

NEW

State of Maine**Master Agreement****Effective Date:** 05/01/19**Expiration Date:** 04/30/22**Master Agreement Description:** NASPO ValuePoint Car Seat Contract-M2002**Buyer Information**

Donny Crockett 207-624-7336 ext. Donny.Crockett@maine.gov

Issuer Information

ANGELA ROBERTS 207-626-3840 ext. angela.roberts@maine.gov

Requestor Information

James Tanner 207-626-3840 ext. james.t.tanner@maine.gov

Authorized Departments16A PUBLIC SAFETY
10A DEPT OF HUMAN SERVICES**Vendor Information****Vendor Line #:** 1**Vendor ID**

VS0000002695

Vendor Name

EVENFLO CO, INC

Alias/DBA

EVENFLO

Vendor Address InformationPO BOX 1046
188 COUNTY RD 230
CULLMAN, AL 35056-1046
US**Vendor Contact Information**

Patsy Pilcher

800-768-6077 ext.

evenflosales@worldsafe.net

Commodity Information

Vendor Line #: 1

Vendor Name: EVENFLO CO, INC

Commodity Line #: 1

Commodity Code: 05513

Commodity Description: NASPO ValuePoint Car Seat Contract

Commodity Specifications: PO is subject to NASPO ValuePoint Contract # M2002, NJ Master Agreement #: 19-GNSV1-00685. Prices in catalog file include freight.

Commodity Extended Description: Car Seats as per the specifications attached and made part of this MA. NOTE-Must order case quantity

Quantity 0.00000	UOM	Unit Price \$0.00
Delivery Days 10	Free on Board	
Contract Amount \$0.00	Service Start Date	Service End Date
Catalog Name EVENFLO	Discount 0.0000 %	
	Discount Start Date 05/01/19	Discount End Date 04/30/22

Terms and Conditions

Agreement Terms and Conditions

T&C #: 165

T&C Name: Payment Terms

T&C Details: Net 30

CHILD SAFETY SEATS
Led by the State of **New Jersey**

Master Agreement #: 19-GNSV1-00685

Contractor: **EVENFLO COMPANY, INC.**

Participating Entity: **STATE OF MAINE**

Master Agreement #: **MA18P19042300000000000161**

The following products or services are included in this contract portfolio:

- *All products and accessories listed on the Contractor page of the NASPO ValuePoint website.*

Master Agreement Terms and Conditions:

1. Scope: This addendum covers Child Safety Seats led by the State of *New Jersey* 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.
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 Maine. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Patsy Pilcher
Address:	PO Box 1046, Cullman, AL 35056
Telephone:	800-768-6077
Fax:	800-382-4565
Email:	evenflosales@worldsafe.net



CHILD SAFETY SEATS
Led by the State of New Jersey

Participating Entity

Name:	Donny Crockett
Address:	9 State House Station, Augusta, ME 04333-0009
Telephone:	207-624-7336
Fax:	207-287-6578
Email:	Donny.Crockett@Maine.gov

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.

i. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this contract, the Contractor agrees as follows.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include, but not be limited to, the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

C. The Contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of

CHILD SAFETY SEATS
Led by the State of New Jersey

the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.

D. The Contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

E. Contractors and subcontractors with contracts in excess of \$50,000 will also pursue in good faith affirmative action programs.

- ii. **GOVERNING LAW.** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine.
- iii. **STATE HELD HARMLESS.** The contractor shall release, protect, indemnify and hold NASPO Value Point and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.
- iv. **NON-APPROPRIATION.** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

5. Lease Agreements: N/A

6. Subcontractors: N/A

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.



CHILD SAFETY SEATS
 Led by the State of New Jersey

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

Participating Entity: State of Maine, Div. of Procurement Services	Contractor: Evenflo Company Inc.
Signature: 	Signature: 
Name: Donny Crockett	Name: Patsy Pilcher
Title: Procurement Analyst II	Title: Account Manager
Date: 4/25/2019	Date: 4-24-2019

[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:	Tim Hay
Telephone:	503-428-5705
Email:	thay@naspovaluepoint.org

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

VENDOR CUSTOMER CODE	SUPPLIER PART	SUPPLIER NAME	COMMODITY CODE	ITEM DESCRIPTION	EXTENDED DESCRIPTION	UNIT OF MEASURE	LIST PRICE	DELIVERY DAYS
VS0000002695	30512061	Evenflo	05513	LiteMax Infant 4-35lbs	(1 per case) w/lock-off base, multiple hip & crotch adjust	cart	\$73.43	10
VS0000002695	30511930	Evenflo	05513	SafeMax Infant 4-35lbs	(1 per case) w/lock-off base, multiple hip & crotch adjust, rebound bar	cart	\$128.29	10
VS0000002695	3152198	Evenflo	05513	Embrace 35 Infant 4-35 lb	(1 per case) w/ Up Front Adjust, with Recline Leg	cart	\$67.20	10
VS0000002695	30512167	Evenflo	05513	LiteMax Advance w/SensorSafe 4-35lbs	(1 per case) w/lock-off base, multiple hip & crotch adjust, SensorSafe technology alerts caregiver	cart	\$112.48	10
VS0000002695	3712198	Evenflo	05513	SureRide/ Titan 65 Convertible 5-65 lb	(2 per case) with body & head pillows	cart	\$124.20	10
VS0000002695	38312037	Evenflo	05513	Stratos LX Convertible 5-65lbs	(1 per case) RF to 40lbs, 6 harness heights	cart	\$92.65	10
VS0000002695	38311770	Evenflo	05513	Stratos w/Sensor Safe Convertible 5-65lbs	(1 per case) RF to 40lbs, 6 harness heights, SensorSafe technology alerts caregiver that child in seat	cart	\$112.48	10
VS0000002695	38211712	Evenflo	05513	Triumph Convertible	(1 per case) no rethread Harness, 6-65lbs, RF to 40lbs	cart	\$112.43	10
VS0000002695	34511557	Evenflo	05513	Symphony LX All-In-One 5-65lbs	(1 per case) no rethread harness, 110lbs booster	cart	\$131.84	10
VS0000002695	39212238	Evenflo	05513	EveryStage LX All-in-One 4-65lbs	(1 per case) no rethread harness, 120lb booster	cart	\$138.59	10
VS0000002695	38711930	Evenflo	05513	SafeMax All-In-One Platinum All-In-One 5-65lbs	(1 per case) no rethread harness, 110lbs booster	cart	\$176.25	10
VS0000002695	38712116	Evenflo	05513	SafeMax All-In-One w/Sensor Safe All-In-One 5-65lbs	(1 per case) no rethread harness, 110lbs booster, SensorSafe technology alerts caregiver	cart	\$193.53	10
VS0000002695	3081198	Evenflo	05513	SecureKid Booster 20-65 lb w/harness	(2 per case) 42-110 lb. without harness	cart	\$149.94	10
VS0000002695	3492198	Evenflo	05513	Maestro Sport 20-50 lb w/harness	(2 per case) 40-110lb w/o harness 57" ht	cart	\$115.04	10
VS0000002695	34412274	Evenflo	05513	Evolve 3in1 Booster	(1 per case) 22-65lbs harness 40-110lbs HBB & NBB	cart	\$114.23	10
VS0000002695	3431198	Evenflo	05513	Chase No Harness High Back Booster, 40-110 lb	(2 per case) 40-110 w/o back- Assembled	cart	\$62.64	10
VS0000002695	3192198	Evenflo	05513	Big Kid High Back Booster, 30-110 lb	(2 per case)	cart	\$61.56	10
VS0000002695	34412115	Evenflo	05513	SafeMax 3-in-1 w/SensorSafe 22-120 lbs	(1 per case)	cart	\$139.19	10
VS0000002695	342111922	Evenflo	05513	Spectrum 2-in-1 booster 40-110lbs, HBB & NBB	(1 per case)	cart	\$44.05	10
VS0000002695	34021606	Evenflo	05513	AMP Performance No Back, belt positioning booster, 40-110lbs	(1 per case)	cart	\$23.74	10
VS0000002695	3414198	Evenflo	05513	AMP No Back Belt-Positioning Booster, 40-110lbs	(4 per case)	cart	\$78.40	10



EASTERN REGION

Order Form & Destination Pricing

NASPO ValuePoint Agreement
Effective 5/1/2019 through 4/30/2022

Purchase Order #:		Order Date:		Event Date:			
Ship to: (No PO Boxes Please)			Bill to:				
Phone: ()							
Contact:		VISA / MC#		exp code			
Phone:	Fax:	Email:					
CAR SEAT MODELS		Model #	Qty per Case	Price Per Seat	Price w/Freight	# Seats	Extended Price
LiteMax Infant 4-35lbs, w/lock-off base, multiple hip & crotch adjust		30512061	1	\$67.99	\$73.43		
SafeMax Infant 4-35lbs, w/lock-off base, multiple hip & crotch adjust, rebound bar		30511930	1	\$118.79	\$128.29		
Embrace 35 Infant 4-35 lb, w/ Up Front Adjust, with Recline Leg		3152198	1	\$66.75	\$67.20		
LiteMax Advance w/SensorSafe 4-35lbs, w/lock-off base, multiple hip & crotch adjust, SensorSafe technology alerts caregiver		30512167	1	\$89.00	\$112.48		
SureRide/ Titan 65 Convertible 5-65 lb with body & head pillows		3712198	2	\$55.65	\$62.10		
Stratos LX Convertible 5-65lbs, RF to 40lbs, 6 harness heights		38312037	1	\$85.79	\$92.65		
Stratos w/Sensor Safe Convertible 5-65lbs, RF to 40lbs, 6 harness heights, SensorSafe technology alerts caregiver that child in seat		38311770	1	\$99.00	\$112.48		
Triumph Convertible, no rethread Harness, 6-65lbs, RF to 40lbs		38211712	1	\$104.10	\$112.43		
Symphony LX All-In-One 5-65lbs, no rethread harness, 110lbs booster		34511557	1	\$128.00	\$131.84		
EveryStage LX All-in-One 4-65lbs, no rethread harness, 120lb booster		39212238	1	\$131.99	\$138.59		
SafeMax All-In-One Platinum All-In-One 5-65lbs, no rethread harness, 110lbs booster		38711930	1	\$163.19	\$176.25		
SafeMax All-In-One w/Sensor Safe All-In-One 5-65lbs, no rethread harness, 110lbs booster, SensorSafe technology alerts caregiver		38712116	1	\$179.19	\$193.53		
SecureKid Booster 20-65 lb w/ harness, 42-110 lb. without harness		3081198	2	\$74.00	\$74.97		
Maestro Sport 20-50 lb w/ harness, 40-110 lb w/o harness 57" ht		3492198	2	\$55.00	\$57.52		
Evolve 3in1 booster, 22-65lbs harness, 40-110lbs HBB & NBB		34412274	1	\$108.79	\$114.23		
Chase No Harness High Back Booster, 40-110 lb		3431198	2	\$28.00	\$31.32		
Big Kid High Back Booster, 30-110 lb., 40-110 w/o back- Assembled		3192198	2	\$28.50	\$30.78		
SafeMax 3-in-1 w/SensorSafe 22-120 lbs		34412115	1	\$119.99	\$139.19		
Spectrum 2-in-1 booster, 40-110lbs, HBB & NBB		342111922	1	\$40.79	\$44.05		
AMP Performance No Back, belt positioning booster, 40-110lbs		34021606	1	\$21.75	\$23.74		
AMP No Back Belt-Positioning Booster, 40-110lbs		3414198	4	\$17.50	\$19.60		
With freight price Includes inside delivery, floor loaded.			Tax & Freight IF IT APPLYS				
Must order combinations of case pk					Order Total		
Call, fax or email Patsy Pilcher – Ph# (800) 768-6077 - Fax# (800) 382-4565 - Email: evenflosales@worldsafe.net							

M2002-CHILD SAFETY SEATS: NASPO VALUEPOINT MASTER AGREEMENT

ATTACHMENT #3 - NASPO ValuePoint Master Agreement Quote Overview Form

A. STATEMENT OF COMPLIANCE

Eventflo Company, Inc. certifies that it understands that the NASPO ValuePoint Master Agreement(s) resulting from this Bid Solicitation shall constitute the final agreement except for negotiated terms and conditions specific to a Participating State's Participating Addendum. The Master Agreement will include, but not be limited to, the NASPO ValuePoint Standard Terms and Conditions (Reference Attachment #1), each State's specific terms and conditions (Reference Attachment #2 and each State's Participating Addendum), the Bid Solicitation 18DPP00297 and all corresponding attachments and Bid Amendments.

In Addition, the Vendor {Bidder} certifies that it:

1. Read, understands, and agrees to all of the terms and conditions as shown in the NASPO ValuePoint Master Agreement (Reference Attachment #1);
2. **Insurance** - Agrees to acquire insurance from an insurance carrier or carriers licensed to conduct business in each Participating State at the prescribed levels set forth in Section 21 of the NASPO ValuePoint Master Agreement Terms and Conditions;
3. **NASPO ValuePoint Administrative Fee** - Agrees to pay a NASPO ValuePoint administrative fee as specified in Section 6 of the NASPO ValuePoint Master Agreement Terms and Conditions;
4. **NASPO ValuePoint Reporting Requirements** - Agrees to provide specific summary and detailed usage reporting requirements in accordance with Section 7 of the NASPO ValuePoint Master Agreement Terms and Conditions;
5. **NASPO ValuePoint eMarket Center** - Agrees to, by submission of a Quote, to cooperate with NASPO ValuePoint and SciQuest (and any authorized agent or successor entity to SciQuest) to integrate its presence in the NASPO ValuePoint eMarket Center either through an electronic catalog (hosted or punchout site) or unique ordering instructions (Reference Attachment #1, Section 9); and
6. **Participating States Terms and Conditions** - Agrees to negotiate Participating State/Using Agency-specific additional terms and conditions when executing a Participating Addendum. Note: As a courtesy to potential Vendors {Bidders}, some Participating State-specific terms and conditions are provided in Attachment #2, *Current Participating State-Specific Terms and Conditions* of the corresponding Bid Solicitation. Each state reserves the right to negotiate additional terms and conditions in its Participating Addendums. Those listed in the referenced attachment are for informational purposes only and will be negotiated with other Participating States after award of the Master Agreement.

Patsy Pilcher

8/9/18

Authorized Vendor {Bidder} Signature

Date

Name: Patsy Pilcher
Title: Account Manager
Address:

P. O. Box 1046
Cullman, AL 35056

B. NASPO VALUEPOINT COOPERATIVE PROCUREMENT PROGRAM SUPPORT

The Vendor Bidder should, at a minimum:

1. Demonstrate how the Vendor {Bidder} proposes to support the eMarket Center through either a hosted catalog or punch-out solution.
2. The NASPO ValuePoint Master Agreement Terms and Conditions include program provisions governing participation in the cooperative, reporting, and payment of administrative fees, and marketing/education relating to the NASPO ValuePoint cooperative procurement program. The Vendor {Bidder} should demonstrate how it proposes to promote the awarded Master Agreement. At a minimum, the Vendor {Bidder} shall address:
 - a. How it intends to promote the use of the Master Agreement?
 - b. A state procurement official (Chief Procurement Officer (CPO)) must permit use of the Master Agreement in its state, how will the Vendor {Bidder} integrate the CPO's permission into its plan for promoting the agreement?
 - c. Public entities are sensitive to "scope" issues, that is, whether performance is within the intended scope of the Blanket P.O., as awarded. In the context of the Vendor's {Bidder's} method of promoting agreements of this nature, how would it clarify any questions regarding the scope of the awarded agreement with respect to any potential order?
 - d. How will the Vendor {Bidder} manage due dates for administrative fee payments and usage reports?
 - e. Through its Cooperative Development Coordinators and Education & Outreach team, NASPO ValuePoint assists Lead States by engaging vendors in strategies aimed at promoting master agreements. What opportunities and/or challenges does the Vendor {Bidder} see in working with NASPO ValuePoint staff in this way?
 - f. Does your company participate in any other public procurement cooperatives? If yes, explain any restrictions or requirements that other cooperatives place on your company for participating with NASPO ValuePoint.

C. OPTIONAL SUPPORT SERVICES (REFERENCE BID SOLICITATION SECTION 3.10.3)

The Vendor {Bidder} should identify if it offers the following optional offerings:

1. Provide contact information including website information.
2. Describe your customer technical support procedure including your response time:
3. Describe how you will be able to process multiple accounts:
4. What are your hours of operation?
5. When are key people available to assist purchasing entities?
6. Describe how problem identification and resolution will be handled.
7. How will you service each account?
8. How will you respond to customer complaints and service issues?
9. What are your quality assurance measures and how are they handled?
10. Do you offer a recycle or take back program? If yes, please provide the details.

D. PRELIMINARY USAGE FEE AND REPORTING PLAN SHALL

The Vendor {Bidder} should demonstrate a detailed Preliminary Usage Fee and Reporting Plan that demonstrates how the Vendor {Bidder} will meet the usage fee and reporting requirements of NASPO ValuePoint and Participating States. The awarded Vendor {Contractor} All information within the plan must be kept current, with NASPO ValuePoint and the Lead State Contract Administrator being notified of any changes to the usage fee and reporting plan immediately. The plan shall include but not be limited to the following components:

1. Identify the person responsible for providing the mandatory usage reports;
2. Identify the method and frequency in which usage data will be collected from authorized distributors;
3. Identify the method in which usage fees will be distributed to NASPO ValuePoint and applicable Participating States; and
4. Identify the method in which up to date information will be provided to NASPO ValuePoint and the Lead State Contract Administrator.



FORM M202-CHILD SAFETY SEATS: NASPO VALUEPOINT MASTER AGREEMENT

NASPO VALUEPOINT COOPERATIVE PROCUREMENT PROGRAM SUPPORT

PROCUREMENT PROGRAM SUPPORT BY EVENFLO

1. Evenflo will support the eMarket Center through a link to www.safetymadeeasier.com which is a website for agencies. We will also provide additional product information and support upon request by email at evenflosales@worldsafe.net
2. Here is how we will address other Terms and Conditions.
 - a. We will use a mail merge feature from our data base of agencies that we have done business with and email all these customers to promote this Master Agreement. We will also train and instruct our entire sales team about the Agreement so they can promote and inform all the customers we deal with on a daily bases.
 - b. We will personally contact the State Procurement Officer of the various states to inform them of this opportunity and assist them with the paperwork to for their permission for the state.
 - c. As in the past, to insure entities understand the scope of this Agreement, we provide an order form (per region) with the product and pricing that is available under this agreement. The order form lists what is included like the inside deliver.
 - d. One person in our office has the task of managing due dates, usage reports, and fees for this Agreement. This has worked well for this contract in the past.
 - e. Evenflo is very open to working with your staff and the agencies in the promotion of this Master Agreement for the benefit of all concerned.
 - f. No, Evenflo does not work with any other Public Procurement Cooperatives.



