manner that is congruent with the requirements and terminology used in this RFP and must include a point by point response, structured in form and reference to the RFP, addressing all requirements. Proposals shall be limited to 100 pages, excluding electronic excel Spreadsheets for the Cost Proposal Attachments D and D-1. Hard copy Proposal shall be on white 8 ½" x 11" Paper.

Offers are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive color displays, promotional materials, etc., are not necessary or desired. Emphasis shall be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

A representative authorized to bind the Offeror shall sign the Proposal. Failure of the authorized representative to sign the Proposal may subject the Proposal to rejection.

### **2.14 Proposal Submission Instructions**

Offeror is solely responsible for ensuring its Proposal is received by the Lead State Contract Administrator in accordance with the RFP requirements before Closing. DAS PS is not responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Proposal submitted by any means not authorized will be rejected.

The Proposal may be submitted through the mail or via parcel carrier, and must be clearly labeled and submitted in a sealed envelope, package or box. The Proposal may be hand delivered, and must be clearly labeled and submitted in a sealed envelope, package or box. Proposals will be accepted, prior to Closing, during DAS PS' normal Monday – Friday business hours of 8:00 am to 5:00 pm Pacific Time, except during State of Oregon holidays and other times when DAS PS is closed. The outside of the sealed submission must clearly identify the Offeror's name, RFP Number, and Closing date and time. It must be sent to the attention of the Lead State Contract Administrator at the address listed on the Cover Page.

An Offeror shall submit to the Lead State Contract Administrator one (1) original and six (6) copies of the Proposal (less Proposal Pricing Page) and all required supporting information and documents on or before the Closing Date and Time. Offerors shall submit one (1) original Proposal marked "MASTER." Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

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- Name of Offeror
- RFP Number
- Closing Date and Time

If discrepancies are found between the copies, or between the original and copy or copies, the original “MASTER” will provide for the basis for resolving discrepancies. If one document is not clearly marked “MASTER,” the Lead State reserves the right to use the original as the Master. If no document can be identified as an original, Offeror’s Proposal may be rejected at the discretion of the Lead State. **An Offeror shall also submit on a CD ROM or USB flash drive seven (7) electronic copies of its Proposal in MS Word 2010 or higher format.**

An Offeror shall submit its Market Basket Cost Proposal in a separate, sealed envelope, labeled accordingly and placed in sealed carton(s) or package(s) as described above. Prices must be submitted on a pricing matrix Attachment D and D-1 in Microsoft Excel format. Offerors shall submit their prices in electronic form using Microsoft Excel on a CD-ROM or USB flash drive. **Do not include Proposal Pricing Page on the same CD-ROM or USB flash drive as the technical proposal.**

Offerors are solely responsible for ensuring that their Proposals are received by the Lead State in accordance with these Solicitation requirements, before the Closing Date and Time, and at the place specified on the cover sheet of this RFP. The Lead State shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Proposal deliveries made to another location other than to the address identified on the cover sheet of this RFP will be considered non-responsive unless re-delivery is made to the address identified on the cover sheet of this RFP before the Closing Date and Time. **Proposals may NOT be submitted by facsimile.**

Proposals must be received by the posted Closing date and time. Proposals received after the deadline will be late and rejected.

### 2.15 Required Format

All Proposals must be submitted in the following format. Detailed information on submitting each of these sections is contained in later sections of this RFP. Offeror shall submit its Proposal without extensive art work, unusual printing or other materials not essential to the utility and clarity of the Proposal.

- 1. Offeror Information and Certification Sheet.** A completed and signed Offeror Information and Certification Sheet (Attachment E).
- 2. Executive Summary.** The one or two page executive summary is to briefly describe the Offeror's Proposal. This summary should highlight the major features of the Proposal. Offeror must indicate any requirements that Offeror cannot meet. The Lead State should be able to determine the essence of the Proposal by reading the executive summary.
- 3. Technical Response.** This section should include a description of the Products and Services to be delivered, including:

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- a. A complete narrative of the Offeror's assessment of the Services to be provided, the Offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the Offeror's understanding of the desired overall performance expectations and clearly indicate any options or alternatives proposed.
  - b. A complete description of the Products to be provided, in the order of criteria listed, to each evaluation requirement in the RFP and scope of work.
- 4. Affidavit of Trade Secret.** If Offeror believes any of its Proposal is exempt from disclosure under Oregon Public Records Law (ORS 192.410 through 192.505), Offeror shall complete and submit the Affidavit of Trade Secret (Attachment F) and submit a fully redacted version of its Proposal, clearly identified as the redacted version.
- 5. Cost Proposal.** Cost will be evaluated independently from the technical proposal. Please enumerate all costs on the attached Market Basket Cost Proposal Form and Percentage off List (Attachments D and D-1). Proposer shall follow the instructions set forth in Attachments D and D-1.

The Market Basket Cost Proposal is to be submitted as a separate document. Inclusion of any cost or pricing data within the technical proposal may result in the Proposal being deemed non-responsive.

- 6. Description of Products and Services.** A completed submission of Offeror's Information Attachment A.

### 2.16 Ownership or Disposition of Proposals and other Materials submitted

All Proposals submitted in response to this RFP become the Property of DAS PS. By submitting an Proposal in response to this RFP, Offeror grants the State a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating an Agreement, if awarded to Offeror, or as otherwise needed to administer the RFP process, and to fulfill obligations under Oregon Public Records Law (ORS 192.410 through 192.505). Proposals, including supporting materials, will not be returned to Offeror unless the Proposal is submitted late.

### 2.17 Public Record/Confidential or Proprietary Information

#### 2.17.1 Public Record/Trade Secrets

All Proposals are public record and are subject to public inspection after DAS PS issues the Notice of the Intent to Award. If Offeror believes that any portion of its Proposal contains any information that is a trade secret under ORS Chapter 192.501(2) or otherwise is exempt from disclosure under the Oregon Public Records Law (ORS 192.410 through 192.505), Offeror shall complete and submit the Affidavit of Trade Secret (Attachment F) along with a fully redacted version of its Proposal.

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Offeror is cautioned that cost information generally is not considered a trade secret under Oregon Public Records Law (ORS 192.410 through 192.505) and identifying the Proposal, in whole, as exempt from disclosure is not acceptable. DAS PS advises each Offeror to consult with its own legal counsel regarding disclosure issues.

**If Offeror fails to identify the portions of the Proposal that Offeror claims are exempt from disclosure, Offeror has waived any future claim of non-disclosure of that information.**

### **2.17.2 Confidential Information**

All information identified in the CONFIDENTIAL AND PROPRIETARY INFORMATION section will be subject to review by the Lead State in accordance with the procedures prescribed by the Lead State's open records statute, freedom of information act, or similar law.

### **2.18 Offeror Exceptions to Terms and Conditions**

The Lead State discourages exceptions to terms and conditions in the RFP, or the attached Participating State or Participating Entity terms and conditions (if any), and the terms and conditions of the Master Agreement. Exceptions may cause a Proposal to be rejected as nonresponsive when, in the sole judgment of the Lead State (and its evaluation team), the Proposal appears to be conditioned on the exception or correction of what is deemed to be a deficiency or unacceptable exception would require a substantial Proposal rewrite to correct.

Offeror should identify or seek to clarify any problems with contract language or any other document contained within this RFP through its written inquiries about the RFP using the process in Section 2.1.

Moreover, Offerors are cautioned that award may be made on receipt of initial Proposals without clarification or an opportunity for discussion, and the nature of exceptions would be evaluated. Further, the nature of exceptions will be considered in the competitive range determination if one is conducted. In the sole discretion of the Lead State, exceptions may be evaluated to determine the extent to which the alternative language or approach poses unreasonable, additional risk to the State or Participating State/Entity or Purchasing Entity, is judged to inhibit achieving the objectives of the RFP, or whose ambiguity makes evaluation difficult and a fair resolution (available to all offerors) impractical given the timeframe for the RFP. The Lead State is under no obligation to consider exceptions.

### **2.19 Certification of Non-Debarment**

Offeror must certify that neither the Offeror nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Master Agreement) by any governmental department or agency. If the Offeror cannot certify this statement, attach a written explanation for review by the Lead State.

## 2.20 Delivery(s)

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.



## 2.21 Certified Firm Participation

Pursuant to Oregon Revised Statute (ORS) Chapter 200, Lead State encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity (“COBID”) in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business (ESB/MBE/WBE/DV & DBE). Agency also encourages joint ventures or subcontracting with certified small business enterprises. For more information please visit <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?XID=6787&TN=oregon4biz>

If the Master Agreement has potential subcontracting opportunities, the successful Offeror may be required to submit a completed Certified Disadvantaged Business Outreach Plan (Attachment H) prior to execution.

## **SECTION 3: Administrative and Technical Response Requirements**

### **3.1 Mandatory Minimum Administrative Proposal Requirements**

This section contains the minimum requirements that must be met in order to be considered for the evaluation phase. All of the items described in this section are non-negotiable. All Offerors must state willingness and demonstrate ability to satisfy these requirements in the proposal submitted for consideration.

### **3.2 NASPO ValuePoint Master Agreement Statement of Compliance**

NASPO ValuePoint Master Agreement(s) resulting from this RFP will constitute the final agreement except for negotiated terms and conditions specific to a Participating State's or a Participating Entity's Participating Addendum.

This section highlights particular terms and conditions of NASPO ValuePoint Master Agreement, although Offerors will be bound to all the terms and conditions when executing a Master Agreement as shown in Attachment B. Offeror must include a statement in its Proposal that it has read and understands all of the terms and conditions as shown in the Master Agreement (Attachment B).

#### **3.2.1 Insurance**

To be eligible for award, the Offeror agrees to acquire insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state at the prescribed levels set forth in Section 21 of the NASPO ValuePoint Master Agreement. Offeror must describe its insurance or plans to obtain insurance satisfying the requirements in Section 21.

In addition, Participating States/Entities may request additional insurance or other coverages for their State within their specific Participating Addendum.

#### **3.2.2 NASPO ValuePoint Administrative Fee and Reporting Requirements**

To be eligible for award, Offeror agrees to pay a NASPO ValuePoint administrative fee as specified in Section 6 of the NASPO ValuePoint Master Agreement. Moreover, specific summary and detailed usage reporting requirements are prescribed by Section 7 of NASPO ValuePoint Master Agreement.

Offeror shall identify the person responsible for providing the mandatory usage reports. This information must be kept current during the contract period. Contractor will be required to provide reporting contact within fifteen (15) calendar days of Master Agreement execution.

#### **3.2.3 NASPO ValuePoint eMarket Center**

To be eligible for award, the Offeror agrees, by submission of a Proposal, to cooperate with NASPO ValuePoint and SciQuest (and any authorized agent or successor entity to SciQuest)



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with uploading a hosted catalog or integrating a punchout site. Refer to Attachment B, Section 9 and eMarket Center Appendix, NASPO ValuePoint Master Agreement for the prescribed requirements.

### **3.3 Participating State Terms and Conditions.**

Some Participating State specific Terms and Conditions are provided in Attachments I - O to this Solicitation. These will be negotiated with individual Participating States after award of the Master Agreement(s). Each State reserves the right to negotiate additional terms and conditions in its Participating Addendums, including environmentally preferable products. Offeror shall submit a statement that it has read and understands all the Terms and Conditions as shown in the attached State specific Participating Addenda.

### **3.4 Technical Requirements**

This section contains technical requirements pertaining to the Maintenance and Facilities Repair & Operations (MRO) industrial Supplies. Other sections of this RFP contain additional requirements that must be met in order to be considered responsive. Offeror must identify in its Proposal how it will meet (or exceed) all requirements listed in this Section 3, Section 4, and Attachments A, B, and D-1 of this RFP solicitation.

#### **3.4.1 Offeror Profile**

Provide the following information specific to Offeror's company:

- a. Company's full legal name
- b. Primary business address
- c. Describe company ownership structure
- d. Employee size (number of employees)
- e. Website
- f. Sales contact information
- g. Company's client retention rate during the past 3 years
- h. A brief history of the company and the year it was founded
- i. Describe the company's growth during the past three years.

#### **3.4.2 Customer Service**

- a. What are Offeror's hours of operation and when are key account people available to Participating States/Entities and Purchasing Entities?
- b. Describe how problem identification and resolution will be handled.
- c. How does Offeror propose to service the NASPO account? Describe the system Offeror will use to manage the account.
- d. How does Offeror respond to customer complaints and service issues?
- e. How does Offeror assess customer satisfaction?
- f. Describe Offeror's quality assurance measures and how are they handled within the organization.

### 3.4.3 Technology

- a. Describe Offeror’s online system that Purchasing Entities would use to place orders and receive results? Include all methods of order submission.
- b. Describe Offeror’s ability and process to support a decentralized system of orders submitted from many end users in multiple states and locations.

### 3.4.4 Products and Services

Offeror must review the Product and Services Descriptions and requirements set forth in (Attachment A) and submit with its Proposal. Offeror shall indicate which categories Offeror intends to provide; which Products and Services Offeror intends to provide; and whether Offeror intends to provide the Products and Services on a national, regional or one state only basis.

### 3.5 Data Security

What measures does Offeror take to protect sensitive customer information?

## SECTION 4: Market Basket Cost Proposal

Market Basket Cost Proposal will be evaluated independent of the technical evaluation. Offeror shall submit the Market Basket Cost Proposal to the Lead State as a separate document. **Do not embed the Market Based Cost Proposal in the technical response.**

### 4.1 Cost Proposal (40 Points)

In its Proposal, Offeror must indicate if Offeror intends to submit a Proposal for all Products and Services (all categories) or if Offeror intends to submit a Proposal for one or more of the Products and Services. Offeror also must indicate whether Offeror intends to offer Products and Services on a national, regional or one state basis.

Cost for the NASPO ValuePoint Master Agreements shall be based on the following:

The Cost Proposal includes two parts: (1) the Percentage off list per category description (Attachment D for a total potential score of 5 points) and (2) the market basket spreadsheet (Attachment D-1 for a total potential score of 35 points).

Offeror must submit cost, prices, rates and discounts as required by Cost Spreadsheets Attachments D and D-1. Prices and rates shall include all anticipated charges, including but not limited to, freight and delivery, cost of materials and product, travel expenses, transaction fees, overhead, profits, and other costs or expenses incidental to the Offeror’s performance.

(1) Offeror shall completed and submit the Percentage off list per category set forth in Attachment D.



(2) Offeror also shall complete and submit an electronic Excel Spreadsheet that includes detailed costs for all Products per Attachment D-, including EPP products. If Offeror is submitting a Proposal for all categories on the Attachment D-1, Tab 1, All Categories spreadsheet, Offeror also may wish to submit an alternative Proposal on one or more of the individual category spreadsheets as well.

**PLEASE NOTE:** In the event Offeror fails to obtain a score of 80 points, as required under Section 5.4 of RFP for the All Categories category, if Offeror submits an alternative Proposal, Offeror could potentially obtain an award on one or more of the individual Categories. Therefore, Offeror may wish to submit an alternative Proposal on one or more of the individual categories listed in Tabs 2-16, as well.