FORM M2002-CHILD SAFETY SEATS: NASPO VALUEPOINT MASTER AGREEMENT

C. OPTIONAL SUPPORT SERVICES

OPTIONAL SUPPORT SERVICES BY EVENFLO

1. We do have a website, www.evenflo.com and www.safetymadeeasier.com and we can be contacted anytime by email and phone toll free during normal business hours at evenflosales@worldsafe.net or 1-800-768-6077.
2. We do offer technical support and response time is usually the same day during normal business hours.
3. We set up ongoing accounts for each customer. Orders are entered into their accounts for them and they are invoiced net 30.
4. Normal business hours are Monday – Friday, 8a.m. – 5p.m. CST
5. We are available to assist with purchasing during normal business hours.
6. Depending on the problem we are working through with the customer, we will involve the correct department to get resolution. For example, if it is a shipping issue, we will involve our transportation department to assist with the issue. If it is an invoicing issue, we will gain correction and resolution by involving our customer service department. But ALL issues will be handled with the customer through our one sale department. Customers will only need to work with our sales team.
7. Each account will be serviced by our sales team only.
8. All customer complaints and service issues will be addressed starting with our sales team. Depending on the issue, our sales team will address it on behalf of the customer with the correct department within Evenflo.
9. Regarding Quality, Evenflo had a Quality department that addresses all quality issues. Again, any customer report would need to come to our sales team for escalation to Quality Control. Any quality issue will get immediate attention.
10. Evenflo does do recycling of their own products used in testing. Recycled materials are used in non-key components such as cup holders and amount for approximately 5% of our product. Evenflo does not bring back product for recycling.



FORM M2002-CHILD SAFETY SEATS: NASPO VALUEPOINT MASTER AGREEMENT

D. PRELIMINARY USAGE FEE AND REPORTING PLAN

USAGE FEE AND REPORTING PLAN BY EVENFLO

We will utilize the electronic NASPO-ValuePoint fee calculator/reporting tool, as well as email the contract administrators an excel report of usage activity within the contract, quarterly. We will also report to individual states as requested. As in the past, we will continue to use this same reporting plan and are open to any improvement suggestions.

1. The person in charge of doing the usage reports within our organization currently is Katrina Rossman at evenflosales@worldsafe.net
2. Evenflo does not use distributors. Evenflo handles this Agreement direct.
3. Usage fees will be paid by check on the schedule required by each agency.
4. Evenflo has all participating agencies under a master called WSCA which make is very convenient to pull required reports. This information if available at anytime we need it. As necessary and as required, reports are emailed to the requester.



OFFER AND ACCEPTANCE

State of New Jersey
Department of the Treasury
Division of Purchase and Property
33 West State Street, P.O. Box 230
Trenton, New Jersey 08625-0230

Bid Solicitation #: 18DPP000297

Bid Solicitation Title: M2002-Child Safety Seats: NASPO ValuePoint Master Agreement

Blanket P.O. (Contract) Term: See Bid Solicitation Section 5.2

Open to Cooperative Purchasing

OFFER (To be completed by the Vendor (Bidder))

TO THE STATE OF NEW JERSEY:

The Undersigned hereby offers and agrees to furnish the goods, products, or services in compliance with all terms of this Master Blanket Purchase Order (Blanket P.O.) (Contract) as defined in Section 2.0 of the Bid Solicitation.

Vendor (Bidder):	EVENFLO COMPANY, INC.	Title:	ACCOUNT MANAGER
Address:	P. O. BOX 1046	E-Mail Address:	EVENFLOSALES@WORLDSAFE.NET
City, State, ZIP:	CULLMAN, AL 35056	Phone Number:	(800) 768-6077
Authorized Signature: <small>(Electronic Signature Acceptable)</small>	PATSY PILCHER	Fax Number:	(800) 382-4565
Printed Name:	PATSY PILCHER	FEIN:	

Pursuant to P.L. 2017, c. 95, please indicate whether the Vendor (Bidder) identifies as any of the following as defined in N.J.S.A. 52:32-19:

- Minority-Owned Business
 Women-Owned Business
 Small Business
 Not Applicable

By signing and submitting this Offer, the Vendor (Bidder) certifies and confirms that:

- The Vendor (Bidder) has read, understands, and agrees to all terms, conditions, and specifications set forth in the State of New Jersey Standard Terms and Conditions and the provisions set forth in Bid Solicitation Section 4.4.1.1.1 (MacBride Principles Certification), Section 4.4.1.1.2 (No Subcontractor Certification), Section 4.4.1.1.3 (Non-Collusion), and Section 4.4.1.1.4 (New Jersey Business Ethics Guide Certification);
- The Vendor's (Bidder's) failure to meet any terms and conditions of the Blanket P.O. (Contract) as defined in the Bid Solicitation shall constitute a breach and may result in suspension or debarment from further State bidding;
- A defaulting Vendor (Contractor) may also be liable, at the option of the State, for the difference between the Blanket P.O. (Contract) price and the price bid by an alternate vendor of the goods or services in addition to other remedies available; and
- By signing and submitting this Offer, the Vendor (Bidder) consents to receipt of any and all documents related to this Bid Solicitation and the resulting Blanket P.O. (Contract) by electronic medium or facsimile.

THIS FORM SHOULD BE SIGNED, COMPLETED AND INCLUDED WITH THE VENDOR'S (BIDDER'S) QUOTE.

ADDITIONAL VENDOR (BIDDER) REQUIREMENTS (For State Use Only)

<input type="checkbox"/> Bid Security	Amount:	<input type="text"/>	<input type="checkbox"/> Payment Security	Amount:	<input type="text"/>
<input type="checkbox"/> Performance Security	Amount:	<input type="text"/>	<input type="checkbox"/> Retainage	Percentage:	<input type="text"/>

For set-aside contracts only, a Vendor (Bidder) must be registered with the N.J. Division of Revenue and Enterprise Services, Small Business Registration and MWBE Certification Services Unit. Please refer to N.J.A.C. 17:13-3.1 & 17:13-3.2 for additional information.

ACCEPTANCE OF OFFER (For State Use Only)

The Offer above is hereby accepted and now constitutes a Blanket P.O. (Contract) with the State of New Jersey. The Vendor (Contractor) is now bound to sell the goods, products, or services listed by the attached Blanket P.O. (Contract) as defined by Section 2.0 of the Bid Solicitation. The Vendor (Contractor) shall not commence any work or provide any good, product, or service under this Blanket P.O. (Contract) until the Vendor (Contractor) complies with all requirements set forth in the Bid Solicitation and receives written notice to proceed.

Blanket P.O. (Contract) Number: 19-GNSVI-00685

Blanket P.O. (Contract) Award Date: February 26, 2019 Blanket P.O. (Contract) Effective Date: May 1, 2019

State of New Jersey Authorized Signature: *[Signature]*



Bid Solicitation

Bid # 18DPP00297

For: M2002-Child Safety Seats: NASPO ValuePoint Master Agreement

Event	Date	Time
Vendor's {Bidder's} Electronic Question Due Date (Refer to Bid Solicitation {Bid Solicitation Section 1.3.1} for more information.)	8/9/18	2:00 PM
Mandatory/Optional Pre-Quote Conference (Refer to Bid Solicitation {Bid Solicitation Section 1.3.6} for more information.)	Not Applicable	
Mandatory/Optional Site Visit (Refer to Bid Solicitation {Bid Solicitation Section 1.3.4} for more information.)	Not Applicable	
Mandatory Seat Demonstration (Refer to Bid Solicitation Bid Solicitation Section 4.4.3.3.1 for more information.)	9/10/18-9/11/18	To Be Determined
Quote Submission Date (Refer to Bid Solicitation {Bid Solicitation Section 1.3.2} for more information.)	8/29/18	2:00 PM

Dates are subject to change. All times contained in the Bid Solicitation refer to Eastern Time. All changes will be reflected in Bid Amendments {Addenda} to the Bid Solicitation posted on the Division of Purchase and Property website and on www.njstart.gov.

	Status	Category
Small Business Set-Aside	<input type="checkbox"/> Not Applicable	<input checked="" type="checkbox"/> I <input type="checkbox"/> IV
	<input type="checkbox"/> Entire Blanket P.O.	<input checked="" type="checkbox"/> II <input type="checkbox"/> V
	<input type="checkbox"/> Partial Blanket P.O.	<input checked="" type="checkbox"/> III <input type="checkbox"/> VI
	<input checked="" type="checkbox"/> Subcontracting Only	

Bid Solicitation Issued By

Using Agency/Agencies

State of New Jersey
Department of the Treasury
Division of Purchase and Property
Trenton, New Jersey 08625-0230

State of New Jersey
New Jersey Cooperative Purchasing Program Participants
NASPO ValuePoint Cooperative Purchasing Organization

Date: July 26, 2018

Table of Contents

1.0	INFORMATION FOR VENDORS (BIDDERS)	4
1.1	PURPOSE AND INTENT	4
1.2	BACKGROUND	4
1.2.1	GEOGRAPHICAL REGIONS	5
1.2.2	METHOD OF ENGAGEMENT	5
1.2.3	PARTICIPATING STATE'S HISTORICAL USAGE AND STATE-SPECIFIC TERMS AND CONDITIONS	6
1.2.4	NASPO VALUEPOINT BACKGROUND INFORMATION	6
1.3	KEY EVENTS.....	7
1.3.1	ELECTRONIC QUESTION AND ANSWER PERIOD	7
1.3.2	SUBMISSION OF QUOTES (PROPOSALS)	8
1.3.3	VENDOR {BIDDER} SUPPORT	8
1.3.4	MANDATORY/OPTIONAL SITE VISIT	8
1.3.5	MANDATORY/OPTIONAL PRE-QUOTE CONFERENCE	8
1.3.6	PRE-QUOTE DOCUMENT REVIEW	8
1.4	ADDITIONAL INFORMATION	8
1.4.1	BID AMENDMENTS {ADDENDA}; REVISIONS TO THIS BID SOLICITATION	8
1.4.2	VENDOR {BIDDER} RESPONSIBILITY	9
1.4.3	COST LIABILITY	9
1.4.4	CONTENTS OF QUOTE	9
1.4.5	ANNOUNCEMENT OF QUOTE INFORMATION	10
1.4.6	PRICE ALTERATION IN QUOTES (PROPOSALS).....	10
1.4.7	QUOTE ERRORS	10
1.4.8	JOINT VENTURE	11
1.4.9	RECIPROCITY FOR JURISDICTIONAL VENDOR {BIDDER} PREFERENCE	11
1.4.10	QUOTE ACCEPTANCES AND REJECTIONS	12
1.4.11	ELECTRONIC SIGNATURES.....	12
2.0	DEFINITIONS	13
2.1	CROSSWALK	13
2.2	GENERAL DEFINITIONS	13
2.3	BLANKET P.O. {CONTRACT}-SPECIFIC DEFINITIONS/ACRONYMS	16
3.0	SCOPE OF WORK	19
3.1	ENGAGEMENT.....	19
3.2	ESSENTIAL REQUIREMENTS	19
3.3	GENERAL REQUIREMENTS	20
3.4	SEAT-SPECIFIC REQUIREMENTS (CATEGORIES 1-3).....	20
3.5	SAFETY SEAT-SPECIFIC SPECIFICATION REQUIREMENTS	20
3.5.1	FORWARD FACING SAFETY SEAT (CATEGORY 1)	20
3.5.2	REAR FACING INFANT SAFETY SEATS (CATEGORY 2).....	23
3.5.3	BOOSTER SEATS (CATEGORY 3).....	23
3.5.4	SPECIAL NEEDS - (CATEGORY 4)	24
3.6	LOST, DAMAGED, WRONGFUL DELIVERY, AND/OR DEFECTIVE CHILD SAFETY SEATS	26
3.7	SUBSTITUTIONS	26
3.8	PACKING/SHIPPING/DELIVERY REQUIREMENTS	27
3.8.1	PACKAGING REQUIREMENTS	27
3.8.2	DELIVERY METHODS/REQUIREMENTS.....	27
3.9	REPORTING REQUIREMENTS.....	28
3.9.1	SALES REPORT	28
3.9.2	NASPO VALUEPOINT SUMMARY AND DETAILED USAGE REPORTS.....	28
3.9.3	FINAL USAGE FEE AND REPORTING PLAN	28
3.10	OPTIONAL OFFERINGS	29
3.10.1	SAFETY TECHNOLOGY	29
3.10.2	AIR TRAVEL SAFETY SEATS.....	29
3.10.3	OPTIONAL SUPPORT SERVICES.....	29
4.0	QUOTE PREPARATION AND SUBMISSION	30
4.1	GENERAL.....	30

4.2	QUOTE DELIVERY AND IDENTIFICATION	30
4.3	<i>NJSTART</i> ELECTRONIC SUBMISSION VS. HARD COPY SUBMISSION INSTRUCTION	30
4.3.1	<i>NJSTART</i> SUBMISSION OF QUOTE	30
4.3.2	HARD COPY SUBMISSION.....	31
4.4	QUOTE CONTENT	32
4.4.1	FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED WITH QUOTE.....	32
4.4.2	FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BEFORE BLANKET P.O. {CONTRACT} AWARD AND THAT SHOULD BE SUBMITTED WITH THE QUOTE.....	38
4.4.3	VENDOR {BIDDER} DEMONSTRATION OF ITS ABILITY TO COMPLETE THE SCOPE OF WORK.....	40
4.4.4	FINANCIAL CAPABILITY OF THE VENDOR {BIDDER}	41
4.4.5	PRICE SCHEDULE/SHEET	42
4.4.6	COOPERATIVE PURCHASING PROGRAM	44
4.4.7	ORAL PRESENTATIONS	44
5.0	SPECIAL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE BLANKET P.O. {CONTRACT}.....	45
5.1	NASPO VALUEPOINT MASTER AGREEMENT COMPLIANCE	45
5.2	BLANKET P.O. {CONTRACT} TERM AND EXTENSION OPTION	45
5.3	BLANKET P.O. {CONTRACT} TRANSITION	45
6.0	QUOTE EVALUATION	46
6.1	RIGHT TO WAIVE	46
6.2	DIRECTOR'S RIGHT OF FINAL QUOTE ACCEPTANCE	46
6.3	STATE'S RIGHT TO INSPECT VENDOR (BIDDER) FACILITIES	46
6.4	CLARIFICATION OF QUOTE / STATE'S RIGHT TO REQUEST FURTHER INFORMATION	46
6.5	QUOTE EVALUATION COMMITTEE	46
6.6	ORAL PRESENTATION	46
6.7	EVALUATION CRITERIA.....	47
6.7.1	VENDOR'S {BIDDER'S} PRICE SCHEDULE	47
6.7.2	QUOTE (PROPOSAL) DISCREPANCIES	47
6.8	NEGOTIATION AND BEST AND FINAL OFFER (BAFO)	47
6.9	"REQUEST FOR REVISION" WITHIN <i>NJSTART</i>	48
6.10	POOR PERFORMANCE	48
7.0	BLANKET P.O. {CONTRACT} AWARD	49
7.1	DOCUMENTS REQUIRED BEFORE BLANKET P.O. {CONTRACT} AWARD.....	49
7.1.1	REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134), EXECUTIVE ORDER NO. 117 (2008) AND N.J.A.C. 17:12-5 <i>ET SEQ.</i>	49
7.1.2	SOURCE DISCLOSURE REQUIREMENTS	50
7.1.3	AFFIRMATIVE ACTION	50
7.1.4	BUSINESS REGISTRATION	50
7.2	FINAL BLANKET P.O. {CONTRACT} AWARD.....	50
7.3	INSURANCE CERTIFICATES	50
7.4	PERFORMANCE SECURITY	51
8.0	BLANKET P.O. {CONTRACT} ADMINISTRATION	52
8.1	STATE CONTRACT MANAGER	52
8.1.1	STATE CONTRACT MANAGER RESPONSIBILITIES.....	52
8.1.2	COORDINATION WITH THE STATE CONTRACT MANAGER	52

BID-SPECIFIC DOCUMENTS/ATTACHMENTS/APPENDICES:

- Attachment #1 - NASPO ValuePoint Master Agreement Terms and Conditions;
- Attachment #2 - Prospective Participating State-Specific Terms and Conditions;
- Attachment #3 - NASPO ValuePoint Master Agreement Quote Overview Form;
- Price Schedule/Sheet;
- Vendor {Bidder} Data Sheet;
- Vendor {Bidder} Quote Overview Form;
- Offer & Acceptance Form; and
- Bid Solicitation Checklist.

1.0 INFORMATION FOR VENDORS {BIDDERS}

NOTICE: This Bid Solicitation {Request for Proposal (RFP)} is part of the **NJSTART** Procurement Program. **The Vendor {Bidder} is advised to thoroughly read all sections, as many have been revised, and follow all instructions contained in this Bid Solicitation, including the instructions on the Bid Solicitation's {RFP's} Offer and Acceptance Page {Signatory Page}** and read through all Quick Reference Guides (QRGs) located on the [NJSTART Vendor Support Page \(http://www.state.nj.us/treasury/purchase/njstart/vendor.shtml\)](http://www.state.nj.us/treasury/purchase/njstart/vendor.shtml), before preparing and submitting its Quote.

NJSTART terminology is used in this document; legacy term appears in braces; thus: **NJSTART** term {legacy term}.

1.1 PURPOSE AND INTENT

This Bid Solicitation is issued by the Procurement Bureau (Bureau), Division of Purchase and Property (Division), Department of the Treasury in furtherance with the National Association of State Procurement Official (NASPO) ValuePoint Cooperative Purchasing Program on behalf of various state agencies and Cooperative Purchasing Program Participants. The purpose of this Bid Solicitation is to solicit Quotes {Proposals} for the establishment of a NASPO ValuePoint Master Agreement (Master Agreement) with qualified manufactures and/or distributors for the provision of child safety seats and other child transport mechanisms for all participating states/Using Agencies.

The intent of this Bid Solicitation is to award Master Blanket Purchase Orders (Blanket P.O.s) {Contracts} to those responsible Vendors {Bidders} whose Quotes {Proposals}, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. The State may award any and all price lines. The State, however, reserves the right to separately procure individual requirements that are the subject of the Blanket P.O. during the Blanket P.O. term, when deemed by the Director of the Division of Purchase and Property (Director) to be in the State's best interest.

It is the State's intent to award at least one (1) Blanket P.O. per region (Reference Section 1.2.1, *Geographical Regions*, for a breakdown by state). At award, the State intends to identify one (1) Prime Vendor {Contractor} (Prime) and at least one (1) Alternate Vendor {Contractor} (Alternate), if applicable. Using Agencies will purchase all items from the Prime Vendor {Contractor} of each region, pursuant to the Method of Engagement outlined in Section 1.2.2 of this Bid Solicitation. Consideration will be given for a Nationwide Blanket P.O. based on price, Vendor {Bidder} capability of providing services to all regions, and other factors.

The State of New Jersey (State) intends to extend the Blanket P.O.s {Contracts} awarded to the Division's Cooperative Purchasing Program participants. These participants include quasi-State entities, counties, municipalities, school districts, volunteer fire departments, first aid squads, independent institutions of higher learning, County colleges, and State colleges. In order for the State Blanket P.O. to be extended to Cooperative Purchasing Program participants, the Vendor {Bidder} must agree to the extension by executing the Cooperative Purchase Form. Also refer to Section 4.4.6 of this Bid Solicitation. Although the State, with the consent of the Vendors {Bidders}, is making the use of any Blanket P.O. resulting from this Bid Solicitation available to non-State Agencies, the State makes no representation as to the acceptability of any State Bid Solicitation terms and conditions under the Local Public Contracts Law or any other enabling statute or regulation. Additionally, the Blanket P.O. will be extended to all NASPO ValuePoint Cooperative Participating Entities.

1.2 BACKGROUND

This is a reprocurement of similar services provided under the **M2002- Child Safety Seats WSCA-NASPO Cooperative** term Blanket P.O., presently due to expire on **10/31/18**. Vendors {Bidders}

interested in the current Blanket P.O. specifications and pricing information may review the current Blanket P.O. (Enter **M2002**) at <http://www.state.nj.us/treasury/purchase/pricelists.shtml> and are cautioned that this new Bid Solicitation may have additional or varying tasks from previous versions to address current requirements.

For the purpose of the reprourement, New Jersey is the Lead State and issuing office for this Bid Solicitation and all subsequent Bid Amendments {Addenda} relating to it. The objective of this Bid Solicitation is to obtain the best value, and in some cases achieve more favorable pricing, than may be obtainable by an individual state or local government entity through the use of collective volume of potential purchases.

The savings realized by the potential Vendor {Contractor} in managing one (1) comprehensive NASPO VALUEPOINT Master Agreement rather than numerous state and local Blanket P.O.s {Contracts} should result in the most attractive service level and discounts available in the marketplace.

The Master Agreement resulting from this Bid Solicitation may be used by state governments (including state departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and other eligible entities subject to approval of the individual state procurement director and compliance with local statutory and regulatory provisions.

1.2.1 GEOGRAPHICAL REGIONS

For the purposes of this Bid Solicitation, the United States has been divided into the following four (4) regions: Central, Eastern, Mountain, and Pacific. States comprising each region are indicated below:

Central Region	North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Wisconsin, Illinois, Missouri, Kansas, Oklahoma, Arkansas, Tennessee, Mississippi, Alabama, Louisiana, Texas, Western Kentucky, and Western Indiana.
Eastern Region	Michigan, Eastern Indiana, Ohio, Eastern Kentucky, New York, Pennsylvania, New Jersey, New Hampshire, Maine, Rhode Island, Connecticut, Delaware, Maryland, District of Columbia (DC), North Carolina, South Carolina, Georgia, and Florida.
Mountain Region	Montana, Idaho, Wyoming, Utah, Colorado, Arizona, and New Mexico.
Pacific Region	Washington, Oregon, Nevada, Alaska, Hawaii, and California.

1.2.2 METHOD OF ENGAGEMENT

Using Agencies will purchase all items from the identified Prime of each region. In the event that the Prime cannot deliver the requested item, the Using Agency may bypass the Prime and purchase the requested item from the 1st Alternate, under the following limited circumstances:

- A. The Prime informs the Using Agency that the requested item is backordered, discontinued, recalled, and/or the Prime does not offer the desired item that meets the Participating State's needs, and a suitable replacement will not be available in the Using Agency's required time frame;
- B. The Prime's item does not possess the Using Agency's requested Optional Offering (as demonstrated in Bid Solicitation Section 3.10); and/or
- C. The Using Agency determines that the service provided by the Prime on three (3) previous orders was unsatisfactory as evidenced by the Using Agency filing complaints through the

Division's Contract Compliance and Audit Unit (CCAU) and the Participating State's formal complaint process.

In the event that the Prime and 1st Alternate cannot meet the Using Agency's needs (as referenced above), the Using Agency may engage additional Alternates (in sequential order). **Note:** In the event that neither the Prime nor the Alternate(s) of a specified region is able to provide the required item, the Using Agency may request to engage the Prime or Alternate of another region using the same method outlined above, with written approval from the Lead State Contract Manager.

1.2.3 PARTICIPATING STATE'S HISTORICAL USAGE AND STATE-SPECIFIC TERMS AND CONDITIONS

In addition to the Lead State conducting this solicitation, at this time, the below Participating States have requested to be named in this Bid Solicitation as potential users of the resulting Master Agreement. Historical usage data from the current Blanket P.O. from states who have indicated an interest in participating in the Blanket P.O. resulting from this Bid Solicitation, can also be found below. Please note that no minimum or maximum level of sales volume is guaranteed or implied during the term of this Blanket P.O. or any extension period thereto.

Historical Spend	
State	Total Spend (Current Contract)
Connecticut	\$5,000
Delaware	\$5,000
Hawaii	Not Available
Illinois	\$40,000
Maine	\$43,260
Minnesota	\$69,000
Missouri	\$20,000
Montana	Not Available
Nebraska	Not Available
New Jersey	\$300,000
North Dakota	\$50,000
Ohio	\$260,000
Rhode Island	\$6,900
South Dakota	\$190,000
Texas	\$200,000
Utah	Not Available

NASPO ValuePoint Master Agreement Terms and Conditions can be found in Attachment #1 of this Bid Solicitation. Terms and Conditions specific to a State will be addressed in the respective state's Participating Addendum. Please reference Attachment #2, *Prospective Participating State-Specific Terms and Conditions* for those terms specific to the aforementioned states. Please be advised that this attachment does not include Terms and Conditions for each state. Prospective states may negotiate special or unique terms and conditions that will govern its respective Participating Addendum. **Note:** This is not an extensive list as other states may elect to participate post award of the Blanket P.O. and subsequent issuance of the resulting Master Agreement. Future Participating States will negotiate terms and conditions directly with the awarded Vendors {Contractors}.

1.2.4 NASPO VALUEPOINT BACKGROUND INFORMATION

NASPO ValuePoint (formerly known as WSCA-NASPO) 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 on NASPO VALUEPOINT please reference the following websites www.naspovaluepoint.org and www.naspo.org.

1.2.4.1 NASPO VALUEPOINT MASTER AGREEMENT

The State of New Jersey's Blanket P.O. resulting from this Bid Solicitation will constitute the final NASPO ValuePoint Master Agreement except for Bid Solicitation Section 9.0, *State of New Jersey Standard Terms and Conditions* (this section will **ONLY** apply to the State of New Jersey). Negotiated terms and conditions specific to each state will be addressed in its respective Participating Addendum. The awarded Vendors {Contractors} resulting from this Bid Solicitation will enter into a Participating Addendum with each Participating State.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Division will electronically accept questions and inquiries from all potential Vendors {Bidders} via the "Q&A" Tab of the Bid Solicitation in **NJSTART**.

- A. Questions should be directly tied to the Bid Solicitation and asked in consecutive order, from beginning to end, following the organization of the Bid Solicitation; and
- B. Each question should begin by referencing the Bid Solicitation page number and section number to which it relates.

Vendors {Bidders} may refer to the QRG "Submit a Quote" for additional instruction. QRGs are located on the [NJSTART Vendor Support Page](#).

A Vendor {Bidder} shall not contact the Using Agency and/or the Procurement Specialist directly, in person, by telephone or by e-mail, concerning this Bid Solicitation, prior to the final award of the Blanket P.O.

The cut-off date for electronic questions and inquiries relating to this Bid Solicitation is indicated on the Bid Solicitation cover sheet. In the event that questions are posed by Vendors {Bidders}, answers to such questions will be issued by Bid Amendment. Any Bid Amendment to this Bid Solicitation will become part of this Bid Solicitation and part of any Blanket P.O. awarded as a result of this Bid Solicitation. Bid Amendments {Addenda} to this Bid Solicitation, if any, will be posted as a File Attachment on the "Summary" page of the Bid Solicitation in **NJSTART** after the cut-off date. (See Bid Solicitation Section 1.4.1 for further information.)

1.3.1.1 EXCEPTIONS TO THE STATE OF NJ STANDARD TERMS AND CONDITIONS (SSTC)

Questions regarding the State of New Jersey Standard Terms and Conditions (SSTC), Attachment #1, NASPO ValuePoint Master Agreement Terms and Conditions, and exceptions to mandatory requirements must be posed during this Electronic Question and Answer period and shall contain the Vendor's {Bidder's} suggested changes and the reason(s) for the suggested changes. Please be advised that the Lead State will not address

any questions regarding Attachment #2 - Prospective Participating State-Specific Terms and Conditions.

1.3.2 SUBMISSION OF QUOTES {PROPOSALS}

In order to be considered for award, the Quote must be received by the Procurement Bureau of the Division at the appropriate location by the required time.

Vendors {Bidders} shall submit a Quote either electronically through [NJSTART](#) or via hard copy.

QUOTES {PROPOSALS} NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING IS INDICATED ON THE BID SOLICITATION COVER SHEET AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN [NJSTART](#).

IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED BID AMENDMENT AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN [NJSTART](#).

Procedural inquiries concerning the use of [NJSTART](#) may be directed to njstart@treas.nj.gov and/or (609) 341-3500.

The State will not respond to substantive questions related to the Bid Solicitation or any other Blanket P.O. via this e-mail address or phone number. For inquiries related to substantive questions refer to Section 1.3.1 (Electronic Question and Answer Period).

1.3.3 VENDOR {BIDDER} SUPPORT

Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs), supporting videos, a glossary of [NJSTART](#) terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote using the [NJSTART](#) process. It is the Vendor's {Bidder's} responsibility to ensure that the [NJSTART](#) Quote and attachments have been properly submitted.

1.3.4 MANDATORY/OPTIONAL SITE VISIT

Not applicable to this procurement.

1.3.5 MANDATORY/OPTIONAL PRE-QUOTE CONFERENCE

1.3.6 PRE-QUOTE DOCUMENT REVIEW

Not applicable to this procurement.

1.4 ADDITIONAL INFORMATION

1.4.1 BID AMENDMENTS {ADDENDA}: REVISIONS TO THIS BID SOLICITATION

In the event that it becomes necessary to clarify or revise this Bid Solicitation, such clarification or revision will be by Bid Amendment. Any Bid Amendment to this Bid Solicitation will become part of this Bid Solicitation and part of any Blanket P.O. awarded as a result of this Bid Solicitation.

There are no designated dates for release of Bid Amendments {Addenda}. Those Vendors {Bidders} who are on the bid holder list either through commodity code registration in [NJSTART](#) or

by acknowledging the bid in **NJSTART** should receive notification of any Bid Amendment(s) {Addenda}. If a Vendor {Bidder} is not on the bid holder list to receive notifications related to a Bid Solicitation, Bid Amendments {Addenda} are still viewable on the “Summary” page of the Bid Solicitation in **NJSTART**.

BID AMENDMENTS {ADDENDA} WILL BE ISSUED AS FILE ATTACHMENTS, AND ARE VIEWABLE ON THE “SUMMARY” PAGE OF THE BID SOLICITATION IN **NJSTART.** Vendors {Bidders} may refer to the QRG “Submit a Quote” for additional instructions. QRGs are located on the [NJSTART Vendor Support Page](#).

It is the sole responsibility of the Vendor {Bidder} to be knowledgeable of all Bid Amendments {Addenda} related to this procurement. An interested Vendor {Bidder} should check the **NJSTART** “Open Bids” Tab on a daily basis to ensure review of the most updated information.

1.4.2 VENDOR {BIDDER} RESPONSIBILITY

The Vendor {Bidder} assumes sole responsibility for the complete effort required in submitting a Quote in response to this Bid Solicitation. No special consideration will be given after Quotes {Proposals} are opened because of a Vendor’s {Bidder’s} failure to be knowledgeable as to all of the requirements of this Bid Solicitation.

1.4.3 COST LIABILITY

The State assumes no responsibility and bears no liability for costs incurred by a Vendor {Bidder} in the preparation and submittal of a Quote in response to this Bid Solicitation.

1.4.4 CONTENTS OF QUOTE

Quotes {Proposals} can be released to the public pursuant to N.J.A.C. 17:12-1.2(b) and (c), or under the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1.1 et seq., or the common law right to know.

After the opening of sealed Quotes {Proposals}, including Quotes {Proposals} submitted through the **NJSTART** electronic process, all information submitted by a Vendor {Bidder} in response to a Bid Solicitation is considered public information notwithstanding any disclaimers to the contrary submitted by a Vendor {Bidder}. Proprietary and confidential information may be exempt from public disclosure by OPRA and/or the common law. When the Bid Solicitation contains a negotiation component, the Quote will not be subject to public disclosure until a notice of intent to award a Blanket P.O. is announced.

As part of its Quote, a Vendor {Bidder} may designate any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law, explaining the basis for such assertion. The location in the Quote of any such designation should be clearly stated in a cover letter.

The State reserves the right to make the determination as to what is proprietary or confidential, and will advise the Vendor {Bidder} accordingly. Any proprietary and/or confidential information in a Quote will be redacted by the State. **The State will not honor any attempt by a Vendor {Bidder} to designate its entire Quote and/or prices as proprietary, confidential and/or to claim copyright protection for its entire Quote.** Copyright law does not prohibit access to a record which is otherwise available under OPRA. In the event of any challenge to the Vendor’s {Bidder’s} assertion of confidentiality with which the State does not concur, the Vendor {Bidder} shall be solely responsible for defending its designation, but in doing so, all costs and expenses associated therewith shall be the responsibility of the Vendor {Bidder}. The State assumes no such responsibility or liability.

A Vendor {Bidder} shall not designate any price lists and/or catalogs submitted as exempt from public disclosure as the same must be accessible to State Using Agencies and Cooperative Purchasing Program participants (if the Bid Solicitation has been extended to these participants) and thus must be made public to allow all eligible purchasing entities access to the pricing information.

1.4.5 ANNOUNCEMENT OF QUOTE INFORMATION

On the date and time Quotes {Proposals} are due under the Bid Solicitation, all information concerning the Quotes {Proposals} submitted may be publicly announced and shall be available for inspection and copying except as noted below:

- A. Information appropriately designated as proprietary and/or confidential shall not be available for inspection and copying; and
- B. Where negotiation is contemplated, only the names and addresses of the Vendors {Bidders} submitting Quotes {Proposals} will be announced, and the contents of the Quotes {Proposals} shall not be available for inspection and copying until the Notice of Intent to Award is issued by the Director.

1.4.6 PRICE ALTERATION IN QUOTES {PROPOSALS}

Any price changes including hand written revisions or "white-outs" must be initialed. Failure to initial price changes shall preclude a Blanket P.O. award from being made to the Vendor {Bidder}.

1.4.7 QUOTE ERRORS

In accordance with N.J.A.C. 17:12-2.11 "Proposal errors," a Vendor {Bidder} may withdraw its Quote as described below.

1.4.7.1 QUOTE WITHDRAWAL PRIOR TO QUOTE OPENING

NJSTART: A Vendor {Bidder} may withdraw its Quote submission in **NJSTART** prior to the Quote opening; however, Vendors {Bidders} should note that while withdrawn **NJSTART** Quotes {Proposals} remain viewable by the Vendor {Bidder} on its Vendor Profile Homepage, they are removed from the Division's view and cannot be considered for Blanket P.O. award. The Vendor {Bidder} may submit a revised Quote as long as the Quote is received prior to the announced date and time for Quote submission. Vendors {Bidders} may refer to the QRG "Submit a Quote" for additional instruction. QRGs are located on the [NJSTART Vendor Support Page](#).

Hard Copy: A Vendor {Bidder} may request that its hard copy Quote be withdrawn prior to the Quote opening. Such request must be made, in writing, to the Supervisor of the Proposal Review Unit at the address provided in Section 1.4.7.2 below. The Vendor {Bidder} may submit a revised Quote as long as the Quote is received prior to the announced date and time for Quote submission and at the place specified.

1.4.7.2 QUOTE WITHDRAWAL AFTER QUOTE OPENING, BUT PRIOR TO BLANKET P.O. AWARD

NJSTART and Hard Copy: If, after the Quote opening, but before Blanket P.O. award, a Vendor {Bidder} discovers an error in its Quote, the Vendor {Bidder} may make a written request to the Supervisor of the Proposal Review Unit to withdraw its Quote from consideration for award. If the Vendor's {Bidder's} request to withdraw is made in good faith, and the State will not be significantly prejudiced by granting the withdrawal of the Quote beyond the loss of the benefit of the bargain to the State of the withdrawing Vendor's {Bidder's} offer, the request shall be granted. Evidence of the Vendor's {Bidder's} good faith in making this request can be demonstrated by one (1) or more of the following factors: A mistake is so significant that to enforce the Blanket P.O. resulting from

the Quote would be unconscionable; that the mistake relates to a material feature or term of the Blanket P.O.; and that the mistake occurred notwithstanding the Vendor's {Bidder's} exercise of reasonable care. After Quote opening, while pursuant to the provisions of this section a Vendor {Bidder} may request to withdraw its Quote and the Director may in her discretion allow said Vendor {Bidder} to withdraw it, the Division also may take notice of repeated or unusual requests to withdraw by a Vendor {Bidder} and take those prior requests to withdraw into consideration when evaluating the Vendor's {Bidder's} future Quotes {Proposals}.