#### **4.2 Price and Rate Guarantee Period**

The prices, rates and costs proposed in the Offeror's response will be valid for an initial term of one year after any resulting Master Agreement is signed. Offeror's cost proposal must describe how future cost increases will be minimized and capped and how both increases and decreases will be passed on to the Lead State if the Master Agreement is renewed after the initial term. The Offeror must explain the proposed process to implement cost changes, and how the Lead State will be notified. Any request for price or rate adjustment following the initial Master Agreement term, is detailed in Section 11 of the Master Agreement.



## **SECTION 5: Evaluation and Award**

### **5.1 Additional Rounds for Evaluation: Discussions with Offerors – Oral Presentations**

The Lead State may elect to conduct further evaluation and discussions with Offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors.

The Lead State reserves the right to award on receipt of initial proposals without an opportunity for discussion or proposal revision, so Offerors are encouraged to submit their most favorable Proposal at the time established for receipt of Proposals.

### **5.2 Evaluation Process**

Upon completion of the submittals and discussions, if any, the Proposals will be evaluated. The Lead State and an Evaluation Committee will score the Proposals. The Evaluation Committee currently consists of five members. The Lead State may, in its sole discretion, change the Evaluation Committee and may increase or decrease the number of evaluators.

#### **Phase 1 of the Evaluation (Meets Minimum Requirements set forth in Section 3 of RFP (Pass/Fail)):**

In the initial phase of the evaluation process, the Lead State will review all Proposals timely received, as set forth below:

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- Section 3.1 **Yes** \_\_ **No** \_\_
- Section 3.2 **Yes** \_\_ **No** \_\_ (all subsections)
- Section 3.3 **Yes** \_\_ **No** \_\_
- Section 3.4 **Yes** \_\_ **No** \_\_ (all subsections)
- Section 3.5 **Yes** \_\_ **No** \_\_

In addition, the Lead State also shall separate the Proposals into the following groups based upon the submittals:

- Group 1: those Offerors submitting a Proposal for all Categories on a nationwide basis.
- Group 2: those Offerors submitting a Proposal for one or more Categories on a nationwide basis.
- Group 3: those Offerors submitting a Proposal for one or more Categories on a state basis.
- Group 4: those Offerors submitting a Proposal for one or more Categories on a regional basis.

The Proposals will be evaluated by appropriate group.

Right to Waive Minor Irregularities: Proposals received prior to Closing will be reviewed for Responsiveness to all RFP requirements including compliance with Minimum Requirements section and Proposal Content Requirements section. If the Proposal is unclear, the Lead State Contract Administrator may request clarification from Offeror. However, clarifications may not be used to rehabilitate a non-Responsive Proposal. If the Lead State Contract Administrator finds the Proposal non-Responsive, the Proposal may be rejected, however, the Lead State may waive mistakes in accordance with OAR 125-247-0470.

At any time prior to award, the Lead State may reject an Offeror found to be not Responsible.

**Phase 2 of the Evaluation:** Technical Proposal Evaluation (85 points)

The Evaluation Committee will score the Technical Proposals. Evaluators will assign a score for each evaluation criterion listed below up to the maximum points available in the Point and Score Calculation section and as further described in Attachments A, D, and D-1.

Proposals will be evaluated against the following Proposal evaluation criteria and scored as follows:

<u>Evaluation Criteria</u>	<u>Possible Points</u>
From Attachment A:	
6.2 Experience and Capabilities	20 pts
6.3 Volume Discounts	10 pts
6.5 Scope of Work	30 pts
6.6 Administration and Marketing	20 pts
6.7 Additional Services	5 pts

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**Phase 3 of the Evaluation:** Evaluation of Market Basket Cost Proposals: (40 points)

Each Offeror shall complete the Market Basket Cost Proposal, (Attachments D and D-1). The Evaluation of the Cost Proposal will be in two steps:

- Step one will be based upon the responses on Attachment D.
- Step two will be based upon the responses on Attachment D-1. The Lead State will compare the total extended total offer price for all items in each category. The lowest cost will receive the maximum 35 points. All other Offerors will receive points as determined by the ratio\* of their costs to the lowest cost. Final cost scores will be calculated based on the following:

<u>Evaluation Criteria</u>	<u>Possible Points</u>
Cost Proposal Attachment D	5 pts
Cost Attachment D-1	35 pts

The Lead State will compare the total extended total offer price for all items in each category. The lowest cost will receive the maximum 40 points. All other Offerors will receive points as determined by the ratio\* of their costs to the lowest cost. Final cost scores will be calculated based on the following:

Offerors shall submit pricing on all line items listed for each category. If Offeror does not submit a price on a line item listed in each category under the "Extended Total Offer Price" column "O" listed in Tab 1 – 16 of Attachment D-1, the Lead State will deduct 1 point per line item left blank from the cost proposal score total given that Offeror.

\*Ratio Calculation: Lead State will award a cost score to each Cost Proposal based upon the percentage of the proposed cost as compared to the lowest Offerors cost using the following formula:

Scoring of cost of Offerors who submit proposal Offer on Tab 1 for all categories:

$$\frac{\text{lowest cost of all Offerors}}{\text{cost being scored}} \times \text{cost points possible} = \text{cost score}$$

Scoring cost of Offerors who submit proposal on "each" individual Tab 2 – 16 per category:

$$\frac{\text{lowest cost of all Offerors}}{\text{cost being scored}} \times \text{cost points possible} = \text{cost score}$$

The Lead State will total the two Cost Proposal Scores.

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Offerors shall submit pricing on all line items listed for each category. If Offeror does not submit a price on a line item listed in each category under the "Extended Total Offer Price" column "O" listed in Tab 1 – 16 of Attachment D-1, the Lead State will deduct 1 point per line item left blank from the cost proposal score total given that Offeror.

**Total Score:** The Lead State will combine the scores from Phase 2 and Phase 3.

**5.3 Sample Evaluation Score Sheet**

**Sample RFP Evaluation Score Sheet**

**TITLE OF SOLICITATION # Facilities Maintenance and Repair & Operations (MRO), Industrial Supplies**

**RFP EVALUATION SCORESHEET**

**Score will be assigned as follows:**

- 0 = Failure, no response
- 1 = Poor, inadequate, fails to meet requirement
- 2 = Fair, only partially responsive
- 3 = Average, meets minimum requirement
- 4 = Above average, exceeds minimum requirement
- 5 = Superior

**Firm Name:** \_\_\_\_\_  
**Evaluator:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

	<b>Evaluator (No. ___)</b>	<b>Score (0-5)</b>	<b>Weight</b>	<b>Points</b>
<b>1. Demonstrated Ability to meet Products and Services Attachment A (85 points possible)</b>		----	----	----
<b>Section 6.2</b>	20 pts possible		X 4	
<b>Section 6.3</b>	10 pts possible		X 2	
<b>Section 6.5</b>	30 pts possible		X 6	
<b>Section 6.6</b>	20 pts possible		X 4	
<b>Section 6.7</b>	5 pts possible		X 1	
<b>5. Cost (40 points possible)</b>	40 pts possible			<b>* Inserted by Lead State</b>
<b>Step One</b>	5 pts possible		X 1	
<b>Step Two</b>	35 pts possible		X 7	
<b>TOTAL EVALUATION POINTS</b>	<b>(125 pts possible)</b>		<b>Total</b>	

**5.4 Award of Master Agreement(s)**

The Lead State intends to award a Master Agreement(s) on both a National level or a Regional level, to each Proposer with a combined total score in excess of 80 points in either the National level (i.e. the Proposer will receive an award for a National Master Agreement) or on a Regional level (i.e. the Proposer will receive an award on a Regional level).

## **5.5 Notice of Intent to Award**

After a final selection(s) is made, the Lead State will issue a notice of intent-to-award announcement in ORPIN. Proposal files are public records and available for review at the offices of the Lead State by appointment.

## **5.6 Protest**

A protest must be submitted in writing to the Lead State Contract Administrator identified in Section 1.2 of this RFP and must be received within seven (7) calendar days after the date of the notice of intent to award. Award protests must meet the requirements of Lead State's statutes, regulations and rules to be considered. The Lead State will not consider any protests that are received after this deadline.

The Lead State will address all timely submitted protests that are in accordance with their statutes, regulations and rules within a reasonable time following the Lead State's receipt of the protest and the Lead State will issue a written decision to the Offeror who submitted the protest. Protests that do not include the information required by the Lead State's statutes, regulations and rules may be rejected by Lead State. Lead State will receive protests in the following forms:

### **5.6.1 Protests must:**

- Be emailed to the Lead State Contract Administrator
- Reference the RFP number
- Identify prospective Offeror's name and contact information
- Be sent by an authorized representative
- State the reason for the protest, including:
  - The grounds that demonstrate how the procurement process is contrary to law, unnecessarily restrictive, legally flawed, or improperly specifies a brand name; and
  - Evidence or documentation that supports the grounds on which the protest is based

### **5.6.2 Protest Response**

DAS will respond timely to all protests submitted by the due date and time listed in the Schedule. Protests that are not received timely or do not include the required information may not be considered.

## **5.7 Post Award Formalization of the Master Agreement**

The Lead State reserves the right during contract negotiation of the Master Agreement(s) to adjust terms and conditions that would not (in the Lead State's judgment) have a material effect on price, schedule, scope of work, or risk to the Lead State and Participating States, with materiality defined in terms of the effect on the evaluation and award. The Lead State reserves the right to accept contract or pricing changes that are more favorable to the Lead State.

## **Attachment A**

### **Description of Products and Services- Evaluation Criteria**

THESE SECTIONS ARE MANDATORY- OFFERORS MUST MEET THE FOLLOWING CRITERIA FOR THEIR PROPOSAL TO BE ACCEPTED AND SCORED BY THE SOURCING TEAM

#### **6.1. Categories**

The scope of work consists of 15 categories. This proposal has been divided into categories with items that generally represent those most frequently purchased during the previous contract period including environmentally preferable options. Proposals will be considered from qualified offerors that can provide all products at minimum of one entire category listed below and be able to supply the products to a minimum of one entire State.

The United Nations Standard Products and Services Code (UNSPSC) codes are identified on Attachment D-1 to further describe each category.

Janitorial Equip. & Supplies (does not include Sanitation Cleaning Chemicals)  
Sanitation Cleaning Chemicals (does not include Janitorial Equipment & Supplies)  
Fasteners  
Material Handling  
Plumbing  
Power Sources  
Outdoor Garden  
Lamps, Lighting, Ballasts  
HVAC  
Hand Tools  
Power Tools (excluding automotive related tools and products)  
Electrical  
Paint  
Security  
Safety (does not include any public safety equipment)

#### **6.2. Experience and Capabilities**

This procurement contemplates a multi-state scope and may result in more than one award. The following are the weighted evaluation criteria for this procurement.

6.2.1. Experience in performance of comparable engagements/References;



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- 6.2.1.1 ESB/MBE/WBE/DV & DBE Programs;
- 6.2.1.2 Growth Incentives;
- 6.2.1.3 The quality and availability of recycling or other sustainability programs, including products or services offered;
- 6.2.1.4 The quality and availability of recycling or other sustainability environmental conservation programs, including products and/or services offered;
- 6.2.1.5 The number of available green environmentally preferable products that meet the solicitation's specifications available, showing a robust supply of green/sustainable products;

### 6.2.2. Conformance with the terms of this RFP;

- 6.2.2.1 Return Policy;
- 6.2.2.2 Distribution points;
- 6.2.2.3 Delivery;
- 6.2.2.4 Shipping;
- 6.2.2.5 Range of commodities offered;
- 6.2.2.6 Scope of geographical coverage offered;
- 6.2.2.7 Accurate and meaningful marking of green products in the on-line catalog when applicable;

### 6.2.3. Expertise and availability of key personnel;

- 6.2.3.1 Contract Management Retail Store/Will Call Availability;
- 6.2.3.2 The favorability of the terms under which the offeror will do business;

### 6.2.4. Demonstrated Competence;

- 6.2.4.1 Reporting Capabilities Disaster Recovery Plan;
- 6.2.4.2 Web based ordering System;
- 6.2.4.3 The number of available green environmentally preferable products that meet the solicitations specifications available, showing a robust supply of green products.

### 6.2.5. Reasonableness of pricing.

While the primary purpose of this solicitation is to select a offeror(s) who can offer the supplies for all Participating States, offerors are permitted to submit a proposal on more limited geographical areas, however, not less than one entire Participating State. Offerors must clearly describe the geographical limits (e.g. by State name) if proposing a geographical area less than that of all Participating States. However, if a Offeror elects to submit a Proposal for a single State then the Offeror must be willing to

supply the entire State and will not be allowed to add additional States following award or at any time during the term of the contract or any renewals.

A Participating State may evaluate and select an offeror for award in more limited geographical areas (e.g. A single state) where judged to be in the best interests of the State or States involved. Administration of any such award(s) will be done by the Participating State(s) involved unless the awarded contract includes the Lead State in its geographical area.

Participating States, and Purchasing Entities reserve the right to competitively solicit for additional sources for commodities during the contract term, where deemed to be in the best interests of the State(s) or entities involved. Further, Participating States may have existing awards for commodities within the scope of this solicitation.

Any Participating State reserves the right to award partial commodity categories or not participate in the award if deemed to not be in the best interests of that Participating State.

All pricing listed shall be ceiling prices with the option for Participating States to negotiate more favorable discounts for large orders.

Pricing shall be firm for the first year and may be changed with thirty (30) day notice after initial term.



Products may be changed with thirty (30) day notice every six (6) months after initial term.

The Participating States and Purchasing Entities reserve the right to update product specifications based on changes in regulations, in addition to third party certification criteria.

The Participating State may elect to designate the resulting contracts as permissive, or mandatory.

### **6.3. VOLUME DISCOUNTS**

#### 6.3.1. General

Additional volume and other price discount options are encouraged, which can distinguish between individual order minimum quantities, cumulative volume discounts, and other discount terms that may be defined by the offeror. Extensions of additional discounts are not required but may be evaluated if offered.

### 6.3.2. Cumulative Ordering Volume Discounts



The offeror is invited to identify additional percentage discounts if total cumulative ordering volumes (by all Purchasing Entities) exceed an amount specified by the offeror. If the volume of total orders exceeds that amount in any quarter, the offered discount will apply to future orders during the term of the award(s), as extended through option exercises.

### 6.3.3. Additional Volume Discount for Minimum Order Quantity

The offeror is also invited to identify additional discounts for minimum order quantities. Purchasing Entities may consolidate purchases in order to take advantage of any volume discount extended by offeror for minimum orders, so long as a single delivery location at the discretion of the Purchasing Entity is specified.



### 6.3.4. Minimum Orders

No minimum dollar or item count is allowed on orders from Authorized Purchasers. Participating States reserves the right to authorize a minimum via their Participating Addendums.

## 6.4. ESTIMATED PURCHASES

The total purchase of any individual item on the contract is not known. The Purchasing Division has attempted to give an accurate estimate of probable purchases of each item for the contract period. The Purchasing Division does not guarantee that the Participating States will buy any or all estimated amounts of any specified item or any total amount.