All Quote withdrawal requests must include the Bid Solicitation identification number and the final Quote submission date and be sent to the following address:

Department of the Treasury
Division of Purchase and Property
PO Box 230
33 West State Street – 9th Floor
Trenton, New Jersey 08625-0039
Attention: Supervisor, Proposal Review Unit

If during a Quote evaluation process, an obvious pricing error made by a potential Blanket P.O. awardee is found, the Director or her designee shall issue written notice to the Vendor {Bidder}. The Vendor {Bidder} will have up to five (5) business days after receipt of the notice to confirm its pricing. If the Vendor {Bidder} fails to respond, its Quote shall be considered withdrawn, and no further consideration shall be given to it.

1.4.8 JOINT VENTURE

If a Joint Venture is submitting a Quote, the agreement between the parties relating to such Joint Venture should be submitted with the Joint Venture's Quote. Authorized signatories from each party comprising the Joint Venture must sign the Offer and Acceptance Page {Signatory Page}. Each party to the Joint Venture must individually comply with all the forms and certification requirements in Sections 4.4.1 and 4.4.2 of this Bid Solicitation.

1.4.9 RECIPROCITY FOR JURISDICTIONAL VENDOR {BIDDER} PREFERENCE

In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17:12-2.13, the State of New Jersey will invoke reciprocal action against an out-of-State Vendor {Bidder} whose state or locality maintains a preference practice for its in-state Vendors {Bidders}. The State of New Jersey will use the annual surveys compiled by the Council of State Governments, National Association of State Procurement Officials, or the National Institute of Governmental Purchasing or a State's statutes and regulations to identify States having preference laws, regulations, or practices and to invoke reciprocal actions. The State of New Jersey may obtain additional information as it deems appropriate to supplement the stated survey information.

A Vendor {Bidder} may submit information related to preference practices enacted for a State or Local entity outside the State of New Jersey. This information may be submitted in writing as part of the Quote response, including name of the locality having the preference practice, as well as identification of the county and state, and should include a copy of the appropriate documentation, i.e., resolution, regulation, law, notice to Vendor {Bidder}, etc. It is the responsibility of the Vendor {Bidder} to provide documentation with the Quote or submit it to the Director within five (5) business days after the deadline for Quote submission. Written evidence for a specific procurement that is not provided to the Director within five (5) business days of the public Quote submission date may not be considered in the evaluation of that procurement, but may be retained and considered in the evaluation of subsequent procurements.

1.4.10 QUOTE ACCEPTANCES AND REJECTIONS

N.J.A.C. 17:12-2.7(d), the Director's right to waive minor irregularities or omissions in a Quote and N.J.A.C. 17:12-2.2 which defines causes for Quote rejection, apply to all Quotes {Proposals}.

1.4.11 ELECTRONIC SIGNATURES

Vendors {Bidders} submitting Quotes {Proposals} through **NJSTART** may sign the forms listed in Section 4.4.1 (Forms, Registrations and Certifications Required with Quote) and Section 4.4.2 (Forms, Registrations and Certifications Required Before Blanket P.O. Award and That Should Be Submitted with the Quote) of this Bid Solicitation electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form to **NJSTART**.

Vendors {Bidders} submitting Quotes {Proposals} in hard copy format, must provide forms with original, physical signatures, otherwise its Quote may be deemed non-responsive.

2.0 DEFINITIONS

2.1 CROSSWALK

<i>NJSTART</i> Term	Equivalent Existing New Jersey Term
Bid/Bid Solicitation	RFP/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

2.2 GENERAL DEFINITIONS

The following definitions will be part of any Blanket P.O. awarded or order placed as a result of this Bid Solicitation.

NJSTART terminology is used in this document; legacy term appears in braces; thus: ***NJSTART*** term {legacy term}.

All-Inclusive Hourly Rate – An hourly rate comprised of all direct and indirect costs including, but not limited to: labor costs, overhead, fee or profit, clerical support, travel expenses, per diem, safety equipment, materials, supplies, managerial support and all documents, forms, and reproductions thereof. This rate also includes portal-to-portal expenses as well as per diem expenses such as food.

Best and Final Offer or BAFO – Pricing timely submitted by a Vendor {Bidder} upon invitation by the Bureau after Quote opening, with or without prior discussion or negotiation.

Bid or Bid Solicitation {RFP or Solicitation} – This series of documents, which establish the bidding and Blanket P.O. requirements and solicits Quotes {Proposals} to meet the needs of the Using Agencies as identified herein, and includes the Bid Solicitation, State of NJ Standard Terms and Conditions (SSTC), price schedule, attachments, and Bid Amendments {Addenda}.

Bid Amendment – Written clarification or revision to this Bid Solicitation issued by the Bureau. Bid Amendments {Addenda}, if any, will be issued prior to Quote opening.

Business Day – Any weekday, excluding Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

Calendar Day – Any day, including Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

Change Order {Contract Amendment} – An alteration or modification of the terms of a Blanket P.O. between the State and the Vendor(s) {Contractor(s)}. A Change Order {Contract Amendment} is not effective until it is signed and approved in writing by the Director or Deputy Director, Division of Purchase and Property.

Cooperative Purchasing Program – The Division’s intrastate program that provides procurement-related assistance to New Jersey local governmental entities and boards of education, State and county colleges and other public entities having statutory authority to utilize select State Blanket P.O.s {Contracts} issued by the Division, pursuant to the provisions of N.J.S.A. 52:25-16.1 et seq.

Days After Receipt of Order (ARO) – The number of calendar days ‘After Receipt of Order’ in which the Using Agency will receive the ordered materials and/or services.

Director – Director, Division of Purchase and Property, Department of the Treasury, who by statutory authority is the Chief Contracting Officer for the State of New Jersey.

Discount – The standard price reduction applied by the Vendor {Bidder} to all items.

Division – The Division of Purchase and Property.

Evaluation Committee – A committee established or Division staff member assigned by the Director to review and evaluate Quotes {Proposals} submitted in response to this Bid Solicitation and recommend a Blanket P.O. award to the Director.

Firm Fixed Price – A price that is all-inclusive of direct cost and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction and any other costs.

Joint Venture – A business undertaking by two (2) or more entities to share risk and responsibility for a specific project.

Master Blanket Purchase Order (Blanket P.O.) {Contract} – The Blanket P.O. consists of the State of NJ Standard Terms and Conditions (SSTC), the Bid Solicitation, the responsive Quote submitted by a responsible Vendor {Bidder} as accepted by the State, the notice of award, any Best and Final Offer, any subsequent written document memorializing the agreement, any modifications to any of these documents approved by the State and any attachments, Bid Amendment {Addenda} or other supporting documents, or post-award documents including Change Orders {Contract Amendments} agreed to by the State and the Vendor {Contractor}, in writing.

May – Denotes that which is permissible or recommended, not mandatory.

Must – Denotes that which is a mandatory requirement.

No Bid – The Vendor {Bidder} is not submitting a price Quote for an item on a price line.

No Charge – The Vendor {Bidder} will supply an item on a price line free of charge.

Primary Form – An electronic form contained within a Vendor's {Bidder's} **NJSTART** profile designated by the Vendor {Bidder} as the primary or principal version of the required form.

Procurement Bureau (Bureau) – The Division unit responsible for the preparation, advertisement, and issuance of Bid Solicitations {RFPs}, for the tabulation of Quotes {Proposals} and for recommending award(s) of Blanket P.O. (s) {Contract(s)} to the Director and the Deputy Director.

Project – The undertakings or services that are the subject of this Bid Solicitation.

QRGs – Quick Reference Guides.

Quote – Vendor's {Bidder's} timely response to the Bid Solicitation including, but not limited to, technical Quote, price Quote, and any licenses, forms, certifications, or other documentation required by the Bid Solicitation.

Retainage – The amount withheld from the Vendor {Contractor} payment that is retained and subsequently released upon satisfactory completion of performance milestones by the Vendor {Contractor}.

Revision – A response to a BAFO request or a requested clarification of the Vendors {Bidders} Quote.

Shall – Denotes that which is a mandatory requirement.

Should – Denotes that which is permissible or recommended, not mandatory.

Small Business – Pursuant to N.J.A.C. 17:13-1.2, “small business” means a business that meets the requirements and definitions of “small business” and has applied for and been approved by the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit as (i) independently owned and operated, (ii) incorporated or registered in and has its principal place of business in the State of New Jersey; (iii) has 100 or fewer full-time employees; and has gross revenues falling in one (1) of the three (3) following categories: For goods and services - (A) 0 to \$500,000 (Category I); (B) \$500,001 to \$5,000,000 (Category II); and (C) \$5,000,001 to \$12,000,000, or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher (Category III); For construction services: (A) 0 to \$3,000,000 (Category IV); (B) gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201 (Category V); and (C) gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201, (Category VI).

State – The State of New Jersey.

State Contract Manager or SCM – The individual, as set forth in Section 8.0, responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work. The SCM cannot direct or approve a Change Order {Contract Amendment}.

Subtasks – Detailed activities that comprise the actual performance of a task.

Subcontractor – An entity having an arrangement with a Vendor {Contractor}, whereby the Vendor {Contractor} uses the products and/or services of that entity to fulfill some of its obligations under its State Blanket P.O., while retaining full responsibility for the performance of all [the Vendor’s {Contractor’s}] obligations under the Blanket P.O., including payment to the Subcontractor. The Subcontractor has no legal relationship with the State, only with the Vendor {Contractor}.

Task – A discrete unit of work to be performed.

Unit Cost – All-inclusive, firm fixed price charged by the Vendor {Bidder} for a single unit identified on a price line.

Using Agency[ies] – A State department or agency, a quasi-State governmental entity, participating entity, or a Cooperative Purchasing Program participant, authorized to purchase products and/or services under a Blanket P.O. procured by the Division. This Blanket P.O. may be used by the Using Agencies or quasi-governmental agencies specifically identified in the Bid Solicitation. In addition, with the approval of the Director of the Division of Purchase and Property and the agreement of the Vendor {Contractor}, the Blanket P.O. may be used by any Using Agency or quasi-State governmental entity. The term Using Agency shall also mean a Purchasing Entity as that term is defined in Attachment #1, NASPO ValuePoint Master Agreement Terms and Conditions.

Vendor {Bidder} – An entity offering a Quote in response to the Division’s Bid Solicitation.

Vendor {Contractor} – The Vendor {Bidder} awarded a Blanket P.O. resulting from this Bid Solicitation.

2.3 BLANKET P.O. {CONTRACT}-SPECIFIC DEFINITIONS/ACRONYMS

Acceptance – A written notice from a Using Agency to the Vendor {Contractor} advising it that the safety seat, booster, car/vehicle bed, vest, or any other proposed child transport mechanism, has passed its Acceptance Testing.

Acceptance Testing – 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 Using Agency.

Alternate Vendor {Contractor} – Refers to the awarded Vendor {Contractor} charged with the completion of scope of work engagements in the event that the Primary Vendor {Contractor} is bypassed (reference Bid Solicitation Section 1.2.2).

Authorized Wholesale Dealer – An agent or organization that is authorized to buy goods from a producer or distributor for wholesale and/or retail reselling.

Backless Booster – A firm platform, with no back, used with a lap-shoulder belt, that raises the child so that the height of his thighs and shoulders are closer to those of an adult and helps route both portions of the lap-shoulder belt to fit the smaller body. The booster utilizes the back of the vehicles seat for support of the child's torso.

Belt-Positioning Booster Seat (BPB) – A crash-tested device that raises the child so that the required lap and shoulder belts fit correctly. All BPBs act as pre-crash positioning devices and must be used with lap and shoulder belts. BPB models may have high backs, or be backless.

Booster Seat – A firm cushion of foam or plastic that raises the child higher in the car/vehicle to improve the position and angle of the shoulder belt.

CamWrap – A seat-mounted system for attaching a safety vest to a school bus seat. (See Portable seat mount).

Child Restraint System (CRS) – A crash-tested device or system that is specially designed to provide infant/child crash protection. General term for systems including child safety seats, safety vests or car/vehicle beds that meet Federal Motor Vehicle Safety Standard 213.

Combination Safety Seat – A type of forward-facing child restraint that is used with an internal Harness system to secure a child. With removal of the internal Harness, it is used as a Belt-Positioning Booster (BPB) seat.

Convertible Safety Seat – A child restraint that “converts” from rear-facing for infants and smaller children to forward-facing for children.

Federal Motor Vehicle Safety Standards (FMVSS) – A United States (U.S.) federal regulations specifying design, construction, performance, and durability requirements for motor vehicles and regulated automobile safety-related components, systems, and design features.

Federal Motor Vehicle Safety Standard (FMVSS) 302 – A U.S. federal regulation that specifies burn resistance requirements for materials used in the occupant compartments of motor vehicles.

Federal Motor Vehicle Safety Standard (FMVSS) 213 – A U.S. federal regulation that specifies requirements for Child Restraint Systems used in motor vehicles and aircraft.

Five-Point Harness – A form of seat belt that contains five (5) straps that are mounted to the car/vehicle frame.

Free on Board (FOB) Destination, Freight Prepaid and Added – The Vendor {Contractor} prepays the transportation charges, but adds the charges to the invoice for reimbursement.

Freight Pre-Paid – A shipping option where the Using Agency is allowed to choose its own shipping/delivery method and will be responsible for the freight charge.

Forward-Facing Safety Seat – A Child Restraint System that is intended for use only in the forward-facing position for a child that has outgrown his/her rear facing seat.

Harness – A system of straps that keep the child within the shell, distributes crash forces, and helps the child “ride down” the crash.

Harness Adjuster – A device used to tighten or loosen the internal Harness of a Child Restraint System.

Harness Retainer Clip or Chest Clip – A clasp that holds the shoulder straps together over the child’s chest at armpit level.

High Back Booster Seats – See Belt Positioning Booster.

Inside Delivery – Includes delivery, by request of the Using Agency, to any destination within a building, including, but not limited to: a storage room, hallway, subsequent floor than the delivery dock/front door.

Lead State – The State (New Jersey) conducting this cooperative procurement, evaluation, and subsequent Master Agreement award.

List Price – The price for one (1) unit only and does not include freight.

Locking Clip – A flat H-shaped metal item intended to clip lap and shoulder belt webbing together at a free-sliding latch plate in order to prevent the webbing from sliding through. A Locking Clip is a pre-crash positioning device only. It is not to be used as a belt shortening clip.

Lower Anchors and Tethers for Children (LATCH) System – Consists of built-in straps and hooks on the safety seat that are used to anchor hardware into the vehicle

Manufacturer – A company that, as its primary business function designs, assembles, owns the trademark/patent and markets child safety seats and offered devices.

Master Agreement – The underlying agreement (Blanket P.O. {Contract}) executed by and between the Lead State, as a NASPO Blanket P.O. {Contract} Administrator and the Contractor.

Original Equipment Manufacturer (OEM) – A company that makes a part or subsystem that is used in another company's end product.

National Association of State Procurement Officers (NASPO) – A non-profit association dedicated to advancing public procurement through leadership, excellence, and integrity. 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.

National Highway Traffic Safety Administration (NHTSA) – An agency within the federal Department of Transportation charged with writing and enforcing Federal Motor Vehicle Safety Standards as well as regulations for motor vehicle theft resistance and fuel economy.

Participating Addendum – A bilateral agreement executed by a Vendor {Contractor} and a Using Agency/Participating Entity incorporating the terms and conditions included in the original Bid

Solicitation and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures, or other terms and conditions unique to the participating entity. The purpose of a Participating Addendum is to afford each party using a NASPO ValuePoint contract the protection of the solicitation's terms and conditions (Please reference Attachment #1 - *NASPO ValuePoint Master Agreement Terms and Conditions* as it defines Participating Entity and other terms related to participation in ValuePoint.

Participating State (Entity) – Those NASPO ValuePoint Cooperative Purchasing Participants/ that have entered into a Participating Addendum under this Master Agreement. **Note: For the purpose of this Bid Solicitation, Participating States are also references as Using Agencies.**

Prime Vendor {Contractor} – Refers to the awarded Vendor {Contractor} charged with the overall completion of all scope of work engagements unless bypassed by the SCM or Using Agency during the Method of Engagement (reference Bid Solicitation Section 1.2.2).

Safety Seat – A portable seat for an infant or a small child that attaches to an automobile seat and holds the child safely.

Take-Back Program – A voluntary program that offers to take back and recycle previously purchased items.

Tether System – A long piece of seat belt material that has a clip on the end located at the top back of a convertible car/vehicle seat.

Wholesale Distributor – An agent or organization which acts as the sales and service representative for a manufacturer or supplier.

3.0 SCOPE OF WORK

The State of New Jersey's Master Blanket Purchase Order (Blanket P.O.) {Contract} resulting from this Bid Solicitation shall constitute the official NASPO ValuePoint Master Agreement (Master Agreement) to be followed by all Using Agencies, except for negotiated terms and conditions specific to each Using Agencies' specific Participating Addendum.

Note: Any child Safety Seat manufacturer and/or authorized Wholesale Distributor awarded a Blanket P.O. {Contract} are herein referenced as Vendor {Contractor}.

3.1 ENGAGEMENT

The Vendor {Contractor} will be engaged in accordance with Bid Solicitation Section 1.2.2, *Method of Engagement*. Upon engagement, during normal business hours (Monday-Friday, 8 a.m. – 5 p.m. (Eastern Standard Time (EST))), the Primary Vendor {Contractor} (Prime), shall inform the Using Agency within three (3) business day, if it is able to fill the order within the Using Agency's required time frame. In the event that the Prime is unable to meet this requirement the Using Agency may proceed as demonstrated in the aforementioned Method of Engagement Section.