## 6.5. SCOPE OF WORK

### 6.5.1. Ordering Capabilities

Orders resulting from this contract will be placed directly with the Offeror by the individual Purchasing Entity. The offeror must have toll free telephone, fax numbers and email address for use by those entities located outside of the offeror's toll free area. The offeror will ship and bill as requested by the purchasing agency. The purchasing agency will remit payment directly to the offeror. As an example, there are approximately 1,000 possible separate delivery locations within the State of Nevada. The number of locations will vary by Participating States.

Please supply your toll free telephone, facsimile number and email address.

In addition to the market basket items, Purchasing Entities will be allowed to order from a successful offeror's catalog(s) and website for delivery anywhere within the Participating States. NASPO ValuePoint requires internet catalogs.

**6.5.2. F.O.B. Destination**

Prices for all items associated with this contract are to be FOB Destination anywhere within the Participating State or geographic area offered. Any exceptions to this provision must be clearly stated as an exception to this document.

**6.5.3. On-line Ordering**

6.5.3.1 Successful offeror shall provide Internet Catalogs for all agencies as described below.

On-line Catalogs available?  Yes  No

6.5.3.2 Provide a descriptive narrative for the type of internet catalog offered, and a URL link.

6.5.3.3 Offerors must designate market basket items in their on-line catalogs for ease of ordering. What symbol or marking will you use to identify market basket items?



6.5.3.4 Offerors shall designate all environmental preferable products (EPP) in their on-line catalogs. Describe the designation (symbol) that you will use to identify these EPP products.

6.5.3.5 Offerors shall provide accurate and meaningful labeling of environmentally preferable products offered in the on-line catalog when applicable.

6.5.3.6 Offerors shall explain or describe what they do to clearly identify in their online catalogs and on their shelves how they designate all environmentally preferable products (EPP) that have received any of the following appropriate 3d-party designation certifications:

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- (1) Biodegradable Products Institute (compostable bags, food service ware);
- (2) Consortium for Energy Efficiency (lamps);
- (3) Cradle to Cradle (building materials, construction adhesives, etc.);
- (4) Design Lights Consortium (LED lighting equipment);
- (5) ENERGY STAR (HVAC and lighting equipment);
- (6) Forest Stewardship Council (wood and paper products);
- (7) Green Seal (cleaners, hand soap, janitorial paper products, paint);
- (8) Master Painters Institute (MPI) Green Performance Standard (paints and coatings);
- (9) NEMA Premium Efficiency (motors, ballasts);
- (10) Scientific Certification Systems (SCS) Indoor Advantage Gold (building materials, furniture);
- (11) Scientific Certification Systems (SCS) FloorScore (carpet, flooring, flooring adhesives, underlayment, etc.);
- (12) UL GREENGUARD (adhesives, flooring, insulation, sealants, etc.);
- (13) UL EcoLogo (cleaners, deodorizers, hand soaps and sanitizers, floor polish and strippers, etc.);
- (14) USDA Biobased (lubricants, building materials, etc.);
- (15) USDA Organic;
- (16) US EPA Safer Choice (cleaners, hand soaps, deicers, floor maintenance chemicals);
- (17) WaterSense (water efficient fixtures, toilets, etc.);

Offerors shall also explain or describe how products meet the following standards are clearly identified:

(18) Restriction of hazardous Substances (RoHS) Directive;

(19) South Coast Air Quality Management District (SCAQMD) limits on volatile organic compounds (VOCs, which apply to adhesives, sealants, coatings, etc.)

(20) US EPA's (recycled content) Comprehensive Procurement Guidelines (CPGs);

(21) Rechargeable Batteries; and

(22) Solar Powered Equipment.

Offerors may suggest other 3rd party certifications as applicable and include a description.

In addition, offer shall describe the designation (symbol) that you will use to identify these EPP products provided, including the certification or standard that it meets, and where a buyer would find clarification on the website about what the designation means.

#### 6.5.4. E-commerce description

The successful offeror shall have a proven record of E Commerce capabilities, with the technology and support personnel to provide content deployment or punch out access to their online catalog, for the purpose of supporting the purchasing web sites of the Participating States. Provide a clear narrative addressing the statement above. Integration of a punch out site is required per Section 9d of the NASPO ValuePoint eMarket Center Section of Attachment B, NASPO ValuePoint Master Agreement Terms and Conditions.

#### 6.5.5. E- Commerce and Web Catalog Capabilities

(1) Multiple search options from narrow options to specific search criteria;

(2) Display contract pricing;

(3) Have workflow management controls;

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- (4) On-line ordering capability;
- (5) Order status and order tracking capabilities;
- (6) Order history;
- (7) Allow users to develop personal lists and profiles, and a secure means for storing procurement card information;
- (8) Online help to use site should be available at minimum during normal work hours.
- (9) Technical data, illustrations, Material Safety Data Sheets, parts availability, and access to web-based product sourcing is required;
- (10) Allow viewers to view on line Offeror's product availability by location;
- (11) Ability to block certain items or categories.
- (12) Ability to accept "P-Card" payments.
- (13) Web-based Catalog available?  
 Yes     No
- (14) Contract pricing available on line?  
 Yes     No
- (15) Online workflow management?  
 Yes     No
- (16) Order Status/Tracking Online?  
 Yes     No
- (17) Order History?  
 Yes     No
- (18) Personal Lists?  
 Yes     No

(19) Online Availability?

Yes  No

(20) What are you doing to ensure that your EPP products are properly identified and labeled in your Catalogs?

(21) Offeror is able to highlight EPP products either through prioritizing the EPP products in the online catalog, or by offering to substitute conventional with greener products?

Yes  No

6.5.6. Storage Of Electronic Data

6.5.6.1 Describe in detail how the electronic information for each Participating State shall be stored.

6.5.6.2 Do you have a dual system as a backup in the unlikely event that the main information storehouse becomes unusable?

6.5.6.3 Provide a general description of security protocol including storage of data, ordering security and data file security.

6.5.7. Catalogs

The successful offeror must provide paper and/or computer media catalogs to all agencies upon request for the duration of this contract. Offeror to explain if catalog identifies environmentally preferable products with associated EPP certifications.

6.5.8. Procurement Card Policy

6.5.8.1 The successful offeror must offer the capability to accept procurement cards as an acceptable form of payment. Level III reporting is preferred.

Procurement Cards Accepted?  Yes  No

6.5.8.2 Explain in detail your reporting capabilities for procurement card transactions.

6.5.9. Forced Substitutions

6.5.9.1 Forced substitutions are not allowed. If an ordered item is out of stock, the Offeror must notify the purchasing entity



for prior approval before substituting for the out of stock item. Explain your methodology for items that are discontinued or out of stock. This must include your substitution policy.

6.5.9.2 Explain how you will notify customers about out of stock items and how you will provide information about how the substituted product compares with the product that is out of stock.

**6.5.10. Customer Service Representatives**

6.5.10.1 Offerors shall provide each authorized purchaser with customer service representatives assigned to handle questions and resolve all problems that arise.

6.5.10.2 Service representatives shall be available, at a minimum, from 8:00 am to 5:00 pm in EACH time zone, Monday through Friday. Service representatives shall be available by phone (via local or toll free number), fax, or email during the required times for each participating state.

6.5.10.3 This solicitation is for all States and all time zones. Describe how you will manage the servicing of the contract for each time zone.

6.5.10.4 Provide an Emergency number and contact for afterhours use.

6.5.10.5 All service representatives shall have online access to account information and provide a timely response to inquiries concerning the status of orders (shipped or pending), delivery information, back-order information, contract pricing, category discounts, product availability, product information, account and billing questions, and contract compliance requirements.

6.5.10.6 Describe in detail the process that shall be used to ensure adequate service representatives will be available.

**6.6. Administration and Marketing**

**6.6.1. Return Policy**

What is your standard return policy?

**6.6.2. Distribution Points**

It is desirable that a successful offeror has inside and outside sales staff and distribution facilities located in all Participating States or geographic area offered. Offerors must provide the locations of their distribution points and information regarding sales staff for each Participating States or geographic area offered.

**6.6.3. Contract Management**

6.6.3.1 Describe the Offeror's strategy for contract management and sales support including roles and responsibilities as they relate to each participating state for each of the proposed account teams that will handle contract management issues.

6.6.3.2 It is desired that offerors have a representative(s) that has the sole responsibility of management of this NASPO ValuePoint contract. Provide a list the name(s) and title(s) of the dedicated representative(s) per region or State.

6.6.3.3 Does your contract management include customer training? Please provide a detailed narrative including, at a minimum, the following:

6.6.3.4 Sustainable Products (e.g., energy efficient, water efficient, low toxicity, recycled content, etc.);

6.6.3.5 Review of environmentally preferable products with third party certifications (see section 6.5.3.6 above for a list of some of the 3rd party certifications).

6.6.3.6 New products;

6.6.3.7 Equipment and operation- Manufacturer/certified set up and training;

6.6.3.8 Seminars and other learning opportunities;

**6.6.4. Delivery**

6.6.4.1 Delivery time for in-stock items should not exceed 24-48 hours for all points within in the Participating States. Non-stocked items must be delivered within 10 working days. The Participating States reserve the right to impose restrictions. Explain in detail your delivery policy.

6.6.4.2 Specify Guaranteed Delivery Time for In-Stock Items.

6.6.4.3 Specify Guaranteed Delivery Time for Non-Stock Items.

6.6.4.4 SDS must accompany all orders at the time of delivery (where applicable).

6.6.4.5 The Participating States expect high delivery standards from all contractors. Penalties may be imposed on contractors that have continual late deliveries. These penalties may include but are not limited to cancellation of orders, request for discounted pricing, non-use of an offending contractor or cancellation of the contractor's participating addendum(s).

6.6.5. Shipping

6.6.5.1 All shipments are to be delivered directly to the purchasing department/division address. All shipments shall include a packing label that includes at a minimum the following information on the outside of the package:

Authorized Purchaser;  
Delivery Address;  
Purchasing entity and floor;  
Contact; and  
Telephone number.

6.6.5.2 A packing slip shall also be included with each shipment, which shall include at a minimum the following information in no particular order:

Line item description;  
Date ordered;  
Quantity ordered;  
Quantity included in shipment;  
Any backordered items;  
Unit Price and extension;  
Number of parcels;  
Purchase Order Number;  
Purchasing entity name; and  
F.O.B. Destination.

6.6.5.3 Describe in detail how your company has implemented environmentally sound shipping and transportation

practices. For example:

- Is your company a US EPA SmartWay Partner?
- Does your company use alternative fuel vehicles (e.g., electric, battery hybrid electric, bio-based diesel, etc.?)
- Does your company reduce energy usage or other environmental impacts during shipping?

#### 6.6.6. Implementation

6.6.6.1 Implementation of this contract is vital to the Participating States. Describe in detail your implementation program including an estimated time line to include at minimum the following points.

6.6.6.2 Describe in detail the Offeror's implementation plan, including all process steps.

6.6.6.3 Detail the specific information, resources, and assistance the offeror will require from each Participating State to implement the contract.

6.6.6.4 Describe how soon from execution of the Participating Addendum the online ordering system will be available to each Participating State. If a phased implementation is planned in terms of limited functionality vs. complete functionality, please specify.

6.6.6.5 Describe in detail the Offeror's experience when implementing customer relationships of equivalent size and complexity.

6.6.6.6 Describe any customization abilities for different States or political subdivisions within a Participating State.

#### 6.6.7. Reporting Capabilities

6.6.7.1 The offeror shall provide information on all reports that are available without charge, to include a brief description of the report and the frequency. If there are other reports available at additional pricing, information on these reports is also required. Please note the reporting requirement in the NASPO ValuePoint terms and conditions; in addition states may have additional reporting requirements.

6.6.7.2 Explain your company auditing policy to ensure that pricing and services are in compliance with the contract. Explain your policy for revenue recovery in the event that any auditing reveals incorrect pricing.

6.6.7.3 Does your company provide a green product spend report? Please describe how your company reports environmentally preferable product purchases.

**6.6.8. Sustainability/Environmental Practices**

Sustainability and sound environmental practices are important to many of the Participating States. Thoroughly describe your sustainability and environmental practices that you currently have in place. This description should include the following:

**(1) Sustainability Program**

a. Does your company have a corporate-wide sustainability policy? If yes, attach or provide a link to your sustainability policy as well as any related policy initiatives such as a Climate Action Plan, a Zero Waste Policy, a Toxics Reduction Strategy, or a Green Fleet Policy. Also, please summarize what your corporate sustainability policy directs your company to do.

b. Describe the key elements of your company's sustainability program including sustainability staff positions, qualifications and training.

c. Describe Proposer's environmental practices that are applicable to items that Proposer markets. Provide links to your published statements, policies and reports and summarize key accomplishments.

**(2) Product Take Back/End of Life:**

a. Provide a list of products for which you provide end of life take-back and recycling (e.g. fluorescent lamps, batteries, solvents, metals, etc.). List subcontractors if any you use for these services. List any fees or conditions for these services. Certificates of Disposal must be provided for hazardous waste. This is an EPA requirement.

b. Proposers are to minimize or eliminate the use of disposable containers; is made from recycled content or other bio-based fibers; is easily recyclable, contains a minimum of 25% by weight of post-consumer materials;

and/or meets or exceeds the minimum post-consumer content level for respective packaging in the U.S. Environmental Protection Agency Comprehensive Procurement Guidelines.

c. Proposers are to provide packaging that does not contain inks, dyes, pigments, adhesives, stabilizers, or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been included as an element during manufacture or distribution in such a way that the sum of the concentrations levels of such lead, cadmium, mercury or hexavalent chromium exceed the following concentration level: 100 parts per million by weight (0.01%).

d. All drums shall remain the property of the supplier. Empty drums shall not become the property of the affected state entity under any circumstance or condition. All empty drums, including their respective caps, plugs, or bungs, shall be collected by the supplier within a reasonable time frame specified by the affected state entity for reuse or recycling via the most reasonable transport method.

(4) Product Choice:

a. Proposers green claims are consistent with the Federal Trade Commission’s Green Guides. (for more information visit: <https://www.ftc.gov/news-events/media-resources/truth-advertising/green-guides>)

Yes \_\_\_\_ No \_\_\_\_

(5) *Other Sustainability Practices:*

a. *Offerors* may provide additional information their company’s sustainability policies, practices and/or achievements. Attach appropriate documentation to substantiate claim.

6.6.9. Emerging Small Business, Minority Business Enterprise, Women Business Enterprise, And Disabled Veteran Owned Business.

6.6.9.1 Some Participating States, may desire to purchase products and services from ESB/MBE/WBE/DV & DBE companies. Some Participating States may or may not have an ESB/MBE/WBE/DV & DBE program and therefore each state will integrate this desirable into its Participating Addendum, if applicable. In some Participating States, to qualify as an ESB/MBE/WBE/DV

& DBE supplier the listed companies must be registered with either the government or a recognized certifying entity and provide a certification type and number. Registered ESB/MBE/WBE/DV & DBE companies must be operating from a legitimate commercial site, carry all applicable insurance policies, required business licenses, and have operated continuously for at least two years. Please explain how the Offeror will provide opportunity for, ESB/MBE/WBE/DV & DBE companies.

6.6.9.2 At a minimum, the following policies and practices must be described in detail:

6.6.9.3 Describe in detail how the Offeror will work with the registered companies to determine what products can be a part of the contract.

6.6.9.4 Describe in detail how the Offeror will track all ESB/MBE/WBE/DV & DBE Products and services, including ordering, delivery, and invoicing.

6.6.9.5 Provide a list of Products that may be available to be purchased from ESB/MBE/WBE/DV & DBE companies under the proposed Contract.

6.6.9.6 Describe how Offeror will make best efforts to increase the number of Products available to Authorized Purchasers under the Contract acquired from ESB/MBE/WBE/DV & DBE businesses.

6.6.9.7 Describe what other products or services the Offeror can offer within a category that supports ESB/MBE/WBE/DV & DBE suppliers.

6.6.10. Community Rehabilitation Program (CRP) / Qualified Rehabilitative Facilities (QRF):

Describe how the Offeror supports the use of products and/or services sourced from QRF and the CRP programs.

6.6.11. Retail Store Purchases/Will Call:

6.6.11.1 Describe the availability of contracted items through Offeror's branch locations. Please provide a list of branch

locations that provide a will call service in each of the Participating States.

6.6.11.2 Provide a narrative that explains how authorized purchasers will be able to make purchases at will call branch locations, make payment for those items and have those items included in the reporting.

6.6.12. Growth Incentives:

6.6.12.1 Describe in detail any contract growth incentives, e.g. larger revenue, different levels of discounts for large orders that may be offered to the Participating States/purchasing agency.

6.6.12.2 Describe in detail any incremental pricing incentives for on-line ordering verses fax or call in ordering.

## **6.7. Additional Services**

6.7.1. Training

6.7.1.1. Offeror shall provide all training as necessary at no additional pricing to all Participating States on all aspects of ordering, online ordering, product delivery, product returns, EPP's, and customer service processes.

6.7.1.2 Describe in detail the Offeror's ability to offer training that may be required to ensure purchasing entities have a thorough understanding of all ordering processes including any online systems. No pricing for product training, safety training, or travel and per Diem.

6.7.2. Disaster Recovery

Please describe your emergency management plan to aid States during an emergency or disaster recovery. Be specific as to response time, supplies availability and other goods and services that you offer.

6.7.3. Installation, if applicable



Please describe Offeror's ability to provide installation services of products or equipment that Participating States may chose, if applicable to their States rules.

#### 6.7.4. Value added solutions

Offerors are encouraged to suggest value added solutions that may improve the States use of the contracts and products offered. One such value-add is product sourcing.

##### 6.7.4.1 Sourced Products

- (1) Supplier sourced products is a product which is not currently listed in the suppliers contract catalog or on-line ordering system at the time of order receipt but is capable of being supplied through the offeror.
- (2) If the offeror is capable of supplying sourced products they must be direct line extension products which have a similar item to an established product category and the offeror must already have a publically recognized business partnership with the "brand".
- (3) The offeror must list in their cost proposal Attachment D and D-1 their up charge for all sourced products. Up charges must be detailed on invoices as a separate item from the product charge.

##### 6.7.4.2 Vending Machines

- (1) Vending style machines that can dispense singular or multiple products with control type methods.
- (2) Offerors are encouraged to list their vending solutions.

## Attachment B



### NASPO ValuePoint Master Agreement

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

#### 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”), substantially in the form attached hereto as Exhibit A;
- (2) NASPO ValuePoint Master Agreement and its exhibits:
  - eMarket Center Addendum
  - Exhibit A - Sample Participating Addendum
  - Exhibit B - Description of Products and Services
  - Exhibit C - Provisions Required by Federal Law
  - Exhibit D - NASPO ValuePoint Detailed Sales Data Report Form
- (3) A Purchase Order issued against the Master Agreement;
- (4) Any terms and conditions provided electronically or online or as part of Product materials or descriptions or guidelines; and
- (5) Any Offeror’s online or third party terms and conditions.

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** means a written notice from a Purchasing Entity to Contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a Product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor.

**Acceptance Testing** means the process for ascertaining that the Product meets the standards set forth in the section titled Standard of Performance and Acceptance, prior to Acceptance by the Purchasing Entity.

**Contract** means any Order or Purchase Order or other agreed upon ordering instrument issued by a Purchasing Entity under this Master Agreement, together with the terms and conditions of this Master Agreement.

**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.

**Environmentally Preferable Product** means products and services that have a lesser or reduced effect on human health and the environment when compared to competing products or services that serve the same purpose.

**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 members of the NASPO ValuePoint Cooperative Purchasing 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.

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**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 Proposals is not required to later participate in the Master Agreement

**Product** means any equipment, software (including embedded software), supplies, materials, commodities, goods, documentation or other deliverable supplied, offered, or created by the Contractor pursuant to this Master Agreement. The term Products, supplies, and products are used interchangeably in this Master Agreement.

**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, who issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

**Services** means installation and additional services as defined in the Master Agreement.

### **3. Term of the Master Agreement; Non-exclusivity**

a. The initial term of this Master Agreement is for one (1) year. This Master Agreement may be extended beyond the original contract period for four (4) 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. This Master Agreement is not exclusive. Purchasing Entities retain the right to contract for Products or Services or both through any selection process authorized by law, or to perform the Services themselves. Neither NASPO ValuePoint nor the Lead State guarantees that any specific number of Contracts will be issued or that any specific amount of Products or Services will be required.

### **4. Amendments**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval 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](mailto: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

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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 one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with 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:

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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://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in Exhibit D.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, **social security numbers or any other numerical identifier**, may be submitted with any report.

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

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

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

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.

b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the participating state. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the participating state.

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to section 28, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if 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 two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to section 28 or to terminate for default pursuant to section 30.

g. Contractor agrees, within 30 days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO



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ValuePoint, Contractor shall provide a copy of any such provisions.

### **9. NASPO ValuePoint eMarket Center**

a. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint's customers to access a central online website to view and/or shop the goods and services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.

b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide customers information regarding the Contractors website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

c. At a minimum, the Contractor agrees to the following timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with NASPO ValuePoint to provide any unique information and ordering instructions that the Contractor would like the customer to have.

d. If the solicitation requires either a catalog hosted on or integration of a punchout site with eMarket Center, or either solution is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

### **10. Right to Publish**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

### **11. Price and Rate Guarantee Period**

All prices and rates must be guaranteed for the initial 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 (30) 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 Products, 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;

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- (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, including the Federal Terms and Conditions set forth in Exhibit C.

## **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 substantially 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

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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 Oregon, and 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

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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

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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.



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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

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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

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- (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.

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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

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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

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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.

**Authorized Signatures:**

**Contractor:** \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

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

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Approved pursuant to ORS 291.047**

Oregon Department of Justice

By: \_\_\_\_\_  
Sr. Assistant Attorney General

Date: \_\_\_\_\_

## RFP DASPS-2183-17 – (MRO), Industrial Supplies

### eMarket Center Appendix

a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.

b. Supplier's Interface with the eMarket Center. There is no cost charged by JAGGAER to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) Implementation Timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and JAGGAER to set up an enablement schedule, at which time JAGGAER's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) NASPO ValuePoint and JAGGAER will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).**

(a) Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to JAGGAER, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data [Insert Time Frame Here] to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update every six months to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or

## **RFP DASPS-2183-17 – (MRO), Industrial Supplies**

amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per quarter. The following conditions apply with respect to hosted catalogs:

(1) Updated pricing files are required by the 1st of the month and shall go into effect in the eMarket Center on the 1st day of the following month (i.e. file received on 1/01/13 would be effective in the eMarket Center on 2/01/13). Files received after the 1st of the month may be delayed up to a month (i.e. file received on 11/06/09 would be effect in the eMarket Center on 1/01/10).

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. Supplier Network Requirements: Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use JAGGAER's Supplier Portal to import the Contractor's catalog and pricing, into the JAGGAER system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: [www.sciquest.com](http://www.sciquest.com) or call the JAGGAER Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

(1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

(2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract; and

(3) The Catalog must include a Lead State contract identification number; and

(4) The Catalog must include detailed product line item descriptions; and

(5) The Catalog must include pictures when possible; and

(6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.



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g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by JAGGAER for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity.

i. Applicability: Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

**(August 2017)**

## Exhibit A to NASPO ValuePoint Master Agreement

### SAMPLE PARTICIPATING ADDENDUM

MASTER AGREEMENT # \_\_\_\_\_  
Exhibit \_\_\_\_  
FORM PARTICIPATING ADDENDUM

NASPO ValuePoint  
PARTICIPATING ADDENDUM



**Maintenance and Facilities Repair & Operations (MRO) and Industrial Supplies**  
Lead by the State of **Oregon**

Master Agreement #: \_\_\_\_\_  
Contractor: \_\_\_\_\_ (Contractor)  
Participating Entity: **State of XXXXX**

The following Goods or services are included in this Addendum:

- Removable Example: All Goods and accessories listed on the Contractor page of the NASPO ValuePoint website.

The following Goods or services are not included in this Addendum:

- Removable Example: Product modifications.
- Removable Example: Installation services.

#### Master Agreement Terms and Conditions:

1. Scope: This addendum covers the **Maintenance and Facilities Repair & Operations and Industrial Supplies** led by the State of Oregon for use by state agencies and other entities located in the Participating State [or State Entity] authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

*[Removable Instruction: Participating States should ensure that paragraph 2 properly defines the scope of participation. The model language in paragraph enables participation by all political subdivisions, institutions of higher education, and other entities included in the state's statewide contract program.]*

2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of [xxxxxxx]. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

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

Contractor

Name:	
Address:	
Telephone:	
Fax:	
Email:	

Participating Entity

Name:	
Address:	
Telephone:	
Fax:	
Email:	

4. Participating Entity Modifications Or Additions To The Master Agreement

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

*[Removable Instruction: Insert text here to address specific changes to the terms and conditions. Indicate which section numbers of the Master Agreement are modified. If no changes are required, check the box above and delete this paragraph.]*

5. Lease Agreements: *[If applicable, insert a statement about whether or not equipment lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating State and any restrictions or requirements for the use of the lease agreement language in the Master Agreement. If not applicable, mark Section 4 as “Reserved”.]*

6. Subcontractors: All contactors, dealers, and resellers authorized in the State of **[xxxxxx]**, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor’s dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

**RFP DASPS-2183-17 – (MRO), Industrial Supplies**

7. Orders: Any order placed by a Participating Entity or Purchasing Entity 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.

Participating Entity:	Contractor:
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

*[Additional signatures may be added if required by the Participating Entity]*

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Shannon Berry
Telephone:	775-720-3404
Email:	sberry@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.]***

**Exhibit B to NASPO ValuePoint Master Agreement**

**Description of Products and Services**

## **Exhibit C to NASPO ValuePoint Master Agreement PROVISIONS REQUIRED BY FEDERAL LAW**

Without limiting the generality of Section 15 of the Master Agreement, if applicable, Contractor shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements. For purposes of this Master Agreement, all references to federal laws are references to federal laws as they may be amended from time to time.

**1. Equal Employment Opportunity.** If this Master Agreement, including amendments, is for more than \$10,000, then Contractor shall comply with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

**2. Clean Air, Clean Water, EPA Regulations.** If this Master Agreement, including amendments, exceeds \$100,000 then Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Participating Entity or Purchasing Entity, HHS and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000 in Federal Funds, language requiring the subcontractor to comply with the federal laws identified in this section.

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

**4. Truth in Lobbying.** The Contractor certifies, to the best of the Contractor’s knowledge and belief that:

4.1. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

4.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or

## **RFP DASPS-2183-17 – (MRO), Industrial Supplies**

cooperative agreement, the Contractor shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.

4.3. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Master Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Master Agreement imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

5.1. Privacy and Security Of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and Participating Entity or Purchasing Entity for purposes directly related to the provision of services to clients which are funded in whole or in part under this Master Agreement. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the Participating Entity or Purchasing Entity Privacy Rules, OAR 407-014-0000 et. seq., or the Participating Entity or Purchasing Entity Notice of Privacy Practices, if done by Participating Entity or Purchasing Entity. A copy of the most recent Participating Entity or Purchasing Entity Notice of Privacy may be obtained from Participating Entity or Purchasing Entity

5.2. Data Transactions Systems. If Contractor intends to exchange electronic data transactions with Participating Entity or Purchasing Entity in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDI Trading Partner Agreement with Participating Entity or Purchasing Entity and shall comply with the Participating Entity or Purchasing Entity EDI Rules.

5.3. Consultation and Testing. If Contractor reasonably believes that the Contractor's or the Participating Entity's or Purchasing Entity's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the Participating Entity's or Purchasing Entity's HIPAA officer. Contractor or Participating Entity or Purchasing

## **RFP DASPS-2183-17 – (MRO), Industrial Supplies**

Entity may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the Participating Entity's or Purchasing Entity's testing schedule.

5.4. If Contractor is deemed to be a business associate of Participating Entity or Purchasing Entity under HIPAA's Privacy Rule, 45 CFR Parts 160 and 164, Contractor hereby provides Participating Entity or Purchasing Entity with satisfactory assurances that if it receives from Participating Entity or Purchasing Entity or any trading partner any protected health information of any individual, it shall maintain the security and confidentiality of such information as required by the HIPAA's Privacy Rule, and other applicable laws and regulations. Without limiting the foregoing, Contractor agrees that:

5.4.1. Contractor will not use or further disclose Protected Health Information otherwise than as permitted or required by this Master Agreement or as required by law;

5.4.2. Contractor will use appropriate safeguards to prevent use or disclosure of PHI otherwise than as provided for by this Master Agreement;

5.4.3. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Master Agreement;

5.4.4. Contractor will report to Participating Entity or Purchasing Entity any use or disclosure of PHI not provided for by this Master Agreement of which Contractor becomes aware;

5.4.5 Contractor agrees to ensure that any agents, including subcontractors, to whom it provides PHI, agree to the same restrictions and conditions that apply to Contractor with respect to such information;

5.4.6. Contractor shall make available to Participating Entity or Purchasing Entity such information as they may require to fulfill their obligations to account for disclosures of such information;

5.4.7. Contractor shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the Participating Entity or Purchasing Entity or trading partner (or created or received by Contractor on behalf of Participating Entity or Purchasing Entity or trading partner) available to Participating Entity or Purchasing Entity and to the Secretary of the United States Department of Health and Human Services, for purposes of determining Participating Entity's or Purchasing Entity's or trading partners' compliance with HIPAA; and

5.4.8. If feasible, upon termination of this Master Agreement, Contractor shall return or destroy all PHI received from Participating Entity or Purchasing Entity or trading partners (or created or received by Contractor on behalf of Participating Entity or Purchasing Entity or trading partners) that Contractor still maintains in any form, and shall retain no copies of such information or, if return or destruction is not feasible, Contractor shall continue to extend the protections of this Master Agreement to such information, and limit further use of the information to those purposes that make the return or destruction of the information infeasible.