3.2 ESSENTIAL REQUIREMENTS

The Vendor {Contractor} shall adhere to the following essential requirements:

- A. The Vendor [Contractor] shall service all states and Using Agencies within its awarded region;
- B. Adhere to the NASPO ValuePoint Master Agreement Terms and Conditions (Reference Attachment #1 of this Bid Solicitation);
- C. Identify and provide contact information for the individual assigned to provide the mandatory usage reports to the Lead State Contract Manager and NASPO ValuePoint representative within 15 days of the Blanket P.O. {"Contract} award;
- D. Supplying safe and reliable child Safety Seats in compliance with or exceeding the requirements set forth in the Federal Motor Vehicle Safety Standards (FMVSS);
- E. Provide at a minimum, a one (1) year manufacturer's warranty for each required seat and device offered as part of this Blanket P.O. {Contract}. The Vendor {Contractor} must provide direct Original Equipment Manufacturer warranties on all products offered;
- F. Ensure compliance with appropriate federal safety standards for all child Safety Seats and devices offered as part of this Blanket P.O. {Contract};
- G. Ensure that all offered items are not on any current recall list. If an item is recalled by the National Highway Traffic Safety Administration (NHTSA) and/or the manufacturer, the Vendor {Contractor} must immediately alert all Using Agencies, identify a replacement seat within 24-hours of the recall, and replace said item at no additional cost to the Using Agencies;
- H. Ensure that the manufacturer's name(s) shall appear on the child Safety Seats;
- I. Provide a website that includes, at a minimum:
 1. A current online instructional manual for each seat and device offered as part of this Blanket P.O. {Contract}; and
 2. Develop, implement, and maintain a product recall section on its website that lists the Vendor's {Contractor's} current product recalls. Additionally, the site must include information advising consumers on how to proceed with repairing, replacing, or returning the recalled item.
- J. Ensure that no minimum order/shipping requirement is necessary for any delivery method;

- K. Offer replacement parts for:
 - 1. Category One (1) {Category 1} – Forward Facing Seats (referencing Section 3.5.1);
 - 2. Category Two (2) {Category 2} – Rear Facing Seats (referencing Section 3.5.2);
 - 3. Category Three (3) {Category 3} – Booster Seats (referencing Section 3.5.3); and
 - 4. Category Four (4) {Category 4} – Special Needs Seats (referencing Section 3.5.4, if applicable); and
- L. Ensure that during the course of the Blanket P.O. {Contract} term, should any of the child Safety Seats be upgraded by the Vendor {Contractor}, the upgraded model must be made immediately available to the Using Agency on the next placed order and include the same percentage discount offered off of the originally offered product.

Note: It is the intent of the Participating States to use the child safety seats in both school buses and passenger cars/vans.

3.3 GENERAL REQUIREMENTS

3.4 SEAT-SPECIFIC REQUIREMENTS (CATEGORIES 1-3)

The Vendor {Contractor} shall ensure that Safety Seat Categories 1-3 adhere to, at a minimum, the following requirements:

- A. Ensure that fabric cover is easily removed and machine washable. Additionally, fabric material must meet the requirements set forth in FMVSS No. 302 for flammability of interior materials;
- B. Include side impact protection;
- C. Item must be shipped complete/fully assembled with all parts and accessories;
- D. Include a registration card with each Safety Seat, as specified in FMVSS-213.8.1 (a)-(d);
- E. Demonstrate labeling as specified in FMVSS-213 S5.5, S5.5.1 and S5.5.2 (a)-(m);
- F. Each seat must include written instructions in English and Spanish; and
- G. All seats must (at the time of the original Quote submission, after award, and at the time of delivery meet or exceed the current requirements set forth in FMVSS-213 including side impact testing.

Additionally, the Vendor {Contractor} should ensure that each seat option offers replacement parts.

3.5 SAFETY SEAT-SPECIFIC SPECIFICATION REQUIREMENTS

The Vendor's {Contractor's} Safety Seat shall adhere to the following seat-specific requirements.

3.5.1 FORWARD FACING SAFETY SEAT (CATEGORY 1)

3.5.1.1 COMBINATION SEATS

The Vendor {Contractor} shall ensure that forward facing Combination Safety Seats adhere to, at a minimum, the following requirements:

- A. Accommodate a child's weight of 22 pounds to at least 50 pounds **with use of Harness**;
- B. Accommodate a child's weight of 40 pounds to at least 100 pounds when used as a Booster Seat **without Harness**;

- C. Support the back & head of the child up to at least 57 inches in height;
- D. Include a push button release;
- E. Include, at a minimum, the following Harness requirements:
 - 1. Five-Point Harness Internal Protection System with secure fit around hips;
 - 2. An upfront Harness Adjustment strap; and
 - 3. A Harness Retainer Clip; and
- F. Include the ability to keep shoulder straps secure at shoulders;
- G. Include an open-loop shoulder belt guide to help ensure proper seat belt positioning of the shoulder and lap portions of the belt;
- H. Include a minimum of two (2) adjustable crotch strap positions; and
- I. Include Lower Anchors and Tethers for Children (LATCH) & Tether system. A tether strap with tilt-lock adjuster must be attached.

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat:

- J. Supports the back & head of the child up to at least 57 inches in height;
- K. Includes a minimum of three (3) Harness height positions;
- L. Includes a Harness Retainer Clip;
- M. Includes a Harness with a splitter plate mechanism for easy access and adjustment to height positions to accommodate growth;
- N. Includes a padded arm rest (padding can be cloth or other material that reduces heat absorption to the area)

3.5.1.2 CONVERTIBLE SEATS – WITH HARNESS RETHREADING REQUIRED

The Vendor {Contractor} shall ensure that Convertible Safety Seats with Harness rethreading adhere to, at a minimum, the following requirements:

- A. **Rear Facing Safety Seat** - Accommodate a child's weight of 5 pounds to 40 pounds;
- B. **Forward Facing Safety Seat** - Accommodate a child's weight of 22 pounds to at least 65 pounds;
- C. Include, at a minimum, the following Harness requirements:
 - 1. Five-Point Harness Internal Protection System;
 - 2. A two (2) piece Chest Clip;
 - 3. An upfront Harness Adjustment strap; and
 - 4. A crotch/Harness strap with a push button release. The crotch/Harness should possess a minimum of two (2) adjustable crotch strap positions;
- D. Include a Locking Clip or have the ability to be provided upon request;
- E. Infant and toddler belt routing must be easy to access;
- F. The rear facing and forward facing belt path must be wide enough to easily accept a standard vehicle safety belt;
- G. Must recline for rear facing position;
- H. Include upright position for toddlers;
- I. Include a LATCH & pre-installed tether strap with tilt-lock adjuster;

- J. Include durable molded polypropylene plastic shell with sides for head protection and comfort for sleeping child; and
- K. Include a wraparound car/vehicle seat cover and pad for head.

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat:

- L. Supports the back & head of the child up to at least 49 inches in height;
- M. Includes a minimum of three (3) Harness height positions; and
- N. Includes a padded arm rest (padding can be cloth or other material that reduces heat absorption to the area).

3.5.1.3 CONVERTIBLE SEATS – WITHOUT HARNESS RETHREADING

The Vendor {Contractor} shall ensure that **Forward Facing Convertible Safety Seats** without Harness rethreading adhere to, at a minimum, the following requirements:

- A. Rear Facing Safety Seat - Accommodate a child's weight of 5 pounds to 40 pounds;
- B. Forward Facing Safety Seat - Accommodate a child's weight of 22 pounds to at least 65 pounds;
- C. Include height adjustment that does not require Child Restraint System to be rethreaded;
- D. Include, at a minimum, the following Harness requirements:
 - 1. Five-Point Harness Internal Protection System;
 - 2. An upfront Harness Adjustment strap; and
 - 3. A Crotch/Harness Strap with a push button release. The crotch/ Harness strap should possess a minimum of two (2) adjustable crotch strap positions;
- E. Include a Locking clip or have the ability to be provided upon request;
- F. Infant and toddler belt routing must be easy to access;
- G. The rear facing and forward facing belt path must be wide enough to easily accept a standard vehicle safety belt;
- H. Must have ease of use when changing from rear-facing to forward facing;
- I. Must recline for rear facing positioning;
- J. Include an upright position for toddlers;
- K. Include a LATCH & pre-installed tether strap with tilt-lock adjuster;
- L. Include durable molded polypropylene plastic shell with sides for head protection and comfort for sleeping child; and
- M. Include a wraparound car/vehicle seat cover and pad for head.

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat:

- N. Support a child's height of at least 49 inches;
- O. A minimum of three (3) Harness slots; and
- P. Includes a padded arm rest (padding can be cloth or other material that reduces heat absorption to the area).

3.5.2 REAR FACING INFANT SAFETY SEATS (CATEGORY 2)

The Vendor {Contractor} shall ensure that Rear Facing Infant Safety Seats without Harness rethreading adhere to, at a minimum, the following requirements:

- A. Accommodate an infants' weight of 4 pounds to at least 35 pounds;
- B. Include a removable and adjustable base;
- C. Include, at a minimum, the following Harness requirements:
 - 1. Five-Point Harness Internal Protection System;
 - 2. A two (2) piece Harness Retainer Clip;
 - 3. A center Front Harness Adjustment;
 - 4. A Harness secured with a splitter mechanism for easy access and
 - 5. Capable of adjusting to varying height positions to accommodate growth;
- D. Must be able to keeps shoulder straps secure at shoulders;
- E. Include a push button buckle release,
- F. Include a LATCH system;
- G. Must be able to thread belts through pad and snap them into place;
- H. Include a foot or prop mechanism on the base for assisting in proper angle/recline adjustment of seat;
- I. Include a Locking Clip or have the ability to be provided upon request;
- J. Provide side impact protection;
- K. Include an adjustable carrying handle; and
- L. Include an infant pillow for added head support that adjusts with growth of child.

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat:

- M. Includes a minimum of three (3) shoulder Harness positions for newborn to infant growth;
- N. Includes an gravity/level-to-ground indicator on the base; and
- O. Includes a padded arm rest (padding can be cloth or other material that reduces heat absorption to the area)

3.5.3 BOOSTER SEATS (CATEGORY 3)

The Vendor {Contractor} shall ensure that Booster Seats adhere to, at a minimum, the following requirements:

3.5.3.1 BACKLESS BOOSTER

- A. Accommodate a child's weight of 40 pounds to at least 100 pounds;
- B. Include capability to be used with vehicle lap & shoulder seat belt system;
- C. Include a Comfort Clip to keep shoulder strap away for the child's neck; and\
- D. Include armrests (The armrest should be padded with cloth or other material that reduces heat absorption to the area).

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat supports the height

of a child up to at least 57 inches. Note: The Backless Booster should not be a combination seat (i.e. Backless Booster that also includes a high-back).

3.5.3.2 HIGH-BACK BOOSTER

- A. Accommodate a child's weight of 40 to at least 100 pounds with backrest;
- B. Include an open-loop shoulder belt guides and padded armrest to help ensure proper seat belt positioning of the shoulder & lap portions of the belt;
- C. Provide 2-in-1 Belt Positioning; and
- D. Include head & back support.

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat supports the back & head of the child up to at least 57 inches in height.

3.5.3.3 HIGH-BACK BOOSTER SEAT WITH REMOVABLE BACK

- A. Accommodate a child's weight of 40 to at least 100 pounds when used as a High Back Booster;
- B. Must have a removable back for transition to a Backless Booster for children weighing 40 pounds to at least 100 pounds;
- C. Include open-loop shoulder belt guides and padded armrest to help ensure proper seat belt positioning of the shoulder & lap portions of the belt;
- D. Include a comfort clip which positions shoulder belt strap away from child's neck;
- E. Provide 2-in-1 belt positioning;
- F. Provide head & back support; and

Additionally, the Vendor {Contractor} should ensure, at a minimum, that the seat:

- G. Supports the back & head of the child up to at least 57 inches in height; and
- H. Includes a padded arm rest (padding can be cloth or other material).

3.5.4 SPECIAL NEEDS - (CATEGORY 4)

3.5.4.1 CATEGORY 4 - GENERAL REQUIREMENTS

All Category 4 items shall meet, at a minimum, the following general requirements:

- A. Ensure that fabric cover is easily removed and machine washable. Additionally, fabric material must meet Federal Motor Vehicle Safety Standard (FMVSS) No. 302 for flammability of interior materials;
- B. Include a registration card with each item as specified in FMVSS-213.8.1 (a)-(d);
- C. Demonstrate labeling as specified in FMVSS-213 S5.5, S5.5.1 and S5.5.2 (a)-(m);
- D. Each item must include written instructions in English and Spanish;
- E. Must not be on any current recall list;
- F. All items must (at the time of the original Quote submission, after award, and at the time of delivery meet and/or exceed the current requirements set forth in FMVSS-213 including side impact testing; and

- G. Must comply with any and all new regulations that may be implemented by NHSTA during the course of the Blanket P.O. {Contract} term.

Additionally, the Vendor {Contractor} should ensure that each item offers replacement parts.

3.5.4.2 SPECIAL NEEDS SAFETY SEAT 22LBS-100LBS

The Vendor {Contractor} shall ensure that Special Needs Safety Seats/Items adhere to, at a minimum, the following requirements:

3.5.4.2.1 INFANT CAR/VEHICLE BED

Infant Car/vehicle Beds are utilized for infants who must remain fully reclined while transported in a vehicle. The Vendor {Contractor} shall ensure that Infant Car/Vehicle Beds adhere to, at a minimum, the following requirements:

- A. Car/vehicle Bed must provide for supine or prone positioning for special needs infants weighing less than 9 pounds and measuring less than 20 inches;
- B. Car/vehicle Bed must allow the child to be positioned on stomach or if medically necessary, on back or side according to individual needs;
- C. Include one-hand front-release push button buckle;
- D. Include a Polypropylene molded shell;
- E. Ensure that each car/vehicle Bed option offers replacement parts
- F. Include a Locking Clip or have the ability to be provided upon request; and
- G. Must be recognized by the American Academy of Pediatrics for transporting preemies, low birth weight infants, and other medically fragile infants who must ride lying down.

3.5.4.2.2 SAFETY VESTS – FOR USE ON SCHOOL BUSES

The Vendor {Contractor} shall provide Safety Vests for use in school buses and vehicles, as per the manufacturer's instructions. All Safety Vests must meet all requirements in accordance with FMVSS 213.

3.5.4.2.2.1 ADJUSTABLE VEST

The Vendor {Contractor} shall ensure that Adjustable Vests adhere to, at a minimum, the following requirements:

- A. Accommodate children from age two (2) to adult;
- B. Accommodate weight of 20 pounds to 168 pounds;
- C. Include adjustable shoulder straps to easily lengthen and shorten the vest;
- D. Ensure that the hip strap must remain low around the hip;
- E. Must be compatible for use with a lap belt and strap (CamWrap belts) which wraps around the back of the seat where the shoulder Harness straps are hooked;
- F. Must also be able to be used if no lap belt is present;
- G. Include adjustable zipper panel to accommodate growth and bulky clothing;
- H. Include bar slides to back thread shoulder straps and lock into place;
- I. Ability to snap securely into seat mount;
- J. Must be available with sewn and portable crotch straps. Additionally, the crotch straps must

be in compliance with NHTSA guidelines; and

K. Must be able to be comfortably fitted/worn prior to entering school bus and/or vehicle.

3.5.4.2.2 PUSH BUTTON VEST

The Vendor {Contractor} shall ensure that Push Button Vests adhere to, at a minimum, the following requirements:

- A. Accommodate children of age two (2) and up, with a weight ranging limit ranging from 20-65 pounds;
- B. Must accommodate larger children and adults up to 168 pounds;
- C. Ability to snap securely into seat mount;
- D. Must offer a quick snap on and simple release button;
- E. Chest and waist straps must easily adjust for a secure fit; and
- F. Must offer portable and sewn crotch straps that are in compliance with NHTSA guidelines.

3.6 LOST, DAMAGED, WRONGFUL DELIVERY, AND/OR DEFECTIVE CHILD SAFETY SEATS

The Vendor {Contractor} shall replace any child Safety Seat that has been lost or damaged while in transit at no additional cost to the Using Agency. **Note: The Using Agency reserves the right to refuse a delivery which arrives damaged and/or may appear to be damaged.**

All deliveries refused due to damage shall be returned at the Vendor's {Contractor's} expense. The Using Agency will have 60 days to report any concealed damage. Upon receiving notification of damage by the Using Agency, the Vendor {Contractor} shall replace the damaged seat at no additional cost within ten (10) business days of notification.

In the event that the Vendor {Contractor} delivers the wrong item to a Using Agency, upon notification, it must immediately rectify the error by shipping the correct item to the Using Agency at no additional cost. Note: Each Participating State has the right to negotiate additional wrongful delivery terms via its Participating Addendum.

3.7 SUBSTITUTIONS

The Vendor {Contractor} shall adhere to, at a minimum, the following substitution criteria:

- A. Ensure delivery of the items ordered and shall not substitute any item without prior written approval by the Using Agency. Alternate items delivered without prior written approval will be rejected and returned to the Vendor {Contractor} at its expense; and
- B. In the event that the product ordered is no longer manufactured for reasons beyond the Vendor's {Contractor's} control (e.g. product discontinuance, recalls, etc.). The Vendor {Contractor} shall notify the Lead State Contract Manager within ten (10) business days of confirmation that the ordered product is no longer available. Within five (5) business days of Lead State notification, the Vendor {Contractor} shall provide an alternate product sample to the Lead State for review and approval. The substituted product shall meet and/or exceed all child Safety Seat specifications applicable to the original specified product. Upon approval, the Vendor {Contractor} must immediately commence shipping of all the substitute product.

3.8 PACKING/SHIPPING/DELIVERY REQUIREMENTS

3.8.1 PACKAGING REQUIREMENTS

The Vendor {Contractor} shall adhere to, at a minimum, the following packing requirements:

- A. Ensure items are packaged in such a manner as to ensure delivery in first class condition and properly marked for identification;
- B. Labeled to indicate the Manufacturer's name, purchase order number, and the following Using Agency - Specific information:
 1. Using Agency Name;
 2. Contact/Recipient Name; and
 3. Address.
- C. Ensure that all products are delivered in new packaging.