Subject to the foregoing restrictions, Participating Entity or Purchasing Entity agrees that



## **RFP DASPS-2183-17 – (MRO), Industrial Supplies**

Contractor may use such PHI in the process of providing transaction mapping, trading partner profiling and training and mentoring services for Participating Entity or Purchasing Entity and trading partners under this Master Agreement.

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

**7. Substance Abuse Prevention and Treatment.** Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 USC 300x through 300x-64).

**8. Audits.** Contractor shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled “Audits of States, Local Governments and Non-Profit Organizations.”

**9. Debarment and Suspension.** Contractor shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or Nonprocurement Programs” in accordance with Executive Orders No. 12,549 and No. 12,689, “Debarment and Suspension”. (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

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

- 10.1. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to Participating Entity or Purchasing Entity, the Secretary of Health and Human Services, and as otherwise directed by Participating Entity or Purchasing Entity;
- 10.2. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;
- 10.3. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4); and

## **RFP DASPS-2183-17 – (MRO), Industrial Supplies**

10.4. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19.

Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

**11. Americans with Disabilities Act.** Contractor shall comply and cause all subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the performance of work.

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

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

**14. Educational Records.** Contractor shall comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

**EXHIBIT D to NASPO VALUEPOINT MASTER AGREEMENT  
NASPO ValuePoint DETAILED SALES DATA REPORT FORM**

Field Name	Field Description
VENDOR	The awarded Contractor's name
VENDOR CONTRACT NUMBER	Lead State assigned contract number (using Lead State's numbering protocol)
STATE	State postal abbreviation code (Alaska = AK, Missouri = MO, etc.)
CUSTOMER TYPE (SEGMENT)	State Gov't, Education-K12, Education-HED, Local Gov't, Medical, Other - are acceptable segments. [determined by industrial practice for each contract - uniform for each contract]
BILL TO NAME	Customer (agency) Bill to name
BILL TO ADDRESS	Customer (agency) Bill to address
BILL TO CITY	Customer (agency) Bill to city
BILL TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
SHIP TO NAME	Customer (agency) Ship to name
SHIP TO ADDRESS	Customer (agency) Ship to address
SHIP TO CITY	Customer (agency) Ship to city
SHIP TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
ORDER NUMBER	Vendor assigned order number
CUSTOMER PO NUMBER	Customer provided Purchase Order Number
CUSTOMER NUMBER	Vendor assigned account number for the purchasing entity
ORDER TYPE	Sales order, Credit/Return, Upgrade/Downgrade, etc. [determined by industrial practice for each contract - uniform for each contract]
PO DATE (ORDER DATE)	(mm/dd/ccyy)
SHIP DATE	(mm/dd/ccyy)
INVOICE DATE	(mm/dd/ccyy)
INVOICE NUMBER	Vendor assigned Invoice Number
PRODUCT NUMBER	Product number of purchased product
PRODUCT DESCRIPTION	Product description of purchased product
UNSPSC	Commodity-level code based on UNSPSC code rules (8 Digits)
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 (\$999999999.999)
Discount Percentage	Percent off of List Price- example=20%
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
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 Name	Bill to Address	Bill to City	Bill to Zipcode	Ship to Name	Ship to Address	Ship to City	Ship to Zipcode	Order Number	Customer PO Number	Customer Number	Order Type	PO Date	Ship Date	Invoice Date	Invoice Number	Product Number	Product Description	UNSPSC Commodity	List Price/MSRP	NASPO ValuePoint Price	Quantity	Total Price	Discount Percentage	Admin Fee	VAR/Reseller/Distributor NAME

# Attachment C HISTORICAL SALES

Attachment C - Historical Sales Report

Fee's deposited for WSCA RFP 1862 Industrial Tools, Lighting and Equipment									
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
Q. 2- Apr-Jun 2011	\$304,122.11	\$0.00	\$1,857,983.33	\$35,917,005.08	\$272,622.88	\$660,092.00	\$185,083.96	\$39,196,909.36	
Apr-Jun 2011 A. Fee	\$1,520.61	\$0.00	\$9,289.92	\$179,685.03	\$1,363.11	\$3,300.46	\$925.42		\$195,984.55
Q. 3 Jul - Sep 2011	\$347,854.00	\$178,519.28	\$3,750,118.56	\$69,816,683.25	\$118,908.80	\$1,742,623.16	\$275,644.01	\$76,230,351.06	
Jul - Sep 2011 A. Fee	\$1,739.27	\$892.60	\$18,750.59	\$349,078.42	\$594.54	\$8,713.12	\$1,378.22		\$381,146.76
Q. 4 Oct-Dec 2011	\$357,065.96	\$255,446.00	\$5,879,816.17	\$74,950,696.53	\$147,250.23	\$2,528,488.61	\$236,429.94	\$84,355,193.44	
Oct-Dec 2011 A. Fee	\$1,785.33	\$1,277.23	\$29,399.08	\$374,753.48	\$736.25	\$12,642.44	\$1,182.15		\$421,775.96
<b>Total calendar sales year one # 1862</b>								\$199,782,453.86	
<b>Total admn fees year one # 1862</b>									\$998,907.27
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2012</b>									
Q. 1 Jan-Mar 2012	\$512,801.81	\$409,567.00	\$7,548,306.07	\$86,918,080.39	\$194,496.46	\$3,387,089.51	\$240,999.54	\$99,211,340.78	
Jan-Mar 2012 A. Fee	\$2,564.01	\$2,047.83	\$37,741.53	\$434,590.40	\$972.48	\$16,935.45	\$1,205.00		\$496,056.70
Q. 2- Apr-Jun 2012	\$466,832.93	\$416,417.03	\$9,871,665.36	\$103,016,439.88	\$159,721.20	\$3,502,487.27	\$159,818.18	\$117,593,381.85	
Apr-Jun 2012 A. Fee	\$2,334.17	\$2,082.09	\$49,358.33	\$515,082.20	\$798.61	\$17,512.44	\$799.09		\$587,966.93
Q. 3- Jul Sep 2012	\$331,990.94	\$215,788.69	\$11,253,194.79	\$115,808,429.99	\$121,563.80	\$5,066,750.99	\$176,884.51	\$132,974,603.71	
Jul - Sep 2012 A. Fee	\$1,659.96	\$1,078.94	\$6,265.97	\$529,442.15	\$607.82	\$25,333.75	\$884.42		\$615,273.01
Q. 4 Oct-Dec 2012	\$332,029.85	\$237,809.83	\$9,918,848.70	\$89,703,035.71	\$193,340.00	\$4,397,522.24	\$154,772.20	\$104,937,358.53	
Oct-Dec 2012 A. Fee	\$1,660.15	\$1,189.05	\$49,594.24	\$448,515.18	\$966.70	\$21,987.61	\$773.86		\$524,686.79
<b>Total calendar sales year two # 1862</b>								\$454,716,684.87	
<b>Total admn fees year two # 1862</b>									\$2,223,983.43
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2013</b>									
Q. 1 Jan-Mar 2013	\$274,989.41	\$326,985.06	\$11,257,458.29	\$95,726,292.21	\$124,096.72	\$4,549,939.77	\$86,986.23	\$112,346,747.69	
Jan-Mar 2013 A. Fee	\$1,374.95	\$1,634.93	\$6,287.29	\$478,631.46	\$620.48	\$22,749.70	\$434.95		\$561,733.76
Q. 2- Apr-Jun 2013	\$275,831.26	\$596,690.17	\$12,929,065.30	\$116,766,093.64	\$178,838.10	\$6,807,254.95	\$118,931.57	\$137,672,704.99	
Apr-Jun 2013 A. Fee	\$1,379.16	\$2,983.45	\$64,645.33	\$583,830.47	\$894.19	\$34,036.27	\$594.66		\$688,363.53
Q. 3- Jul Sep 2013	\$357,506.19	\$386,637.25	\$13,914,740.84	\$116,460,828.22	\$191,133.67	\$7,110,029.37	\$180,432.56	\$138,601,308.10	
Jul - Sep 2013 A. Fee	\$1,787.53	\$1,933.19	\$69,573.70	\$582,304.14	\$955.67	\$35,550.15	\$902.16		\$693,006.54
Q. 4 Oct-Dec 2013	\$291,135.52	\$489,041.74	\$14,385,061.83	\$102,509,595.90	\$152,761.53	\$5,739,484.17	\$122,301.70	\$123,689,382.39	
Oct-Dec 2013 A. Fee	\$1,455.68	\$2,445.21	\$71,925.31	\$512,547.98	\$763.81	\$28,697.42	\$611.51		\$618,446.92
<b>Total calendar sales year three # 1862</b>								\$512,310,143.17	
<b>Total admn fees year three # 1862</b>									\$2,561,550.75
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2014</b>									
Q. 1 Jan-Mar 2014	\$339,848.70	\$352,049.45	\$15,572,584.93	\$102,509,595.90	\$120,063.80	\$6,812,137.48	\$102,595.58	\$125,808,875.84	
Jan-Mar 2014 A. Fee	\$1,699.24	\$1,760.25	\$77,862.92	\$512,547.98	\$600.32	\$34,060.69	\$512.98		\$629,044.38
Q. 2- Apr-Jun 2014	\$277,074.37	\$377,398.05	\$16,695,313.01	\$116,545,113.02	\$216,307.60	\$7,956,690.98	\$73,535.29	\$142,141,432.32	
Apr-Jun 2014 A. Fee	\$1,385.37	\$1,886.99	\$83,476.57	\$582,725.57	\$1,081.54	\$39,783.45	\$367.68		\$710,707.17
Q. 3- Jul Sep 2014	\$357,605.25	\$424,775.38	\$17,991,465.60	\$112,530,808.05	\$117,416.95	\$8,946,428.28	\$121,711.22	\$140,490,210.73	
Jul - Sep 2014 A. Fee	\$1,788.03	\$2,123.88	\$89,957.31	\$562,654.04	\$587.08	\$44,732.14	\$608.56		\$702,451.04
Q. 4 Oct-Dec 2014	\$385,847.81	\$460,046.38	\$16,421,251.10	\$98,453,890.21	\$118,854.53	\$7,514,027.82	\$96,307.00	\$123,450,224.85	
Oct-Dec 2014 A. Fee	\$1,929.24	\$2,300.23	\$82,106.26	\$492,269.45	\$594.27	\$37,570.14	\$481.54		\$617,251.13
<b>Total calendar sales year four # 1862</b>								\$531,890,743.74	
<b>Total admn fees year four # 1862</b>									\$2,659,453.72
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2015</b>									
Q. 1 Jan-Mar 2015	\$308,657.22	\$327,409.63	\$17,244,622.48	\$101,024,301.15	\$97,279.46	\$8,549,548.51	\$112,936.17	\$127,664,754.62	
Jan-Mar 2015 A. Fee	\$1,543.29	\$1,637.05	\$86,223.11	\$505,121.51	\$486.40	\$42,747.74	\$564.68		\$638,323.78
Q. 2- Apr-Jun 2015	\$312,509.21	\$341,659.28	\$19,618,960.07	\$120,385,385.94	\$181,154.12	\$11,365,516.48	\$100,514.62	\$152,305,699.72	
Apr-Jun 2015 A. Fee	\$1,562.55	\$1,708.30	\$98,094.80	\$601,926.93	\$905.77	\$56,827.58	\$502.57		\$761,528.50
Q. 3- Jul Sep 2015	\$378,228.48	\$394,069.07	\$19,135,494.81	\$114,195,029.89	\$157,299.97	\$11,438,937.71	\$85,542.17	\$145,784,602.10	
Jul - Sep 2015 A. Fee	\$1,891.14	\$1,970.35	\$95,677.47	\$570,975.15	\$786.50	\$57,194.69	\$427.71		\$728,923.01
Q. 4 Oct-Dec 2015	\$294,491.80	\$321,103.75	\$17,855,088.60	\$100,669,677.88	\$148,307.42	\$8,613,790.74	\$91,140.94	\$127,993,601.13	
Oct-Dec 2015 A. Fee	\$1,472.46	\$1,605.52	\$89,238.43	\$503,348.39	\$741.54	\$43,068.95	\$455.70		\$639,930.99
<b>Total calendar sales year five # 1862</b>								\$553,748,657.57	
<b>Total admn fees year five # 1862</b>									\$2,768,706.28
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2016</b>									
Q. 1 Jan-Mar 2016	\$349,270.18	\$397,582.87	\$18,955,914.94	\$99,903,752.25	\$70,076.77	\$10,321,193.68	\$47,532.16	\$130,045,322.85	
Jan-Mar 2016 A. Fee	\$1,746.35	\$1,987.91	\$94,779.57	\$499,518.76	\$350.38	\$51,605.97	\$237.66		\$650,226.60
Q. 2- Apr-Jun 2016	\$375,786.10	\$289,951.42	\$20,436,114.61	\$117,006,718.96	\$137,362.03	\$11,741,030.00	\$83,064.03	\$150,070,027.15	
Apr-Jun 2016 A. Fee	\$1,878.93	\$1,449.73	\$102,180.57	\$585,033.60	\$1,037.19	\$58,705.15	\$415.32		\$750,700.49
Q. 3- Jul Sep 2016	\$391,823.59	\$314,752.38	\$20,338,870.03	\$112,680,923.46	\$124,842.49	\$13,588,901.87	\$140,743.24	\$147,580,857.06	
Jul - Sep 2016 A. Fee	\$1,959.12	\$1,573.76	\$101,694.35	\$563,404.62	\$624.21	\$67,944.50	\$703.72		\$737,904.28
Q. 4 Oct-Dec 2016	\$283,221.51	\$326,829.25	\$18,657,288.13	\$98,922,021.81	\$100,539.94	\$14,943,512.52	\$143,681.53	\$133,377,094.69	
Oct-Dec 2016 A. Fee	\$1,416.11	\$1,634.15	\$93,286.44	\$494,610.11	\$502.70	\$74,717.56	\$718.41		\$666,885.48
<b>Total calendar sales year six # 1862</b>								\$561,073,301.75	
<b>Total admn fees year six # 1862</b>									\$2,805,716.85
Quarter	Codale	ConseraWatt	Fastenal	Grainger	Industrial Sply	MSC	No.Coast	Gross SalesTotal	Admn fee Totals
<b>Calendar Year 2017</b>									
Q. 1 Jan-Mar 2017	\$340,174.22	\$319,396.51	\$20,641,807.82	\$99,163,672.67	\$103,924.28	\$10,731,998.81	\$88,062.36	\$131,389,036.67	
Jan-Mar 2017 A. Fee	\$1,700.87	\$1,596.98	\$103,209.04	\$495,818.36	\$519.62	\$53,659.99	\$440.31		\$656,945.17
Q. 2- Apr-Jun 2017	\$389,616.48	\$1,621,069.17	\$21,020,614.09		\$143,350.38	\$11,287,375.20		\$34,462,025.32	
Apr-Jun 2017 A. Fee	\$1,948.08	\$8,105.35	\$105,103.07		\$716.75	\$56,436.88			\$172,310.13
Q. 3- Jul Sep 2017								\$0.00	
Jul - Sep 2017 A. Fee									\$0.00
Q. 4 Oct-Dec 2017								\$0.00	
Oct-Dec 2017 A. Fee									\$0.00
<b>Total calendar sales year seven # 1862</b>								\$165,851,061.99	
<b>Total admn fees year seven # 1862</b>									\$829,255.30

## Attachment D COST PROPOSAL and MARKET BASKET COST PROPOSAL

Offeror must submit cost, prices and rates as required by Attachment D-1, Cost Spread sheets. Prices and rates shall include all anticipated charges, including but not limited to, freight and delivery, cost of materials and product, travel expenses, transaction fees, overhead, profits, and other costs or expenses incidental to the Contractor’s performance.