3.8.2 DELIVERY METHODS/REQUIREMENTS

3.8.2.1 METHODS OF DELIVERY OPTIONS

The Vendor {Contractor} shall provide, at a minimum, the following methods of delivery options to all Using Agencies. The Using Agency shall be permitted to select the most cost effective delivery option best meeting its needs. Each Using Agency will pay freight; however, the Vendor {Contractor} shall not charge any additional fees (including handling) or require a minimum order:

- A. **Freight Pre-Paid - Using Agency's Scheduled Shipping:** Upon placing an order, and at the Using Agency's request, it will provide the Vendor {Contractor} with one (1) of the following account numbers to bill for shipment:
 1. United Parcel Services (UPS);
 2. Federal Express (FedEx); or
 3. Truck Delivery - Upon placing an order the Using Agency will inform the Vendor {Contractor} that it will arrange for a carrier to pick-up the item for delivery to a specific location.
- B. **Vendor {Contractor} Scheduled Shipping:**
 1. **Free on Board (FOB) Destination, Freight added to the Invoice** – The Vendor {Contractor} shall ship FOB Destination and may add only the freight charges incurred to the Using Agency's invoice. No handling fees or other charges shall be included in the freight charge. Shipping regions are as follows:
 - a. **Central Region:** North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Wisconsin, Illinois, Missouri, Kansas, Oklahoma, Arkansas, Tennessee, Mississippi, Alabama, Louisiana, Texas, Western Kentucky, and Western Indiana;
 - b. **Eastern Region:** Michigan, Eastern Indiana, Ohio, Eastern Kentucky, New York, Pennsylvania, New Jersey, New Hampshire, Maine, Rhode Island, Connecticut, Delaware, Maryland, District of Columbia (DC), North Carolina, South Carolina, Georgia, and Florida;
 - c. **Mountain Region:** Montana, Idaho, Wyoming, Utah, Colorado, Arizona, and New Mexico; and
 - d. **Pacific Region(s) :** Washington, Oregon, Nevada, Alaska, Hawaii, and California;

3.8.2.2 DELIVERY REQUIREMENTS

As part of each Using Agencies Participating Addendum, the Vendor {Contractor} shall establish in conjunction with the Using Agency standard working hours for each Using Agency.

The Vendor {Contractor} shall adhere to, at a minimum, the following delivery criteria:

- A. Ensure that all deliveries are made during the standard working hours established for each Using Agency;
- B. Provide Inside Delivery as directed by the Using Agency. For the purposes of this Bid Solicitation, Inside Delivery shall include, but not be limited to, anywhere in the building (e.g. storage room, office, etc.). The Vendor's {Contractor's} awarded shipping price shall be all-inclusive of any Inside Delivery charge; and
- C. The Vendor {Contractor} shall be responsible for any additional charges should the Vendor {Contractor} fail to observe specific delivery days and receiving hours.

3.9 REPORTING REQUIREMENTS

3.9.1 SALES REPORT

The Vendor {Contractor} must provide, as required by each Using Agency an electronic sales report (in excel format) that includes, at a minimum, the following for each item purchased:

- A. Brand;
- B. Model name;
- C. Model number;
- D. Manufacturer date
- E. Warranty expiration date;
- F. Purchase order number;
- G. Delivery location;
- H. Date of shipment; and
- I. Any additional reporting requirements deemed necessary by each Using Agency's Participating Addendum.

3.9.2 NASPO VALUEPOINT SUMMARY AND DETAILED USAGE REPORTS

The Vendor {Contractor} must provide NASPO ValuePoint Summary and Detailed Usage Reports in accordance with Section 7 of the NASPO ValuePoint Master Agreement Terms and Conditions (Reference Attachment #1).

3.9.3 FINAL USAGE FEE AND REPORTING PLAN

Upon award, the Vendor {Contractor} shall finalize its Preliminary Usage Fee and Reporting Plan submitted with its original Quote (Reference Bid Solicitation Section 4.4.3(C) Submittals. The Final Usage Fee and Reporting Plan shall demonstrate how the Vendor {Contractor} will meet the usage fee and reporting requirements of the NASPO ValuePoint and Participating States and must include, at a minimum:

- A. The direct Vendor {Contractor} contact for usage reports;

- B. The method and frequency in which usage data will be collected from authorized distributors;
- C. The method in which usage fees will be distributed to NASPO ValuePoint and applicable Participating States; and
- D. The method in which up to date information will be provided to NASPO ValuePoint and the Lead State Contract Administrator.

The Vendor {Contractor} shall ensure that all information within the plan is kept current, with NASPO ValuePoint and the Lead State Contract Administrator being notified of any suggested changes to the usage fee and reporting plan immediately. The Vendor {Contractor} shall not finalize any changes until it has received approval from both NASPO ValuePoint and the Lead State Contract Administrator.

3.10 OPTIONAL OFFERINGS

The Vendor {Contractor} should offer additional child transport options including, but not limited to:

3.10.1 SAFETY TECHNOLOGY

The Vendor {Contractor} should offer safety technology that alerts the driver if and when a Safety Seat is in use.

3.10.2 AIR TRAVEL SAFETY SEATS

The Vendor {Contractor} should offer Child Safety Seats approved for air travel in compliance with the FMVSS-213. In the event that the Vendor {Contractor} offers child Safety Seats approved for air travel, it must bear the label "Certified for use in motor vehicles and aircraft".

3.10.3 OPTIONAL SUPPORT SERVICES

The Vendor {Contractor} should offer the following support services at no additional cost to the Using Agency:

- A. Current web-based training videos and/or any other type of training available for the proper installation of child Safety Seats (i.e. Customer Support Technician, on-line training, etc.); and
- B. A Take-Back and/or recycling program for child Safety Seats and other items offered under this Bid Solicitation, which are outdated and/or no longer needed or damaged due to everyday use, In the event that the Vendor {Contractor} offers a Take-Back/Recycling Programs, it should also offer a rebate percentage back to the Using Agency on all items it returned using the programs. In the event that a rebate is offered, the terms of the remittance shall be agreed upon and documented as part of each Using Agencies Participating Addendum.

4.0 QUOTE PREPARATION AND SUBMISSION

Failure to submit information as indicated below may result in your Quote being deemed non-responsive.

4.1 GENERAL

A Vendor {Bidder} may submit additional terms as part of its Quote and Quotes including Vendor {Bidder} proposed terms and conditions may be accepted, but Vendor {Bidder} proposed terms or conditions that conflict with those contained in the Bid Solicitation, as defined in Section 2.0 of this Bid Solicitation, or that diminish the State's rights under any Blanket P.O. resulting from the Bid Solicitation, may render a Quote non-responsive. It is incumbent upon the Vendor {Bidder} to identify and remove its conflicting proposed terms and conditions prior to Quote submission. Where additional terms are submitted they may be accepted, rejected, or negotiated, in whole or in part, at the State's sole discretion where the terms do not conflict with material terms of the Bid Solicitation or do not diminish the State's rights under the Blanket P.O. resulting from the Bid Solicitation.

In the event that a Vendor {Bidder} intends to propose terms and conditions that conflict with the Bid Solicitation, those Vendor {Bidder} proposed terms and conditions shall only be considered if submitted and agreed to pursuant to the electronic question and answer procedure set forth in Section 1.3.1 of this Bid Solicitation. Vendors {Bidders} shall not submit exceptions in the Quote or on the "Terms and Conditions" Tab through **NJSTART**.

After award of the Blanket P.O., if a conflict arises between a Vendor's {Bidder's} additional terms included in the Quote and a term or condition of the Bid Solicitation, the term or condition of the Bid Solicitation will prevail.

Use of URLs in a Quote should be kept to a minimum and shall not be used to satisfy any material term of a Bid Solicitation. If a preprinted or other document included as part of the Quote contains a URL, a printed copy of the URL page shall be provided and will be considered as part of the Quote.

<p>The forms discussed herein and required for submission of a Quote in response to this Bid Solicitation are available on the Division's website (http://www.state.nj.us/treasury/purchase/forms.shtml) unless noted otherwise.</p>

4.2 QUOTE DELIVERY AND IDENTIFICATION

A Quote must arrive at the Division in accordance with this Bid Solicitation's {RFP's} instructions within the time frames noted on the Bid Solicitation cover sheet and on the "Summary" page of the Bid Solicitation in **NJSTART**, or as indicated on the posted Bid Amendment if the Quote Opening Date has been changed. Vendors {Bidders} submitting electronic Quotes {Proposals} via **NJSTART** are cautioned to allow adequate time to ensure timely uploads of all Quote documents to mitigate unforeseen delays or issues. Vendors {Bidders} submitting hard copy Quotes {Proposals} are cautioned to allow adequate delivery time to ensure timely delivery of Quotes {Proposals}. **State regulation mandates that late Quotes {Proposals}, regardless of submission method, are ineligible for consideration.**

4.3 **NJSTART ELECTRONIC SUBMISSION VS. HARD COPY SUBMISSION INSTRUCTION**

4.3.1 **NJSTART SUBMISSION OF QUOTE**

Vendors {Bidders} may refer to the QRGs "Vendor Registration" and "Submit a Quote" for additional instructions detailing how to enroll in **NJSTART** and submit a **NJSTART** electronic Quote. QRGs

are located on the [NJSTART Vendor Support Page](#). If the Vendor {Bidder} submits both a **NJSTART** and a hard copy of the Vendor's {Bidder's} Quote, the **NJSTART** Quote will prevail in the event of a discrepancy between the electronic and paper versions.

When submitting a **NJSTART** Quote, do not use any symbols (i.e., #, @, \$, &, *) in the filename. In addition, the Vendor {Bidder} should name each uploaded electronic file and folder as follows with the information in the brackets [] below as follows:

[Vendor {Bidder} name][Volume #][Bid Solicitation number]. Example: vendornameXXDPPXXXXX.
DO NOT UPLOAD .ZIP FILES.

If the Vendor {Bidder} submits a Quote electronically through **NJSTART**, the Vendor {Bidder} should select the "Confidential" option in **NJSTART** for attachments on the "Attachments" Tab to request that the documents not be displayed publicly through **NJSTART**.

Note: Marking an attachment as "Confidential" in **NJSTART** shall not constitute the Vendor's {Bidder's} designation of the attachment as exempt from public disclosure under OPRA and/or the common law as outlined in Section 1.4.4.

4.3.2 HARD COPY SUBMISSION

If the Vendor {Bidder} is submitting a hard copy Quote, the Vendor {Bidder} must submit the following:

- A. **One (1) complete Quote, comprising all volumes and including original, physical signature**, clearly marked as the "ORIGINAL" Quote;
- B. **Three (3) complete and exact ELECTRONIC copies** of the original Quote in PDF file format on CD, DVD, or USB Drive. These should be cover to cover copies, and should not be password protected. **THE PRICE SCHEDULE (VOLUME 3) SHALL NOT BE INCLUDED ON THIS ELECTRONIC COPY; and**
- C. **One (1) complete and exact ELECTRONIC copy** of the original price schedule (Volume 3) in Microsoft Excel file format on CD, DVD, or USB Drive . This should be a cover to cover copy, and should not be password protected.

THE EXTERIOR OF ALL QUOTE PACKAGES SHALL BE LABELED WITH THE BID SOLICITATION IDENTIFICATION NUMBER AND THE FINAL QUOTE SUBMISSION DATE OR RISK NOT BEING RECEIVED IN TIME.

Copies are necessary in the evaluation of the Quote and for record retention purposes. A Vendor {Bidder} failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. The Vendor {Bidder} should make and retain a copy of its Quote.

Hard copy Quote must be submitted to the physical location noted below:

PROPOSAL RECEIVING ROOM – 9TH FLOOR
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

Directions to the Division are available on the web at <http://www.state.nj.us/treasury/purchase/directions.shtml>.

QUOTES {PROPOSALS} NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING IS INDICATED ON THE BID SOLICITATION COVER SHEET AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN NJSTART.

IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED BID AMENDMENT AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN NJSTART.

Note: A Vendor {Bidder} using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Proposal Receiving Room. A Vendor {Bidder} should make every effort to submit its Quote well ahead of the Quote submission deadline to mitigate unforeseen delays or issues. The Vendor {Bidder} is solely responsible for the timely submission of its Quote in response to this Bid Solicitation.

4.4 QUOTE CONTENT

The Quote should be submitted in three (3) volumes with the content of each volume as indicated below.

- A. Volume 1
Section 1 - Forms (Sections 4.4.1 and 4.4.2).

Note: In general, Volume 1 applies to hard copy submissions; however, there may be instances where Bid Solicitation specific forms are required through **NJSTART** electronic submission as well.

- B. Volume 2
Section 2 - Technical Quote (Section 4.4.3);
Section 3 - Organizational Support and Experience (Section 4.4.4); and
Section 3A - Any other miscellaneous documents to be included by the Vendor {Bidder}.

- C. Volume 3
Section 4 – Price Schedule (Section 4.4.5).

Note: Vendors {Bidders} submitting Quotes {Proposals} through **NJSTART** must complete the State-supplied price sheet/schedule(s) (Volume 3) accompanying this Bid Solicitation and upload it as an attachment on the "Attachments" Tab (See Section 4.4.5 of this Bid Solicitation).

The Vendor {Bidder} must enter a Unit Cost of \$1.00 for each price line item on the "Items" Tab in **NJSTART**. The Vendor {Bidder} is instructed to do so only as a mechanism to comply with Bid Solicitation Section 6.8 and prevent all pricing from being publicly displayed in **NJSTART**.

In the event that a Vendor {Bidder} uploads a price sheet/schedule attachment and completes the Items Tab in **NJSTART** (instead of entering a Unit Cost of \$1.00 as instructed), the price sheet/schedule attachment will govern.

4.4.1 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED WITH QUOTE

Vendors {Bidders} should refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation through **NJSTART**. Vendors {Bidders} may also refer to the QRG "Vendor Categories and Certifications" for additional instructions on completing shortened versions of required forms by completing certifications on the "Maintain Terms and Categories" Tab within its profile in **NJSTART**. QRGs are located on the [NJSTART Vendor Support Page](#).

In the event that a Vendor {Bidder} fails to attach a required form, or the attached form is deemed deficient, the Division may access the Primary Form to be considered as part of the Quote.

Vendors {Bidders} submitting forms through hard copy must complete the full version of the form and may refer to instructions included within the forms on the [Division's website](#).

Vendors {Bidders} are under a continuing obligation to report updates to the information contained in its required forms whether submitting through **NJSTART** or as a hard copy.

Unless otherwise specified, forms must contain an original, physical signature, or an electronic signature pursuant to Section 1.3.4 of this Bid Solicitation.

4.4.1.1 OFFER AND ACCEPTANCE PAGE {SIGNATORY PAGE}

The Vendor {Bidder} shall complete and submit the Offer and Acceptance Page {Signatory Page} accompanying this Bid Solicitation prior to the initiation of negotiation. The Vendor {Bidder} should submit the Offer and Acceptance Page {Signatory Page} with the Quote. All information requested on the Offer and Acceptance Page {Signatory Page} must be submitted.

If the Offer and Acceptance Page {Signatory Page} is not submitted with the Quote or is incomplete, the State will require the Vendor {Bidder} to submit the Offer and Acceptance Page {Signatory Page}. If the Vendor {Bidder} fails to comply with the requirement within seven (7) business days of the demand, the State may deem the Quote non-responsive.

The Offer and Acceptance Page {Signatory Page} must be signed by an authorized representative of the Vendor {Bidder}. If the Vendor {Bidder} is a limited partnership, the Offer and Acceptance Page {Signatory Page} must be signed by a general partner. If the Vendor {Bidder} is a joint venture, the Offer and Acceptance Page {Signatory Page} must be signed by a principal of each party to the joint venture.

4.4.1.1.1 MACBRIDE PRINCIPLES CERTIFICATION

The Vendor {Bidder} must certify pursuant to N.J.S.A. 52:34-12.2 that it is in compliance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of its compliance with those principles. See Section 2.5 of the SSTC and N.J.S.A. 52:34-12.2 for additional information about the MacBride principles.

By signing the Bid Solicitation Offer and Acceptance Page {Signatory Page}, the Vendor {Bidder} is automatically certifying that either:

- A. The Vendor {Bidder} has no operations in Northern Ireland; or
- B. The Vendor {Bidder} has business operations in Northern Ireland and is committed to compliance with the MacBride principles.

A Vendor {Bidder} electing not to certify to the MacBride Principles must nonetheless sign the Bid Solicitation Offer and Acceptance Page {Signatory Page} AND must include, as part of its Quote, a statement indicating its refusal to comply with the provisions of this Act.

4.4.1.1.2 NO SUBCONTRACTOR CERTIFICATION

For a Quote that does NOT include the use of any Subcontractors, by signing the Bid Solicitation Offer and Acceptance Page {Signatory Page}, the Vendor {Bidder} is *automatically* certifying that:

- A. In the event the award is granted to the Vendor's {Bidder's} firm and the Vendor {Bidder} later determines at any time during the term of the Blanket P.O. {Contract} to engage Subcontractors to provide certain goods and/or services, pursuant to Section 5.8 of the SSTC, the Vendor {Bidder} shall submit a Subcontractor Utilization Plan form for approval to the Division in advance of any such engagement of Subcontractors; and
- B. If the Blanket P.O. {Contract} is a small business subcontracting set-aside, the Vendor {Bidder} certifies that in engaging Subcontractors, it shall make a good faith effort to achieve the subcontracting set-aside goals, and shall attach to the Subcontractor Utilization Plan documentation of such efforts in accordance with N.J.A.C. 17:13-4 et seq.

4.4.1.1.3 NON-COLLUSION

By submitting a Quote and signing the Bid Solicitation Offer and Acceptance Page {Signatory Page}, the Vendor {Bidder} certifies as follows:

- A. The price(s) and amount of its Quote have been arrived at independently and without consultation, communication or agreement with any other Vendor {Contractor, Bidder} or any other party;
- B. Neither the price(s) nor the amount of its Quote, and neither the approximate price(s) nor approximate amount of this Quote, have been disclosed to any other firm or person who is a Vendor {Bidder} or potential Vendor {Bidder}, and they will not be disclosed before the Quote submission;
- C. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Blanket P.O. {Contract}, or to submit a Quote higher than this Quote, or to submit any intentionally high or noncompetitive Quote or other form of complementary Quote;
- D. The Quote of the firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Quote; and
- E. The Vendor {Bidder}, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last five (5) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public Blanket P.O. {Contract}.