In addition, Offeror shall complete and submit the below discount information:

### Percentage off list per category

Company Name \_\_\_\_\_

Please provide the percentage off of list pricing for any of the categories Offeror proposes in the table below. The proposed discount percentage must not exceed 4 digits to the right of the decimal point (i.e.10.3729% is acceptable while 10.37292% is not).

Category	Discount
1. Janitorial Equipment & Supplies (does not include Sanitation Cleaning Chemicals)	_____
2. Sanitation Cleaning Chemicals & Supplies (does not include Janitorial Equipment & Supplies)	_____
3. Fasteners	_____
4. Material Handling	_____
5. Plumbing	_____
6. Power Source	_____
7. Outdoor Garden	_____
8. Lamps & Lighting and Ballasts	_____
9. HVAC	_____
10. Hand Tools	_____
11. Power Tools (excluding automotive related tools and products)	_____
12. Electrical	_____
13. Paint	_____
14. Security	_____
15. Safety (does not include any public safety equipment)	_____

**Note: This Price Schedule must be submitted together with Attachment D-1 (Market Basket Pricing Schedule) to the State as a separate, sealed package and clearly marked: “Pricing Proposal in Response to RFP No. DASPS-2183-17” per the Submittal Instructions.**

The Offerors Percentage off list discount will not be reduced throughout the life of the Master Agreement except, Offeror can however provide a higher percentage off list discount by providing the Lead State a thirty (30) day notice and Lead State approving the discount.

## Attachment E OFFEROR INFORMATION AND CERTIFICATION SHEET

This form must be completed and returned with the Proposal in response to Section 2.21 of this RFP. Failure to submit this form with the Proposal may result in disqualification for non-responsiveness.

**1. Offeror Information:**

Offeror/Firm Name (Printed): \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Citizenship, if applicable: Non-resident alien     Yes     No

Business Designation (Check One):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Professional Corporation | <input type="checkbox"/> Partnership                | <input type="checkbox"/> Ltd. Partnership Ltd. |
| <input type="checkbox"/> Liability Company        | <input type="checkbox"/> Ltd. Liability Partnership | <input type="checkbox"/> Sole Proprietorship   |
| <input type="checkbox"/> Other _____              |   |  |

Federal Tax ID #: \_\_\_\_\_

State Tax #: \_\_\_\_\_

Secretary of State Corporations Division Registration #: \_\_\_\_\_

**2. Identify Individual with Authority to Obligate the Offeror Contractually:**

Name/Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**3. Identify Person Authorized to Negotiate the Master Agreement on Behalf of Offeror:**

Name/Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**4. Identify Person Authorized to be Contacted for Clarification of Proposal:**

Name/Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**5. CONTRACTOR CERTIFICATION CLAUSES IN RESPONSE TO RFP**

- a. Offeror understands and accepts the requirements of this RFP. By Proposal submission, the Successful Offeror(s) agree(s) to be bound by the Master Agreement attached hereto as ( Attachment B), as modified by Addendum, except for those terms and conditions that DAS PS has reserved for negotiation in the RFP.
- b. Offeror acknowledges receipt of any and all Addendum to this RFP.
- c. Proposal is **FIRM** for 180 days following the Closing.
- d. If awarded a Master Agreement, Offeror agrees to perform the scope of work and meet the performance standards set forth in the final negotiated scope of work of the Contract.
- e. Offeror does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin. Nor has Offeror or will Offeror discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.
- f. Offeror certifies that, to the best of its knowledge, there exists no actual or potential conflict between the business or economic interests of Offeror, its employees, or its agents, on the one hand, and the business or economic interests of the State, on the other hand, arising out of, or relating in any way to, the subject matter of the RFP. Offeror shall provide prompt written notification to the State of any change occurring with respect to Offeror’s business or interests which is reasonably likely to result in (or has resulted in) an actual or potential conflict between the business or economic interests of the Offeror and those of the State, arising out of, or relating in any way to, the subject matter of the RFP. In its notice, Offeror will describe the nature of such actual or potential conflict of interest or remuneration in question in reasonable detail.

Offeror and Offeror’s employees and agents are not included on the list titled “Specially Designated Nationals and Blocked Persons” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>.

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- g. Offeror certifies that all contents of the Proposal (including any other forms or documentation, if required under this RFP) and this Proposal Certification Sheet, are truthful and accurate and have been prepared independently from all other Offerors, and without collusion, fraud, or other dishonesty. Offeror acknowledges these certifications are in addition to any certifications required in the Master Agreement (Attachment B) at the time of Master Agreement execution.
  
- h. **Participating Entity Only:** While the primary purpose of this RFP is to select one or more contractor(s) who can offer the Parks and Recreation Equipment and Related Services for all Participating States, Offerors are permitted to submit a Proposal for one or more State(s). However, if a Offeror elects to submit a Proposal for one or more State(s), then the Offeror must be willing to supply the entire State and will not be allowed to add additional States following award or at any time during the term of the Master Agreement(s) resulting from this RFP, including all optional renewals. Offerors must propose to all RFP Mandatory Requirements.

**I, the undersigned, certify that I am duly authorized to legally bind the Offeror to the provisions of the RFP and the Master Agreement.**

---

**Authorized Signature**

**Date**

---

**Typed or Printed Name and Title of Signatory**





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5. I understand that disclosure of the information referenced in Exhibit A may depend on official or judicial determinations made in accordance with the Public Records Law.

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Affiant's Signature

Signed and sworn to before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (Affiant's name).

---

Notary Public for the State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**Attachment G**  
**OREGON SAMPLE PARTICIPATING ADDENDUM**  
**PARTICIPATING ADDENDUM NO. \_\_\_\_\_ (“Addendum”) to**

**NASPO VALUEPOINT**  
**FACILITIES MAINTENANCE AND REPAIR & OPERATIONS (MRO), INDUSTRIAL**  
**SUPPLIES**

**Administered by the State of Oregon (hereinafter “Lead State”)**

**Master Agreement No: \_\_\_\_\_**

**(Insert Contractor Name)**  
(Hereinafter “Contractor”)

for

State of Oregon, by and through the Department of Administrative Services, Enterprise Goods  
and Services, Procurement Services  
 (“Participating State”)

On \_\_\_\_\_, the State of Oregon issued an Request for Proposal, #DASPS-2138-17, on behalf of the member states of the NASPO ValuePoint Cooperative Purchasing Program (“NASPO ValuePoint”), and other purchasing entities seeking offers from qualified and responsible proposers to provide Janitorial Equipment & Supplies, Sanitation Cleaning Chemicals & Supplies, Fasteners, Material Handling, Plumbing, Power Sources, Outdoor Garden, Lamps & Lighting and Ballasts, Heating Ventilation Air Conditioning (HVAC), Hand Tools, Power Tools (excluding automotive related tools and products), Electrical, Paint, Security, and Safety (does not include any Public Safety Equipment) \_\_\_\_\_ under executed Master Agreement No. \_\_\_\_\_ (“Master Agreement”), which consists of contract terms and conditions and other attachments.

The State of Oregon (“State” or “Oregon”) is a member of NASPO ValuePoint. The State, by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services (“DAS PS”), on behalf of the State of Oregon and its agencies and the Oregon Cooperative Procurement Program (“ORCPP”) members (collectively “Authorized Purchasers” as defined in Exhibit No. 1), has elected to participate in the Master Agreement, subject to the terms and conditions of this Participating Addendum (“Addendum” or “Participating Addendum”). This Addendum is effective when all necessary approvals have been obtained and signed by the parties (“Effective Date”).

- 1. Scope; Order of Precedence.** This Addendum covers the purchase of Janitorial Equipment & Supplies, Sanitation Cleaning Chemicals & Supplies, Fasteners, Material Handling, Plumbing,

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Power Sources, Outdoor Garden, Lamps & Lighting and Ballasts, Heating Ventilation Air Conditioning (HVAC), Hand Tools, Power Tools (excluding automotive related tools and products), Electrical, Paint, Security, and Safety (does not include any Public Safety Equipment) products available to Authorized Purchasers under the Master Agreement. This Addendum consists of the following documents, which are incorporated herein as part of this Addendum:

- a) Exhibit No. 1 - State Specific Terms and Conditions
- b) Exhibit No. 2 - Insurance
- c) Exhibit No. 3 – Contractor Tax Certification
- d) Exhibit No. 4 - Form of Purchase Order
- e) Exhibit No. 5 – Report form for Vendor Collected Administrative Fee (VCAF)/Volume Sales Report (VSR)

This Addendum contains additional terms and conditions specifically applicable to individual Contracts between Contractor and Authorized Purchasers. In the event of a conflict between the terms and conditions of this Addendum, the Master Agreement and Purchase Orders, the following descending order of precedence applies:

- a) This Addendum, less its exhibits;
- b) Exhibit No. 1 of this Addendum (State Specific Terms and Conditions);
- c) Exhibit No. 2 of this Addendum (Insurance) and Exhibit No. 3 of this Addendum (Contractor Tax Certification);
- d) Exhibit No. 5 (Vendor Collected Administrative Fee (VCAF)/Volume Sales Report (VSR); and
- f) Exhibit No. 4 of this Addendum (Purchase Order).

Nothing in this Addendum limits the Contractor's obligations under the Master Agreement unless otherwise noted herein. If a Contractor obligation in this Addendum conflicts with a Contractor obligation of the Master Agreement, the order of precedence in this Section 1 applies.

**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/entity 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 respective state chief procurement official.

**3. Participating State Modifications or Additions to Master Agreement:**

(These modifications or additions apply only to actions and relationships within the Participating Entity.)

Participating Entity to check one box.

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No changes to the terms and conditions of the Master Agreement are required

In addition to the Exhibits identified above, the following changes are modifying or supplementing the Master Agreement \_\_\_\_ terms and conditions.

**4. Authorized Purchaser - Contractor Selection:**

This Addendum is not exclusive, Authorized Purchasers may acquire the products and services from other contractors. In the event DAS PS awards Addenda to more than one contractor under this solicitation, Authorized Purchasers who are State Agencies shall follow the selection process below.

Authorized Purchasers who are not State Agencies may select the Contractor of the Authorized Purchaser's choice in compliance with applicable statute and rules.

4.1 Contractor Selection Process, Large Purchases. From time to time, Authorized Purchasers (or Purchasing Entities), who are State Agencies, may purchase Products or Services from Contractor or other contractors and shall use one of the following three selection processes for all purchases over \$10,000:

4.1.1 Brand Name Justification

A documented brand name justification in compliance with applicable statute and rule.

OR

4.1.2 Best Value Analysis

Authorized Purchaser may conduct a comparison of the offers based upon a best value analysis. Authorized Purchaser shall:

- Contact at least 3 different Master Agreement Contractors via phone, e-mail or facsimile and request a quote for the anticipated Goods. Quoted rates must not exceed the most competitive rates and discounts set forth in the Master Agreement. However, a Contractor may agree to extend specialized, discounted pricing based on the requirements by providing a specific quote to the Authorized Purchaser.
- Determine which Contractor provides the best value for Authorized Purchaser based on Authorized Purchaser's application of some or all of the following factors:
  - Applicable discounts and incremental pricing options;
  - Shipping costs;
  - Delivery process and service levels;
  - EPP;
  - Applicable warranties;

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- Contractor's past performance record through reference checks;
  - Contractor's service area;
  - Price comparison of the current market value of Good and services similar to the Products;
  - Price comparison to past purchases and the goods similar to the products, taking the inflation rate into account;
  - Cost analysis through an element-by-element examination of the estimated or actual cost of proposed goods to determine whether the supplier's costs are in line with what reasonably economical and efficient performance should cost. Some of the cost elements examined for necessity and reasonableness are materials' costs, labor costs, equipment and overhead;
  - Comparison of pricing to MSRP;
  - Market conditions and competition levels;
  - General economic conditions;
  - Life cycle costing including expected life, salvage value and discounted total cost of ownership.
- Document its procurement files describing the process, considerations, findings, and decisions used for determining the Contractor selected through the Best Value Analysis.

4.1.3 Contractor Selection Process, Small Purchases. For purchases under \$10,000, Authorized Purchaser who are State Agencies may select the Contractor of its choice in compliance with applicable statute and rule.

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

Contractor

Name	
Address	
Telephone	
Fax	
E-mail	

Oregon, Contract Administrator

Name	Shirley A. Smith State of Oregon, Department of Administrative Services, Procurement Services
Address	1255 SE Ferry Street, Salem, OR 97301
Telephone	503-378-5395
Fax	503-373-1626
E-mail	Shirey.Smith@oregon.gov

**6. Subcontractors:** All Contractor dealers and resellers authorized in the State of Oregon, as shown on the dedicated \_\_\_\_\_ (cooperative contract) website, are approved to provide products and service support to Authorized Purchasers. The Contractor’s authorized dealers and reseller’s participation shall be in accordance with the terms and conditions set forth in this Addendum and the Master Agreement.

**7. Orders:** All Purchase Orders issued by Authorized Purchasers must include a reference to the Master Agreement, \_\_\_\_\_, and this Addendum, #\_\_\_\_\_. All valid Purchase Orders issued by Authorized Purchasers are subject to the terms and conditions of this Addendum. All Authorized Purchasers issuing valid purchase orders shall be obligated to pay Contractor for goods and services when the terms of the Purchase Order have been completed and payment has been approved by the Authorized Purchaser.

**8. Tax Compliance:** As set forth on Exhibit No. 3, Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Contractor shall, throughout the duration of this Addendum and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, “tax laws” includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any violation of this Section 8 constitutes a material breach of this addendum and any contract issued under this Addendum. Further, any violation of Contractor’s warranty set forth in Exhibit No. 3 also shall constitute a material breach of this Addendum and any Contract issued under this Addendum. Any violation shall entitle DASPS or Authorized Purchaser to terminate this Addendum or the applicable Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Addendum or the

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applicable Contract, and to pursue any or all of the remedies available under this Addendum, a Contract, at law, or in equity, including but not limited to:

Termination of this Addendum or the applicable Contract, in whole or in part; Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Authorized Purchaser's setoff right, without penalty; and Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. DASPS or Authorized Purchaser may recover any and all damages suffered as the result of Contractor's breach of this Addendum or the applicable Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Goods or Services or both.