4.4.1.1.4 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

The Treasurer has established a business ethics guide to be followed by Vendors {Bidders/Contractors} in its dealings with the State. The guide provides further information about compliance with Section 2.7 of the SSTC. The guide can be found at:

http://www.state.nj.us/treasury/purchase/ethics_guide.shtml

By signing the Bid Solicitation Offer and Acceptance Page {Signatory Page}, the Vendor {Bidder} is automatically certifying that it has complied with all applicable laws and regulations governing the provision of State goods and services, including the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to -28.

4.4.1.2 NJ STANDARD BID SOLICITATION FORMS REQUIRED WITH THE QUOTE

Vendor's {Bidder's} failure to complete, sign, and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

4.4.1.2.1 OWNERSHIP DISCLOSURE FORM

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, partnership or limited liability company, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, to comply with this section, a Vendor {Bidder} with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

Vendors {Bidders} using **NJSTART** to submit a Quote shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote must complete the full Ownership Disclosure Form located on the [Division's website](#). This form is also available in **NJSTART** (www.njstart.gov).

Vendors {Bidders} may refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation through **NJSTART**. Vendors {Bidders} may also refer to the QRG "Vendor Categories and Certifications" for additional instructions on completing shortened versions of required forms by completing certifications on the "Maintain Terms and Categories" Tab within its profile in **NJSTART**. QRGs are located on the [NJSTART Vendor Support Page](#).

Vendors {Bidders} utilizing **NJSTART** should designate one (1) version of the Ownership Disclosure Form as the Primary Form. In the event that a Vendor {Bidder} fails to attach an Ownership Disclosure Form, or the attached Ownership Disclosure Form is deemed deficient, the Division may access the Primary Form and consider it as part of the Quote. **Note:** The Primary Form must have a Date Created within six (6) months of the Quote submission deadline to be considered valid.

4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

Pursuant to N.J.S.A. 52:32-58, the Vendor {Bidder} must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Vendor {Bidder}, nor one (1) of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Vendor {Bidder}, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Vendor {Bidder} is unable

to so certify, the Vendor {Bidder} shall provide a detailed and precise description of such activities as directed on the form. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder}.

Vendors {Bidders} using [NJSTART](#) to submit a Quote shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Disclosure of Investment Activities in Iran form. Vendors {Bidders} not using [NJSTART](#) to submit a Quote must complete the full Disclosure of Investment Activities in Iran form located on the [Division's website](#). The full version of the form is also available in [NJSTART](#) (www.njstart.gov).

Vendors {Bidders} may refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation through [NJSTART](#). Vendors {Bidders} may also refer to the QRG "Vendor Categories and Certifications" for additional instructions on completing shortened versions of required forms by completing certifications on the "Maintain Terms and Categories" Tab within its profile in [NJSTART](#). QRGs are located on the [NJSTART Vendor Support Page](#).

Vendors {Bidders} utilizing [NJSTART](#) should designate the most current version of the Disclosure of Investment Activities in Iran form as the Primary Form. In the event that a Vendor {Bidder} fails to attach a Disclosure of Investment Activities in Iran form, or the attached Disclosure of Investment Activities in Iran form is deemed deficient, the Division may access the Primary Form, as designed in the Vendor {Bidder} profile, to be considered as part of the Quote.

4.4.1.3 SUBCONTRACTOR UTILIZATION PLAN

Please note that the State of New Jersey will not be utilizing the "Subcontractor" Tab in [NJSTART](#). Vendors {Bidders} intending to use a Subcontractor shall submit a Subcontractor Utilization Plan form.

The Subcontractor Utilization Plan form is located on the [Division's website](#). The form is also available in [NJSTART](#). Vendors {Bidders} may refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation through [NJSTART](#). QRGs are located on the [NJSTART Vendor Support Page](#).

4.4.1.4 SMALL BUSINESS REGISTRATION FOR SET-ASIDE BLANKET P.O. {CONTRACTS}

As defined at [N.J.A.C. 17:13-1.2](#), "Small Business" means a business that is incorporated or registered in and has its principal place of business in the State of New Jersey, is independently owned and operated, and has no more than 100 full-time employees. The program places small business into the following categories:

For good and services - (i) those with gross revenues not exceeding \$500,000; (ii) those with gross revenues not exceeding \$5 million; and (iii) those with gross revenues that do not exceed \$12 million or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher. While companies registered as having revenues below \$500,000 can bid on any Blanket P.O. {Contract}, those earning more than the \$500,000 and \$5 million amounts will not be permitted to bid on Blanket P.O.s {Contracts} designated for revenue classifications below its respective levels.

For construction services: (iv) those with gross revenues not exceeding \$3,000,000; (v) those with gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201; and (vi) those with gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201. While companies registered as having revenues below \$3,000,000 can bid on any Blanket P.O. {Contract}, those earning more

than the revenue standards established at CFR 121.201 will not be permitted to bid on Blanket P.O.s {Contracts} designated for revenue classifications below their respective levels.

Vendors {Bidders} should verify its Small, Minority, Veteran, and Women Owned Business Certification status on the “Maintain Terms and Categories” Tab within its profile in [NJSTART](#). In the event of an issue with a Vendor’s {Bidder’s} Small, Minority, Veteran, and Women Owned Business Certification status, [NJSTART](#) provides a link to take corrective action.

4.4.1.4.1 SMALL BUSINESS SET-ASIDE BLANKET P.O. {CONTRACTS}

Not applicable to this procurement.

4.4.1.5 SMALL BUSINESS SUBCONTRACTING SET-ASIDE BLANKET P.O. {CONTRACTS}

NOTE: THE VENDOR {BIDDER} SHALL NOT USE THE “SUBCONTRACTOR” TAB IN [NJSTART](#).

This is a Blanket P.O. {Contract} with set-aside subcontracting goals for New Jersey Small Business Enterprises. As defined at [N.J.A.C. 17:13-1.2](#), "Small Business" means a business that is incorporated or registered in and has its principal place of business in the State of New Jersey, is independently owned and operated, and has no more than 100 full-time employees. The program places small business into the following categories:

For good and services - (i) those with gross revenues not exceeding \$500,000; (ii) those with gross revenues not exceeding \$5 million; and (iii) those with gross revenues that do not exceed \$12 million or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher. While companies registered as having revenues below \$500,000 can bid on any Blanket P.O. {Contract}, those earning more than the \$500,000 and \$5 million amounts will not be permitted to bid on Blanket P.O.s {Contracts} designated for revenue classifications below its respective levels.

For construction services: (iv) those with gross revenues not exceeding \$3,000,000; (v) those with gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201; and (vi) those with gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201. While companies registered as having revenues below \$3,000,000 can bid on any Blanket P.O. {Contract}, those earning more than the revenue standards established at CFR 121.201 will not be permitted to bid on Blanket P.O.s {Contracts} designated for revenue classifications below their respective levels.

If the Vendor {Bidder} intends to subcontract, it must submit a Subcontractor Utilization Plan and should take the following actions to achieve the set-aside subcontracting goal requirements:

- A. Attempt to locate eligible small businesses in Categories I, II, III, IV, V, and/or VI as appropriate to the Bid Solicitation;
- B. Request a listing of small businesses by Category from the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit;
- C. Record efforts to locate eligible businesses, including the names of businesses contacted and the means and results of such contacts;
- D. Provide all potential Subcontractors with detailed information regarding the specifications;
- E. Attempt, whenever possible, to negotiate prices with potential Subcontractors submitting higher than acceptable price Quotes;

- F. Obtain, in writing, the consent of any proposed Subcontractor to use its name in response to the Bid Solicitation; and
- G. Maintain adequate records documenting efforts to achieve the set-aside subcontracting goals.

Quotes {Proposals} should also contain a copy of the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit's proof of registration as a small business for any business proposed as a Subcontractor; and documentation of the Vendor's {Bidder's} good faith effort to meet the targets of the set-aside subcontracting requirement in sufficient detail to permit the Proposal Review Unit of the Division to effectively assess the Vendor's {Bidder's} efforts to comply if the Vendor {Bidder} has failed to attain the statutory goals.

If the Vendor {Bidder} chooses to use Subcontractors and fails to meet the small business subcontracting targets set forth above, the Vendor {Bidder} must submit documentation demonstrating its good faith effort to meet the targets with its Quote or within seven (7) business days upon request.

NOTE: A VENDOR'S {BIDDER'S} FAILURE TO SATISFY THE SMALL BUSINESS SUBCONTRACTING TARGETS OR TO PROVIDE SUFFICIENT DOCUMENTATION OF ITS GOOD FAITH EFFORTS TO MEET THE TARGETS WITH THE QUOTE OR WITHIN SEVEN (7) BUSINESS DAYS UPON REQUEST SHALL PRECLUDE AWARD OF A BLANKET P.O. {CONTRACT} TO THE VENDOR {BIDDER}.

If awarded the Blanket P.O. {Contract}, the Vendor {Bidder} shall notify each Subcontractor listed in the Plan, in writing.

Each Vendor {Bidder} awarded a Blanket P.O. {Contract} for a procurement which contains the set-aside subcontracting goal requirement shall fully cooperate in any studies or surveys which may be conducted by the State to determine the extent of the Vendor's {Bidder's} compliance with N.J.A.C. 17:13-1.1 et seq., and this Bid Solicitation.

4.4.1.6 BID SECURITY

Not applicable to this procurement.

4.4.2 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BEFORE BLANKET P.O. {CONTRACT} AWARD AND THAT SHOULD BE SUBMITTED WITH THE QUOTE

Unless otherwise specified, forms must contain an original, physical signature, or an electronic signature pursuant to Section 1.4.11 of this Bid Solicitation.

4.4.2.1 BUSINESS REGISTRATION

In accordance with N.J.S.A. 52:32-44(b), a Vendor {Bidder} and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Blanket P.O. {Contract}. To facilitate the Quote evaluation and Blanket P.O. {Contract} award process, the Vendor {Bidder} should submit a copy of its valid BRC and those of any named Subcontractors with its Quote. See Section 2.1 of the SSTC.

Any Vendor {Bidder}, inclusive of any named Subcontractors, not having a valid business registration at the time of the Quote opening, or whose BRC was revoked prior to the submission of the Quote, should proceed immediately to register its business or seek reinstatement of a revoked BRC. Vendors {Bidders} should verify its BRC status on the "Maintain Terms and

Categories” Tab within its profile in [NJSTART](#). In the event of an issue with a Vendor’s {Bidder’s} BRC, [NJSTART](#) provides a link to take corrective action.

The Vendor {Bidder} is cautioned that it may require a significant amount of time to secure the reinstatement of a revoked BRC. The process can require actions by both the Division of Revenue and Enterprise Services and the Division of Taxation. For this reason, a Vendor’s {Bidder’s} early attention to this requirement is highly recommended. The Vendor {Bidder} and its named Subcontractors may register with the Division of Revenue and Enterprise Services, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at <http://www.state.nj.us/treasury/revenue/busreqcert.shtml>.

A Vendor {Bidder} otherwise identified by the Division as a responsive and responsible Vendor {Bidder}, inclusive of any named Subcontractors, but that was not business registered at the time of submission of its Quote must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Division. A Vendor {Bidder} failing to comply with this requirement by the deadline specified by the Division will be deemed ineligible for Blanket P.O. {Contract} award. Under any circumstance, the Division will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration.

A Vendor {Bidder} receiving a Blanket P.O. {Contract} award as a result of this procurement and any Subcontractors named by that Vendor {Bidder} will be required to maintain a valid business registration with the Division of Revenue and Enterprise Services for the duration of the executed Blanket P.O. {Contract}, inclusive of any Blanket P.O. {Contract} extensions.

4.4.2.2 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING BIDDER FORM

The Vendor {Bidder} should submit the Disclosure of Investigations and Other Actions Involving Bidder Form, with its Quote, to provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Vendor {Bidder} does not submit the form with the Quote, the Vendor {Bidder} must comply within seven (7) business days of the State’s request or the State may deem the Quote non-responsive.

Vendors {Bidders} using [NJSTART](#) to submit a Quote shall make the appropriate certification on the “Maintain Terms and Categories” Tab within its profile by checking the applicable box and, if required, complete and attach the shortened [NJSTART](#) form. Vendors {Bidders} not using [NJSTART](#) to submit a Quote must complete the full version of the form located on the [Division’s website](#). This form is also available in [NJSTART](#).

Vendors {Bidders} may refer to the QRGs “Vendor Forms” and “Attaching Files” for instructions on submitting the forms required by this section of the Bid Solicitation through [NJSTART](#). Vendors {Bidders} may also refer to the QRG “Vendor Categories and Certifications” for additional instructions on completing shortened versions of required forms by completing certifications on the “Maintain Terms and Categories” Tab within its profile in [NJSTART](#). QRGs are located on the [NJSTART Vendor Support Page](#).

4.4.2.3 SOURCE DISCLOSURE

Not applicable to this procurement.

4.4.3 VENDOR {BIDDER} DEMONSTRATION OF ITS ABILITY TO COMPLETE THE SCOPE OF WORK

In this section, the Vendor {Bidder} should describe its approach and plans for accomplishing the work outlined in the Scope of Work section (Section 3.0 of the Bid Solicitation). The Vendor {Bidder} should set forth its understanding of the requirements of this Bid Solicitation and its approach to successfully complete the Blanket P.O. The Vendor {Bidder} should demonstrate the level of detail it determines necessary to assist the Division in its evaluation of the Vendor's {Bidder's} Quote.

4.4.3.1 VENDOR {BIDDER} QUOTE OVERVIEW FORM

The Vendor {Bidder} should submit the Vendor {Bidder} Quote Overview Form with its Quote. The Vendor {Bidder} should complete all of the information requested on the form, so that the State is able to evaluate the Vendor's {Bidder's} ability to complete the Scope of Work.

The Vendor's {Bidder's} responses to the questions on the form should be designed to demonstrate to the State that the Vendor's {Bidder's} plans and approach proposed to complete the Scope of Work are realistic, attainable, appropriate, and that the Vendor's {Bidder's} Quote will lead to the successful completion of the tasks required by this Blanket P.O.

4.4.3.2 VENDOR {BIDDER} DATA SHEET

The Vendor {Bidder} should submit the Vendor {Bidder} Data Sheet with its Quote. The Vendor {Bidder} Data Sheet will be used to evaluate the Vendor's {Bidder's} ability to complete the Scope of Work.

The Vendor {Bidder} should provide in its response to Part I of the Vendor {Bidder} Data Sheet all relevant information regarding its experience in successfully completing contracts of a similar size and scope to the work required by this Bid Solicitation.

The Vendor {Bidder} must provide in Part II of the Vendor {Bidder} Data Sheet details of any negative actions taken by other contracting entities against it in the course of performing these projects including, but not limited to, receipt of letters of potential default, default, cure notices, termination of services for cause, or other similar notifications/processes. Additionally, the Vendor {Bidder} should provide details, including any negative audits, reports, or findings by any governmental agency for which the Vendor {Bidder} is/was the contractor on any contracts of similar scope. In the event a Vendor {Bidder} neglects to include this information in its Quote, the Vendor's {Bidder's} omission of necessary disclosure information may be cause for rejection of the Vendor's {Bidder's} Quote by the State.

If proposing to use a Subcontractor, the Vendor {Bidder} should provide as an attachment to the Vendor {Bidder} Data Sheet documented experience to demonstrate that each Subcontractor has successfully performed work on contracts of a similar size and scope to the work that the Subcontractor is designated to perform in the Vendor's {Bidder's} Quote. The Vendor {Bidder} must provide a detailed description of services to be provided by each Subcontractor.

4.4.3.3 ADDITIONAL SUBMISSIONS

4.4.3.3.1 SAMPLE DEMONSTRATION

Upon request and in accordance with Bid Solicitation Sections 4.4.7 and 6.6, the Vendor {Bidder} must provide a sample of each seat/item offered in its submitted Quote (Please reference each section for additional information). The samples presented/demonstrated for evaluation must meet the specification requirements set forth in Section 3.0 of this Bid Solicitation and must be representative of the product proposed. Requested Quote samples for evaluation are to be made available on the date demonstrated on the cover of the Bid Solicitation and at the Vendor's Bidder's

expense. The Sample Presentation will be held in Trenton, NJ. Vendors {Bidders} will be provided additional information in accordance with Section 6.6, *Oral Presentation*.

4.4.3.3.2 SEAT/ITEM DOCUMENTATION

The Vendor {Bidder} shall provide, at a minimum:

- A. In Accordance with Categories 1-4, a list of all proposed seats/items to be offered under the Master Agreement; and
- B. A completed/signed NASPO ValuePoint Master Agreement Quote Overview Form, Statement of Compliance (Part A).

The Vendor {Bidder} should provide, at a minimum:

- C. A specification sheet for each proposed seat/item to be offered under the Master Agreement. The specification sheet should provide a summary of seat/item features. The specification sheet should identify the seat/item's model/serial number for an accurate comparison to the provided list (Reference Subsection (A) of this section) and the model numbers listed on the provided price sheet (Reference Bid Solicitation Section 4.4.5.2, *State-Supplied Price Sheet Instructions* and the accompanying Price Sheet Attachment).

If the information is not supplied with the Quote, the State may still require the Vendor {Bidder} to submit it within three (3) business days of the request;

- D. A list of replacement parts (including the list price and applicable discount), for each proposed seat/item, if applicable;
- E. A completed NASPO ValuePoint Master Agreement Quote Overview Form, NASPO ValuePoint Cooperative Procurement Program Support Summary (Part B). The State reserves the right to request clarification regarding a Vendor's {Bidder's} NASPO ValuePoint Master Agreement Quote Overview Form; and
- F. The address of the Vendor's {Bidder's} office where responsibility for managing the Blanket P.O. {Contract} will take place. The Vendor {Bidder} should include the telephone number and name of the individual to contact.