These remedies are cumulative to the extent the remedies are not inconsistent, and DASPS or Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- 8. Participating Addendum Integration:** This Addendum and the Master Agreement set forth the entire agreement between Contractor and Participating State with respect to the subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein. Any attempt to modify or add or incorporate terms and conditions inconsistent with, and contrary to, the terms and conditions of this Addendum and the Master Agreement through a Contract or other document is null and void and hereby rejected. The terms and conditions of this Addendum and the Master Agreement shall prevail and govern in case of any attempted modifications or inconsistent terms.

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

Participating State: STATE OF OREGON, acting by and through the Department of Administrative Services	Contractor:
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:
Approved Pursuant to ORS 291.047 By: _____ Date: _____ Sr. Assistant Attorney General	FEID:



## EXHIBIT NO. 1

### Changes to Master Agreement State-Specific Constitutional, Statutory and Other Requirements

**1. Definitions.** The following terms have the meanings set forth below. Capitalized terms not defined in this Addendum have the meaning ascribed to them in the Master Agreement and its exhibits.

“Authorized Purchaser” means an agency of the State of Oregon or any ORCPP member that submits a Purchase Order to Contractor.

“DAS PS” means the State of Oregon acting by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services.

“ORCPP” means the Oregon Cooperative Purchasing Program Members, which recognizes certain agencies and organizations within the State of Oregon as authorized to purchase the goods and services available under a price agreement entered into by the State.

“Master Agreement” means the State of Oregon Master Agreement # \_\_\_\_\_ between Contractor and the State of Oregon, on behalf of the member states of the National Association of State Procurement Officials and the NASPO ValuePoint, and its attachments, which together with this Addendum sets forth terms, conditions and requirements for purchase by Authorized Purchasers of the goods and services described therein.

“Purchase Order” means the purchase order document / order document submitted to Contractor by an Authorized Purchaser that incorporates this Addendum by reference and specifies the quantity and type of goods or services that Contractor will provide to the Authorized Purchaser under the terms of the Master Agreement and this Addendum.

“State” for the purposes of this Participating Addendum, means the State of Oregon.

## **2. Purchase Orders.**

**2.1 Purchase Orders.** Authorized Purchasers may use their own forms for Purchase Orders. State agencies may also use the general State-approved Purchase Order referencing the Master Agreement Number, substantially in the form attached hereto as Exhibit No. 4. To the extent that the terms of any form differ from the terms of this Addendum, the terms of this Addendum supersede such contrary terms. Each Purchase Order from an Authorized Purchaser that is not a State agency must contain, on the front page, the following language:

**THIS PURCHASE IS PLACED AGAINST THE STATE OF OREGON MASTER AGREEMENT NO. \_\_\_\_\_ THE TERMS AND CONDITIONS OF THE MASTER AGREEMENT AND THE ASSOCIATED PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, CONTRACT NO. \_\_\_\_\_ APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.**

**2.2 Effect of Purchase Orders.** The State is only liable for purchases made by State of Oregon agencies that issue Purchase Orders. Other Authorized Purchasers are responsible for any purchases under Purchase Orders they issue. The State expressly disclaims any liability for purchases made by non-State agency Authorized Purchasers or any other entity.

**2.3 Verification of Authorized Purchasers.** Contractor shall verify that it provides goods and services under this Addendum only to Authorized Purchasers. Contractor may verify that a particular entity is an ORCPP member on-line at

<http://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx> or by using the Oregon Procurement Information Network (ORPIN) at <http://orpin.oregon.gov/open.dll/welcome>.

**3. Payment Provisions; Buy Down Incentive Program.** All payments are subject to ORS 293.462.

In addition to the prices or discounts offered in the Master Agreements, the State of Oregon may wish to participate with Contractors for specific energy efficient products and addition discounts that may be offered by the Energy Trust of Oregon for the Buy Down incentive program. The Buy Down incentive program provides instant pricing discounts for specific energy efficient products. Initially participation in the Buy Down program may be limited to State Agencies Authorized Purchasers **ONLY**, but DAS PS may elect to include other Authorized Purchasers (ORCPP members) if eligible for Energy Trust's Buy Down program at a later date. An Authorized Purchaser's participation will be subject to Energy Trust's terms and conditions and must include the Efficient Lighting Instant Incentives form "PI 190ELI currently v01."

**Authorized Purchasers make note: 3.3 of current PI 190ELI v01 which states:**

"Energy Trust may include some or all of the following information in reports or other documentation submitted to the Energy Trust Board of Directors, the Oregon Public Utility Commission, the Oregon Legislature or such State of Oregon agencies as necessary to meet Energy Trust responsibilities: Purchaser's name, city or county of business, a description of any Energy Trust services or incentives provided, or any resulting energy-savings or generation."

"Purchaser will be installing the Promotion-qualifying lighting products at an existing building site receiving electric service from Portland General Electric or Pacific Power where the State owns the site or Purchaser otherwise has authority to perform the installation at the site..."

**4. Funds available and authorized/non-appropriation.** The State of Oregon's and its agencies' payment obligations under this Addendum are conditioned upon Authorized Purchaser's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment

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obligations under any Purchase Order issued under this Addendum. Contractor is not entitled to receive payment under this Addendum or any Purchase Order from any part of Oregon state government other than Authorized Purchaser. Nothing in this Addendum or Purchase Order is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Authorized Purchaser represents that it has sufficient appropriations and limitation for the current biennium to make payments under any Purchase Order issued under this Addendum.

### **5. Volume Sales Reports (VSRs) / Vendor Collected Administrative Fee (VCAF)**

#### **5.1 Volume Sales Reports (VSRs):**

**5.1.1** Contractor shall submit a Volume Sales Report (VSR), in the form attached hereto as Exhibit No. 5, no later than thirty (30) calendar days from the end of each calendar quarter, which contains:

Complete and accurate details of all receipts (sales and refunds) for the reported period:

- The information as identified in the DAS PS document titled Volume Sales Report Template - Data Requirement, Format and Layout (Exhibit 5); and
- Such other information as DAS PS may reasonably request.

Contractor shall send a VSR to DAS PS each quarter, whether or not there are sales. When no sales have been recorded for the quarter a report must be submitted stating “No Sales for the Quarter.”

**5.1.2** Data Medium and Delivery Medium: Contractor shall provide VSRs in MS Excel (.xls) format. VSRs must be submitted by e-mail. Delivered print outs of VSRs are not acceptable. Hard copies of VSRs on CDs are only acceptable if the size of the file precludes transmission by email. Approval from the Contract Administrator must be obtained for deviations from these requirements.

**5.1.3** Receipt/Acceptance: The first VSR submitted by the Contractor must be submitted to the DAS PS Contract Administrator for review and approval. Approved first VSRs and subsequent VSRs must be submitted to [vcaf.reporting@state.or.us](mailto:vcaf.reporting@state.or.us). A separate section follows describing the administrative charge if it is applicable. The Contract Administrator's receipt or acceptance of any of the VSRs furnished pursuant to this Price Agreement shall not preclude DAS PS from challenging the validity thereof at any time.

**5.1.4** DAS PS reserves the right to terminate this price agreement if volume sales reports are not received as scheduled on in the prescribed format.

#### **5.2 Vendor Collected Administrative Fee (VCAF):**

##### **5.2.1 Vendor Collected Administrative Fee (VCAF) PERCENTAGE:**

The Vendor Collected Administrative Fee (VCAF), is a charge equal to Two Percent (2.0 %) of

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Contractor's Gross total sales, less any credits, made to Authorized Purchasers during the calendar quarter.

**5.2.2 VCAF Amount / Payment Due Date:** During the term of this Price Agreement and for the sales during the last calendar quarter of the term of this Price Agreement, the Contractor shall remit VCAF payment to DAS PS within forty-five (45) calendar days after the end of each calendar quarter.

**5.2.3** Contractors may not reflect the VCAF fee as a separate line item charge to Authorized Purchasers. Contractor's proposed prices shall reflect all Contractor's charges to Authorized Purchasers. For the purposes of this Price Agreement, quarters end March 31, June 30, September 30, and December 31. DAS PS will invoice the Contractor for the VCAF on a State generated invoice from the information submitted on the VSR. Contractor is responsible for timely reporting and payment, regardless of entity that actually reports or makes VCAF payment to DAS PS.

**5.2.3.1 Payment Format:** The fee shall be in the form of a check remitted to:

State of Oregon  
Department of Administrative Services  
Attn: Shared Financial Services/PS  
155 Cottage Street NE  
Salem, Oregon 97301

Any other form of payment must be specifically approved by the Contract Administrator.

**5.2.3.2 Interest:** Any payments Contractor makes or causes to be made to DAS PS after the due date as indicated on the invoice shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS PS's right to interest on late payments shall not preclude DAS PS from exercising any of its other rights or remedies pursuant to this Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.

**5.3 Audit:** DAS PS, as its own expense (except as provided herein), shall have the right during regular business hours, at Contractor's premises, and upon reasonable notice, by itself or by a person authorized by it, to audit Contractor's Records, as defined herein, and other pertinent data, to determine and verify the figures reported in any VSRs furnished by Contractor. In the event that any such audit reveals underpayment of administrative fees, Contractor shall immediately pay the amount of deficiency, together with interest thereon at the rate provided in Section 5.2.3.2. At DAS PS'S request, Contractor shall pay the reasonable cost of an audit, but only if such audit reveals that an underpayment may exist as determined by DASPS.

**5.4 Limitation of Liability:** Contractor acknowledges and agrees that the State shall bear no liability on Purchase Orders entered into for purchases by non-State Agencies, which liability the State expressly disclaims. With regard to non-State Agencies, Contractor agrees to look solely to the respective contracting party for any rights and remedies Contractor may have at law or in equity arising out of the sale and purchase of Contractor's Goods or Services and the resulting contractual relationship, if any, with each such contracting party.

**6. Warranties.** Authorized Purchasers are entitled to the warranties, rights, remedies, and benefits under the Master Agreement, including but not limited to those set forth in Section 18, and this Addendum for any purchases made by such Authorized Purchasers pursuant to Purchase Orders. Without limiting the generality of the warranty provisions of the Master Agreement, Contractor represents and warrants to Authorized Purchaser that:

**6.1.** Contractor has the power and authority to enter into and perform this Addendum and that this Addendum, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms;

**6.2** All Services to be performed under this Addendum will be performed in accordance with the highest applicable professional or industry standards, and that only workmanship of the first quality shall be employed in the performance of this Addendum;

**6.3.** Contractor shall transfer to Authorized Purchaser all manufacturer warranties covering Goods or Products, if any at time of delivery at no charge, and

**6.4.** All Goods or Products, if any, are free and clear of any liens or encumbrances, and that Contractor has full legal title to such Goods or Products, and that no other person has any right, title or interest in the Goods or Products which is superior to or infringe upon the rights granted to Authorized Purchaser hereunder.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Master Agreement. All warranties provided in this Addendum are cumulative and will be interpreted expansively so as to afford Authorized Purchaser the broadest warranty protection available.

## **7. Indemnities.**

**7.1 General Indemnity.** Contractor will defend, save, hold harmless and indemnify the Authorized Purchaser and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the activities of Contractor or its officers, employees, subcontractors or agents under the Addendum.

**7.2 Infringement Indemnity.** Contractor will, at Contractor's sole expense, defend, save, hold harmless and indemnify Authorized Purchasers and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against any and all costs, damages, attorneys' fees, and any and all costs incurred in any settlement negotiation or final settlement agreement resulting from, relating to, or arising out of a claim that any aspect of the goods or services furnished under a Purchase Order infringes a patent, utility model, industrial design, copyright, mask work, trademark, trade dress, or any other legally cognizable intellectual property right of any third party (an "Infringement Claim").

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**7.3 Participation.** Control of Defense and Settlement. Contractor's obligation to indemnify Authorized Purchaser as set forth in Sections 7.1 and 7.2 is conditioned on Authorized Purchaser providing to Contractor prompt notification of any claim or potential claim of which Authorized Purchaser becomes aware that may be the subject of those Sections. Contractor shall have control of the defense and settlement of any claim that is subject to Section 7.1 or Section 7.2; however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of Oregon or any Authorized Purchaser of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

**7.4 Remedies.** If any goods or services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if an Authorized Purchaser is prevented from exercising its rights under this Addendum based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, procure for the Authorized Purchaser the right to continue using the allegedly infringing goods or services, or replace or modify the goods or services so that they become non-infringing; provided that the replacement or modified good or service meets the specifications set forth in the applicable Purchase Order to the satisfaction of the Authorized Purchaser. If the foregoing remedies are not available, then Authorized Purchaser will return the allegedly infringing goods or terminate the allegedly infringing services, and Contractor will refund Authorized Purchaser's payments, in full, for the allegedly infringing goods or services.

## **8. Term and Termination of Participating Addendum.**

**8.1 Term.** This Addendum remains in effect until the earlier of (a) the expiration or termination of the Master Agreement, or (b) termination of this Addendum in accordance with its terms.

**8.2 Termination.** DAS PS may terminate this Addendum, in whole or in part, at any time upon thirty (30) days prior notice to Contractor. In addition, DAS PS may terminate this Addendum, in whole or in part, immediately upon notice to Contractor, or at such later date as DAS PS may establish in such notice, for any reason, or upon the occurrence of any of the following events:

8.2.1 State fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Addendum; or

8.2.2 Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under this Addendum is prohibited or the State is prohibited from paying for such goods from the planned funding source.

Upon receipt of written notice of termination, Contractor will stop performance under all Purchase Orders as directed by State.

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**8.3** Termination under any provision of this Addendum does not extinguish or prejudice State's or an Authorized Purchaser's right to enforce this Addendum or a Purchase Order with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of the State or an Authorized Purchaser to indemnification by Contractor. If this Addendum or a Purchase Order is so terminated, the State or an Authorized Purchaser will pay Contractor in accordance with the terms of this Addendum for goods delivered and accepted by the Authorized Purchaser.

## **9. Termination of Individual Purchase Orders.**

**9.1** Individual Purchase Orders may be terminated at any time by written consent of Authorized Purchaser and Contractor or Authorized Purchaser may, at its sole discretion, terminate individual Purchase Orders, in whole or in part, upon 30 days written notice to Contractor.

**9.2** Authorized Purchaser may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:

9.2.1 Authorized Purchaser fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Purchase Order;

9.2.2 Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or Authorized Purchaser is prohibited from paying for such goods from the planned funding source; or

9.2.3 Contractor commits any material breach of this Addendum or a Purchase Order.

**9.3** Upon receipt of written notice of termination, Contractor will stop performance under the Purchase Order as directed by Authorized Purchaser.

**9.4** Termination of a Purchase Order does not extinguish or prejudice Authorized Purchaser's right to enforce the Purchase Order with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of Authorized Purchaser to indemnification by Contractor. In addition, termination of a Purchase Order does not extinguish or prejudice Authorized Purchaser's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this Addendum. If a Purchase Order is so terminated, Authorized Purchaser will pay Contractor in accordance with the terms of this Addendum for goods delivered and accepted by Authorized Purchaser.

**10. Compliance with Law.** Contractor will comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Work under this Addendum or any Purchase Order, and an Authorized Purchaser's performance under a Purchase Order is conditioned on Contractor's compliance with the provisions of ORS 279B.220, 279B.235, 279B.230. and 279B.270. In addition, Contractor warrants goods and services provided under this Addendum will comply with all

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federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Division. Contractor also agrees to comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section v of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659.425, (d) all regulations and administrative rules established pursuant to the foregoing laws and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**11. Application of Public Records Law.** Contractor acknowledges that any disclosures Contractor makes to Authorized Purchaser under this Addendum are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.410 – 192.505, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 – 192.710, and of ORS 646.461 - 646.475. The non-disclosure of documents or of any portion of a document submitted by Contractor to Authorized Purchaser may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to Authorized Purchaser's release of documents to Entities other than participating agencies or other State agencies. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested documents, at its own expense,

**12. Recycled Products.** Contractor will use, to the maximum extent economically feasible in the performance of this Addendum or any Purchase Order, recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

**13. Notices.** Except as otherwise provided in a Purchase Order, any formal communications between the parties to or notices to be given under a Purchase Order will be given in writing by personal delivery of a facsimile transmission or the notice or mailing the notice, postage prepaid, at the address or number set forth on the Purchase Order. Any communication so addressed and mailed will be deemed to have been received five (5) calendar days after mailing. Any communication delivered by facsimile will be deemed to be given when a confirming report for the transmission is generated by the transmitting machine. To be effective against the receiving party, such facsimile transmission must be confirmed by telephone notice to the receiving party's authorized representative, as set forth in the Purchase Order. Any communication or notice by personal delivery will be deemed to be given when actually received by the appropriate authorized representative.

As between Contractor and State with respect to this Addendum, the Primary Contacts of Contractor and State are set forth above.

**14. Governing Law.** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Addendum and resulting Purchase Orders, including, without limitation, their validity, interpretation, construction, performance, and enforcement.

**15. Jurisdiction and Venue.** Any claim, action, suit or proceeding (collectively, "Claim") between State or any other agency or department of the State of Oregon, and Contractor, that arises from or relates to this Addendum or a Purchase Order under this Addendum, will be brought and conducted solely and exclusively in the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively in the United States District Court of the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS



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ADDENDUMOR ACCEPTANCE OF A PURCHASE ORDER SUBMITTED PURSUANT TO THIS ADDENDUM HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of the State of Oregon's sovereign immunity with respect to any Claim, whether brought under State or Federal law, or consent to jurisdiction in State or Federal Court.

Any Claims between Contractor and an Authorized Purchaser other than the State of Oregon or State agency that arise from or are related to individual Purchase Orders or this Addendum will be brought and conducted solely and exclusively within the Circuit Court of the county in the State of Oregon in which such Authorized Purchaser resides or has its principal office, or at Authorized Purchaser's option, within such other county as Authorized Purchaser will be entitled to proceed under the venue laws of Oregon to bring or defend Claims. If any such Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**16. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon as of the effective date of this Addendum, Contractor will promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Addendum or any Purchase Order. An Authorized Purchaser may withhold final payment under a Purchase Order until Contractor has provided the Oregon Department of Revenue with the required information.

**17. Merger Clause; Waiver.** This Addendum, including the Master Agreement and the exhibits attached to this Addendum, constitutes the entire agreement between the parties on the subject matter hereof, and supersede all prior agreements, oral or written. There are no understandings, agreements, or representations, oral or written, between these parties that are not specified in this Addendum. No waiver, consent, modification or change of terms of this Addendum binds either party unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made is effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Addendum does not constitute a waiver by the State of that or any other provision.

**18. Independent Contractor.** Contractor shall act at all times as an independent contractor and not as an agent or employee of Authorized Purchaser. Contractor has no right or authority to incur or create any obligation for or legally bind Authorized Purchaser in any way. Contractor is not an "officer", "employee", or "agent" of Authorized Purchaser (or any other agency, office, or department of the State of Oregon), as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither party shall make any statements, representations, nor commitments of any kind or to take any action binding on the other except as provided for herein or authorized in writing by the party to be bound.

**19. Access to Records.** Contractor will maintain all fiscal records relating to Purchase Orders in accordance with generally accepted accounting principles and will maintain any other records relating to Purchase Orders in such a manner as to clearly document Contractor's performance thereunder. The Authorized Purchaser, the State and its agencies, the Oregon Secretary of State Audits Division and their duly authorized representatives will have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this Addendum to perform examination and audits and make excerpts and transcripts. To the extent provided by law, the federal government will be entitled

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to the same access as the State of Oregon and Authorized Purchasers. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six years, or such longer period as may be required by applicable law following final payment and termination of this Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum, whichever date is later.

**20. Severability.** If any term or provision of this Addendum is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Addendum did not contain the particular term or provision held to be invalid.

**21. Survival.** Any terms of this Addendum, which by their nature are intended to survive termination or expiration including but not limited to warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, termination and remedies provisions survive the termination or expiration of this Addendum.

**22. Insurance.** Within ten (10) days of the Effective Date, Contractor must provide insurance as set forth on Exhibit No. 2. No Purchase Orders may be placed or accepted until proof is provided that these requirements have been met.

**22. Amendments.** This Addendum may be modified in writing once agreed to and signed by all parties.

**Exhibit No. 2 -  
INSURANCE**

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit No. 2 prior to performing under this Addendum and shall maintain it in full force and at its own expense throughout the duration of this Addendum and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in State and that are acceptable to DAS PS. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Contractor shall pay for all deductibles, self-insured retention and self- insurance, if any.

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, shall provide workers' compensation insurance as required by applicable workers' compensation laws for persons performing work under this Addendum including Employers' Liability Insurance with limits not less than \$500,000 each accident. Contractor shall require and ensure that each of its subcontractors complies with these requirements.

**COMMERCIAL GENERAL LIABILITY:**

Required by DAS PS  Not required by DAS PS.

Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.00.

**AUTOMOBILE LIABILITY INSURANCE:**

Required by DAS PS  Not required by DAS PS.

Automobile Liability Insurance covering all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage.

**PROFESSIONAL LIABILITY:**

Required by DAS PS  Not required by DAS PS.

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Addendum in an amount not less than \$ per occurrence. Annual aggregate limit shall not be less than \$. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**ADDITIONAL INSURED:**

The Commercial General Liability insurance and Automobile Liability insurance required under this Addendum shall include the State of Oregon, its officers, employees and agents as Additional

**Insureds but only with respect to Contractor's activities to be performed under this Addendum.**

**TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Addendum, for a minimum of 24 months following the later of (i) Contractor's completion and DAS PS's acceptance of all Services required under this Addendum, or, (ii) The expiration of all warranty periods provided under this Addendum.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Contractor shall provide to DAS PS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Addendum. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as Additional Insured, specify that Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage shall be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least 24 months is provided on all claims made policies or that tail coverage is provided. As proof of insurance DAS PS has the right to request copies of insurance policies relating to the insurance requirements in this Addendum.

**NOTICE OF CHANGE OR CANCELLATION:**

The contractor or its insurer must provide at least 30 days' written notice to DAS PS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by DAS PS under this Addendum and to provide updated requirements as mutually agreed upon by Contractor and DAS PS.

**INTENTIONALLY LEFT BLANK**

**EXHIBIT NO. 3**

**CONTRACTOR TAX CERTIFICATION**

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

1. The number shown on this form is Contractor's correct taxpayer identification;

Federal Tax Number \_\_\_\_\_

Oregon Tax Number \_\_\_\_\_

2. Contractor is not subject to backup withholding because:

- (i) Contractor is exempt from backup withholding,
- (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or
- (iii) The IRS has notified Contractor that Contractor is no longer subject to backup withholding.

3. S/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes,

4. For a period of no fewer than six calendar years preceding the Effective Date of this Addendum and any Contract, Contractor faithfully has complied with:

- (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- (ii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- (iii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

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Contractor: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT NO. 4  
SAMPLE PURCHASE ORDER**

	STATE OF OREGON	PURCHASE ORDER (PO) NO.	PAGE #		
Authorized Purchaser's Authorized Representative		Purchase Order Date	Requisition No.		
Contractor Name and Address		Authorized Purchaser's Invoicing Address			
Contractor FEIN	Price Agreement number MA #XXXX, PA#XXXX	Authorized Purchaser's Authorized Representative Email Address			
Deliver to Address		Authorized Purchaser's Authorized Representative Phone and Fax Number			
		Delivery Schedule or Delivery Date			
Item	Description	Quantity	U/M	Unit Price	Net Price
				<b>Sub Total</b>	
				<b>Freight</b>	
				<b>Total</b>	
This Purchase Order is subject to Master Agreement #XXXX, and Participating Addendum #XXXX. The terms and conditions contained in the Participating Addendum apply to this purchase and take precedence over all other conflicting terms and conditions, express or implied. There are no understandings, agreements or representations, oral or written, not specified herein.					
Authorized Purchaser's Authorized Representative to Make Purchase				Date	





## **Attachment H**

### **COBID CERTIFIED FIRM / OUTREACH PLAN**

**“Certified Firm”** means a small business certified under ORS 200.055 by the Oregon Certification Office for Business Inclusion and Diversity (“COBID”) as “disadvantaged business enterprise”, “minority-owned business”, “woman-owned business”, “emerging small business” or “business that a service-disabled veteran owns”.

#### **Certified Firm Participation**

As noted in Governor Kitzhaber’s Executive Order 12-03: “Minority-owned and Woman-owned businesses continue to be a dynamic and fast-growing sector of the Oregon economy. Oregon is committed to creating an environment that supports the ingenuity and industriousness of Oregon’s Minority Business Enterprise [“MBE”] and Woman Business Enterprise [“WBE”]. Emerging Small Business [“ESB”], Disabled Veteran [“DV”], and Disadvantaged Business Enterprise [“DBE”] firms are also an important sector of the state’s economy.”

In 2015, HB 3303 revised ORS 200.055 to add “a business that a service-disabled veteran owns” as a business type that may apply to COBID for certification. Contracting agencies shall aggressively pursue a policy of providing opportunities to Certified Small Businesses (hereinafter “Certified Firms”) according to ORS 200.090. As such, Oregon Certified firms must have an equal opportunity to participate in the performance of contracts financed with state funds. By submitting its offer, Offeror certifies that it will take reasonable steps to ensure that Certified Firms are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement. Offeror further certifies and agrees that it has not discriminated and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin, and it has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business certified under ORS 200.055.

If there may be opportunities for subcontractors to work on the project, it is the expectation of the DAS and NASPO ValuePoint and its Purchasing Entities that the Offeror will take reasonable steps to ensure that Certified Firms are provided an equal opportunity to compete for and participate in the performance of any contract and/or subcontracts resulting from this procurement.

Following opening of bids and prior to Contract Award, the Offeror with the apparent highest scoring Proposal or lowest Bid must provide, within five days of Notice of Intent to Award, a Certified Firms Outreach Plan using the form on the following page. The information submitted in response to this clause will not be considered in any scored evaluation and no evaluative points will be assigned to the information.

**Certified Small Business Outreach Plan**

1. Is Offeror an Oregon Certified Firm? Yes  No

If yes, indicate all certification type(s): MBE  WBE  ESB  DBE  DV

Oregon State Certification number: \_\_\_\_\_

2. Does Offeror foresee any subcontracting opportunities for this procurement? Yes   
No

***If no, do not complete the rest of this form.***

3. The Offeror shall provide a narrative description of its experience in obtaining Certified Firms participation as subcontractors, consultants or suppliers on previous projects, and discuss any innovative or particularly successful measures that the Offeror has undertaken. The Offeror shall include a list of those certified firms with which it has had a contractual relationship during the past 24 months immediately preceding the date this solicitation document was issued. If none, mark the following checkbox:  ***No prior experience obtaining participation from Certified Firms.***

4. The Offeror shall provide examples where Certified Firms participation was achieved, along with information on Certified Firms subcontracting participation levels for up to three projects/contracts that the Offeror is either currently performing or has completed within the past 24 months immediately preceding the date this solicitation document was issued. Certified Firms participation should be described as the percentage of the dollar value of subcontracts and material or supply contracts awarded to Certified Firms as compared with the total dollar value of subcontracts and material or supply contracts let for each identified project or contract. The Offeror shall describe any technical assistance or mentoring the firm provided to Certified Firms subcontracting on each project. If none, mark the following checkbox:  ***No prior experience obtaining participation from Certified Firms.***

**Project 1**

**Name** \_\_\_\_\_

Award Date \_\_\_/\_\_\_/\_\_\_ Completion Date \_\_\_/\_\_\_/\_\_\_ Contract Award Amount \$ \_\_\_\_\_

Certified Firms goal percentage, if applicable \_\_\_\_\_% Certified Firms achievement percentage \_\_\_\_\_%

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Certified Firms Subcontract Award Amount \$ \_\_\_\_\_ Certified Firms Spend Achieved \$ \_\_\_\_\_

Describe any technical assistance or mentoring provided to MWESB firms subcontracting on this project.

**Project 2**

**Name** \_\_\_\_\_

Award Date \_\_\_/\_\_\_/\_\_\_ Completion Date \_\_\_/\_\_\_/\_\_\_ Contract Award Amount \$ \_\_\_\_\_

Certified Firms goal percentage, if applicable \_\_\_\_\_% Certified Firms achievement percentage \_\_\_\_\_%

Certified Firms Subcontract Award Amount \$ \_\_\_\_\_ Certified Firms Spend Achieved \$ \_\_\_\_\_

Describe any technical assistance or mentoring provided to Certified Firms subcontracting on this project.

**Project 3**

**Name** \_\_\_\_\_

Award Date \_\_\_/\_\_\_/\_\_\_ Completion Date \_\_\_/\_\_\_/\_\_\_ Contract Award Amount \$ \_\_\_\_\_

Certified Firms goal percentage, if applicable \_\_\_\_\_% Certified Firms achievement percentage \_\_\_\_\_%

Certified Firms Subcontract Award Amount \$ \_\_\_\_\_ Certified Firms Spend Achieved \$ \_\_\_\_\_

Describe any technical assistance or mentoring provided to Firms subcontracting on this project.

5. If the total cost of the awarded contract is expected to be greater than \$10,000.00, the

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Offeror shall describe the outreach and subcontracting plan it will use, if awarded the contract, to provide Oregon Certified Firms certified firms an equal opportunity to perform any subcontracts under the contract. The plan must be realistic and based on Offeror’s successful past experience. If Offeror has no previous outreach experience, the Offeror shall describe the outreach plan it intends to use if awarded the contract.

The Offeror must include the following in its plan:

- i. A description of the steps that the Offeror will take to solicit Certified Firms participation;
- ii. A description of the mentoring, technical or other business development assistance the Offeror will provide to subcontractors needing or requesting such services.

If awarded the contract, the Offeror must accept, as contract performance obligations, the outreach and subcontracting plan described in this section. ***If certified firms are unavailable for type of work to be performed, please indicate in this section.***

Company Name:

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Authorized Signature: \_\_\_\_\_

Date: \_\_\_/\_\_\_/\_\_\_

Name of Authorized Representative:

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Title:

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**Attachments I - O  
ADDITIONAL PARTICIPATING STATES TERMS AND  
CONDITIONS**