4.4.4 FINANCIAL CAPABILITY OF THE VENDOR {BIDDER}

The Vendor {Bidder} should provide sufficient financial information to enable to State to assess the financial strength and creditworthiness of the Vendor {Bidder} and its ability to undertake and successfully complete the Blanket P.O. {Contract}. In order to provide the State with the ability to evaluate the Vendor's {Bidder's} financial capacity and capability to undertake and successfully complete the Blanket P.O. {Contract}, the Vendor {Bidder} should submit the following:

- A. For publically traded companies the Vendor {Bidder} should provide copies or the electronic location of the annual reports filed for the two most recent years; or
- B. For privately held companies the Vendor {Bidder} should provide the certified financial statement (audited or reviewed) in accordance with applicable standards by an independent Certified Public Accountant which include a balance sheet, income statement, and statement of cash flow, and all applicable notes for the most recent calendar year or the Vendor's {Bidder's} most recent fiscal year.

If the information is not supplied with the Quote, the State may still require the Vendor {Bidder} to submit it. If the Vendor {Bidder} fails to comply with the request within seven (7) business days, the State may deem the Quote non-responsive.

A Vendor {Bidder} may designate specific financial information as not subject to disclosure when the Vendor {Bidder} has a good faith legal/factual basis for such assertion. A Vendor {Bidder} may submit specific financial documents in a separate, sealed package clearly marked “Confidential-Financial Information” along with the Quote.

The State reserves the right to make the determination to accept the assertion and shall so advise the Vendor {Bidder}.

4.4.5 PRICE SCHEDULE/SHEET

The Vendor {Bidder} must submit its pricing using the State-supplied price sheet/schedule(s) accompanying this Bid Solicitation and located on the “Attachments” Tab.

Vendors {Bidders} may refer to the QRG “Submit a Quote” for instructions detailing how to submit a [NJSTART](#) electronic Quote. QRGs are located on the [NJSTART Vendor Support Page](#).

4.4.5.1 NJSTART PRICING SUBMISSION INSTRUCTIONS

If the Vendor {Bidder} is submitting a [NJSTART](#) Quote, the Vendor {Bidder} must enter a Unit Cost of \$1.00 for each price line item on the “Items” Tab in [NJSTART](#). The Vendor {Bidder} is instructed to do so only as a mechanism to comply with Bid Solicitation Section 6.8 and prevent all pricing from being publicly displayed in [NJSTART](#).

4.4.5.2 PRICE SHEET/SCHEDULE ATTACHMENT INSTRUCTIONS

The Vendor {Bidder} shall provide, at a minimum:

- A. The brand/model (A) and model number (B) for each proposed seat/item in Categories 1-4;
- B. The current List Price (C) for all proposed items included in Categories 1-4;
- C. A percentage discount (D) off of the List Price for each of the Vendor’s {Bidder’s} proposed items in Categories 1-4;
- D. A percentage discount (E) for all proposed replacement parts offered on the Vendor’s Bidder’s submitted Replacement Part Price list for each of its proposed items in Categories 1-4;
- E. If the Vendor {Bidder} is proposing to provide any of the optional offerings (Reference Bid Solicitation Section 3.10), it must provide pricing for each (F);
- F. If the Vendor {Bidder} is proposing to provide an optional Take-Back/Recycling program rebate, it must provide the percentage rebate (Reference Bid Solicitation Section 3.10.3(B). In the event that the Vendor {Bidder} does not wish to offer a rebate, it should enter a “0” (G);
- G. The Vendor {Bidder} shall provide its FOB Destination cost by Region (H). In accordance with Bid Solicitation Section 3.8.2.2, Delivery Requirements, the Vendor {Bidder} shall ensure that all Inside Delivery charges are included in its FOB Destination Charge. **Note: The Vendor {Bidder} should not include its shipping cost with the item cost demonstrated for each Category (See Subsection A instructions. The Vendor should provide its shipping as a separate cost in Section H, *Destination by Region*, of the price schedule;** and
- H. **OPTIONAL Volume/Spend Discounts (I):** The Vendor {Bidder} may provide an additional discount based on a multi-tiered dollar spend by each Using Agency, as demonstrated below. If the Vendor {Bidder} proposes to provide a volume/spend discount it must provide

percentage discount for each tier. In the event that the Vendor {Bidder} does not wish to offer a rebate, it should enter a "0".

Tier 1	\$0.00 to \$249.00	Tier 6	\$1,250.00 to \$1,499.00
Tier 2	\$250.00 to \$499.00	Tier 7	\$1,500.00 to \$1,749.00
Tier 3	\$500.00 to \$749.00	Tier 8	\$1,750.00 to \$1,999.00
Tier 4	\$750.00 to \$999.00	Tier 9	\$2,000.00 & up
Tier 5	\$1,000.00 to \$1,249.00		

Where the Price Sheet/Schedule includes an estimate quantity column, Vendors {Bidders} are advised that estimated quantities may vary throughout the Blanket P.O. {Contract} term resulting from this Bid Solicitation. There is no guaranteed minimum or maximum volume for these price lines.

In the event that a Vendor {Bidder} using **NJSTART** to submit a Quote uploads a price sheet/schedule attachment and completes the "Items" Tab in **NJSTART** (instead of entering a Unit Cost of \$1.00 as instructed), the price sheet/schedule attachment will govern.

4.4.5.3 USE OF "NO BID" VERSUS "NO CHARGE" ON THE PRICE SHEET/SCHEDULE

If the Vendor {Bidder} is not submitting a price for an item on a price line, the Vendor {Bidder} must indicate "No Bid" on the State-supplied price sheet/schedule(s) attachment accompanying this Bid Solicitation. If the Vendor {Bidder} will supply an item on a price line free of charge, the Vendor {Bidder} must indicate "No Charge" on the State-supplied price sheet/schedule(s) attachment accompanying this Bid Solicitation. The use of any other identifier may result in the Vendor's {Bidder's} Quote being deemed non-responsive. If the Vendor {Bidder} leaves a price line blank, this shall mean that it was the Vendor's {Bidder's} intent to not submit a price for that price line.

4.4.5.4 DELIVERY TIME AND COSTS

Unless otherwise noted elsewhere in the Bid Solicitation, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in Quotes {Proposals} shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). Quotes {Proposals} submitted other than 30 calendar days ARO/F.O.B. may be deemed non-responsive. The Vendor {Contractor} shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's Using Agency or designated purchaser. 30 calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using Agency at any destination in the State of New Jersey unless otherwise specified.

No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Vendor's {Contractor's} convenience when a single shipment is ordered.

The weights and measures of the State's Using Agency receiving the shipment shall govern.

4.4.5.5 COLLECT ON DELIVERY (C.O.D.) TERMS

C.O.D. terms are not acceptable as part of a Quote and shall be deemed non-responsive.

4.4.5.6 CASH DISCOUNTS

The Vendor {Bidder} is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the price rankings of Quotes {Proposals}.

Should the Vendor {Bidder} choose to offer cash discounts the following shall apply:

- A. Discount periods shall be calculated starting from the next business day after the Using Agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is latest; and
- B. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

4.4.6 COOPERATIVE PURCHASING PROGRAM

The Vendor {Bidder} should complete the Cooperative Purchasing Form indicating willingness or unwillingness to extend State Blanket P.O. {Contract} pricing and terms to Cooperative Purchasing Program participants. The Cooperative Purchasing Form is located on the [Division's website](#).

4.4.7 ORAL PRESENTATIONS

This Bid Solicitation includes an oral presentation component. The Vendor {Bidder} should include in its Quote the presentation materials it intends to present to the State if selected to make an oral presentation. The presentation materials included in the Quote should include, without limitation, the slide deck, visual presentation, multimedia files, and all other material(s) the Vendor {Bidder} intends to present or distribute during the presentation. Where Vendor {Bidder} has a digital version of its presentation materials, the digital version of the files should be included with the Quote for use during the oral presentation either as an attachment to the Quote submitted through **NJSTART** or on CD or DVD. The oral presentation is an opportunity for the Vendor {Bidder} to present a sample of each seat/item it has proposed as part of its Quote Submission.

Vendors {Bidders} invited to give an oral presentation shall provide a presentation of the following each Seat/item and demonstrate its features as they relate to Section 3.0 of the Bid Solicitation (Please reference Bid Solicitation Section 4.4.3.3, *Additional Submissions* .

A Vendor {Bidder} may only present materials and information that were provided in its Quote. No supplemental information outside of the material submitted with the Quote shall be provided during oral presentations. The State will not consider or score any such supplemental information.

Where a Vendor {Bidder} fails to include any presentation materials within the Quote, the State may request the Vendor {Bidder} provide presentation materials within forty-eight (48) hours of the State's request.

A Vendor's {Bidder's} failure to include presentation materials within its Quote or provide them upon the State's request may affect the Vendor's {Bidder's} technical evaluation score.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE BLANKET P.O. {CONTRACT}

5.1 NASPO VALUEPOINT MASTER AGREEMENT COMPLIANCE

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

The Master Agreement will include, but not be limited to, the NASPO ValuePoint Standard Terms and Conditions (Reference Attachment #1), the Lead State specific terms and conditions (Reference Section 5.0 and 9.0 of this Bid Solicitation) required to execute a Master Agreement, this Bid Solicitation and its Scope of Work (Reference Section 3.0) and s the Vendor {Contractors} submitted Quote.

This section highlights particular terms and conditions of NASPO ValuePoint Master Agreement Terms and Conditions, although Vendors {Contractors} shall be bound to all the terms and conditions when executing a NASPO ValuePoint Master Agreement as shown in Attachment #1 and memorialized by the Vendor's {Contractor's} signature on the Certification of Understanding and Acceptance form (Reference Attachment #3 of this Bid Solicitation).

5.2 BLANKET P.O. {CONTRACT} TERM AND EXTENSION OPTION

The term of this Blanket P.O. {Contract} shall be for a period of **three (3) years**. The anticipated "Blanket P.O. {Contract} Effective Date" is provided on the "Summary" page the Bid Solicitation in **NJSTART**. If delays in the procurement process result in a change to the anticipated Blanket P.O. {Contract} Effective Date, the Vendor {Bidder} agrees to accept a Blanket P.O. {Contract} for the full term of this Blanket P.O. {Contract}.

This Blanket P.O. {Contract} may be extended up to **two (2) years** with no single extension exceeding one (1) year, by the mutual written consent of the Vendor {Contractor} and the Director at the same terms, conditions, and pricing at the rates in effect in the last year of this Blanket P.O. {Contract} or rates more favorable to the State.

5.3 BLANKET P.O. {CONTRACT} TRANSITION

In the event that a new Blanket P.O. {Contract} has not been awarded prior to this Blanket P.O. {Contract} expiration date, including any extensions exercised, and the State exercises this Blanket P.O. {Contract} transition, the Vendor {Contractor} shall continue this Blanket P.O. {Contract} under the same terms, conditions, and pricing until a new Blanket P.O. {Contract} can be completely operational. At no time shall this transition period extend more than **180** days beyond the expiration date of this Blanket P.O. {Contract}, including any extensions exercised.

6.0 QUOTE EVALUATION

6.1 RIGHT TO WAIVE

Pursuant to N.J.A.C. 17:12-2.7(d) the Director may waive minor irregularities or omissions in a Quote. The Director also reserves the right to waive a requirement provided that the requirement does not materially affect the procurement or the State's interests associated with the procurement.

6.2 DIRECTOR'S RIGHT OF FINAL QUOTE ACCEPTANCE

The Director reserves the right to reject any or all Quotes {Proposals}, or to award in whole or in part if deemed to be in the best interest of the State to do so. The Director shall have authority to award orders or Blanket P.O.s {Contracts} in accordance with N.J.S.A. 52:34-12. Tie Quotes {Proposals} will be awarded by the Director in accordance with N.J.A.C. 17:12-2.10.

6.3 STATE'S RIGHT TO INSPECT VENDOR (BIDDER) FACILITIES

The State reserves the right to inspect the Vendor's {Bidder's} establishment before making an award, for the purposes of ascertaining whether the Vendor {Bidder} has the necessary facilities for performing the Blanket P.O. {Contract}.

The State may also consult with clients of the Vendor {Bidder} during the evaluation of Quotes {Proposals}. Such consultation is intended to assist the State in making a Blanket P.O. {Contract} award that is most advantageous to the State.

6.4 CLARIFICATION OF QUOTE / STATE'S RIGHT TO REQUEST FURTHER INFORMATION

After the submission of Quotes, unless requested by the State as noted below, Vendor {Bidder} contact with the State is not permitted.

After the Quotes are reviewed, one (1), some, or all of the Vendors {Bidders} may be asked to clarify certain aspects of its Quote. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities, or clerical errors. Clarifications cannot correct any deficiencies or material omissions, or revise or modify a Quote.

Further, the Director reserves the right to request a Vendor {Bidder} to explain, in detail, how the Quote price was determined.

6.5 QUOTE EVALUATION COMMITTEE

Quotes {Proposals} may be evaluated by an Evaluation Committee composed of members of affected departments and agencies together with representative(s) from the Division. Representatives from other governmental agencies may also serve on the Evaluation Committee. On occasion, the Evaluation Committee may choose to make use of the expertise of outside consultant(s) in an advisory role.

6.6 ORAL PRESENTATION

After the Quotes are reviewed, one (1), some or all of the Vendors {Bidders} may be asked to give an oral presentation to the State concerning its Quote. The content of the oral presentation shall be limited to the materials presented within the Vendor's {Bidder's} Quote as detailed in Section 4.4.7. Vendors {Bidders} may only present details to clarify information already provided in its

Quote. No supplemental information outside of the material submitted with the Quote shall be provided during oral presentations.

A Vendor {Bidder} may not attend the oral presentations of its competitors.

It is within the State's discretion whether to require the Vendor {Bidder} to give an oral presentation or require the Vendor {Bidder} to submit written responses to questions regarding its Quote. Action by the State in this regard should not be construed to imply acceptance or rejection of a Quote. The Division will be the sole point of contact regarding any request for an oral presentation or clarification.

6.7 EVALUATION CRITERIA

Pursuant to N.J.A.C. 17:12-2.7, Quotes {Proposals} will be evaluated either by an Evaluation Committee or by a Division staff member assigned to conduct the procurement. After the evaluation is completed, a recommendation will be made to the Director to award a Blanket P.O. to the responsible Vendor {Bidder} whose Quote, conforming to this Bid Solicitation, is most advantageous to the State, price and other factors considered. The Director may accept, reject or modify the recommendation. Whether or not there has been a negotiation process as outlined in Section 6.8 below, the Director reserves the right to negotiate price reductions with the selected Vendor(s) {Bidder(s)}.

The Evaluation Committee or assigned Division staff member will evaluate the Vendor's {Bidder's} ability to complete the scope of work as demonstrated by its Quote.

6.7.1 VENDOR'S {BIDDER'S} PRICE SCHEDULE

The Bureau will evaluate the Vendor's {Bidder's} pricing for cost reasonableness.

6.7.2 QUOTE (PROPOSAL) DISCREPANCIES

In evaluating Quotes {Proposals}, discrepancies between words and figures will be resolved in favor of words. Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum of the column of figures.

In the event that a Vendor {Bidder} using **NJSTART** to submit a Quote uploads a price sheet/schedule attachment and completes the "Items" Tab in **NJSTART** (instead of entering a Unit Cost of \$1.00 as instructed), the price sheet/schedule attachment will govern.

6.8 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

In accordance with N.J.S.A. 52:34-12(f) and N.J.A.C. 17:12-2-7, after evaluating Quotes {Proposals}, the Bureau may establish a competitive range and enter into negotiations with one (1) Vendor {Bidder} or multiple Vendors {Bidders} within this competitive range. The primary purpose of negotiations is to maximize the State's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and cost. Multiple rounds of negotiations may be conducted with one (1) Vendor {Bidder} or multiple Vendors {Bidders}. Negotiations will be structured by the Bureau to safeguard information and ensure that all Vendors {Bidders} are treated fairly.

Similarly, the Bureau may invite one (1) Vendor {Bidder} or multiple Vendors {Bidders} to submit a Best and Final Offer (BAFO). Said invitation will establish the time and place for submission of the

BAFO. Any BAFO that does not result in more advantageous pricing to the State will not be considered, and the State will evaluate the Vendor's {Bidder's} most advantageous previously submitted pricing.

If required, after review of the BAFO(s), clarification may be sought from the Vendor(s) {Bidder(s)}. The Division may conduct more than one (1) round of negotiation and/or BAFO in order to attain the best value for the State.

After evaluation of Quotes {Proposals} and as applicable, negotiation(s), and/or BAFO(s), the Bureau will recommend, to the Director, the responsible Vendor(s) {Bidder(s)} whose Quote(s) {Proposal(s)}, conforming to the Bid Solicitation, is/are most advantageous to the State, price, and other factors considered. The Director may accept, reject or modify the recommendation of the Bureau. The Director may initiate additional negotiation or BAFO procedures with the selected Vendor(s) {Bidder(s)}.

Negotiations will be conducted only in those circumstances where it is deemed by the Bureau or Director to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, the Vendor {Bidder} is advised to submit its best technical and price Quote in response to this Bid Solicitation since the State may, after evaluation, make a Blanket P.O. {Contract} award based on the content of the initial submission, without further negotiation and/or BAFO with any Vendor {Bidder}.

All contacts, records of initial evaluations, any correspondence with a Vendor {Bidder} related to any request for clarification, negotiation or BAFO, any revised technical and/or price Quotes {Proposals}, and related documents will remain confidential until a Notice of Intent to Award a Blanket P.O. {Contract} is issued.

If the Bureau contemplates negotiation, Quote prices will not be publicly read at the Quote opening. Only the name and address of each Vendor {Bidder} will be publicly announced at the Quote opening.

6.9 "REQUEST FOR REVISION" WITHIN NJSTART

The State may request a revision of the Vendor's {Bidder's} Quote within **NJSTART**. The Vendor {Bidder} shall respond to the "Request for Revision" (e.g., to reduce pricing if a BAFO is requested) only for the reason(s) identified by the State. Any changes made by a Vendor {Bidder} to the Quote other than as requested by the State shall be considered null and void.

6.10 POOR PERFORMANCE

A Vendor {Bidder} with a history of performance problems may be bypassed for consideration of an award issued as a result of this Bid Solicitation. The following materials may be reviewed to determine Vendor {Bidder} performance: Blanket P.O. {Contract} cancellations for cause pursuant to Section 5.7(b) of the SSTC; information contained in Vendor performance records; information obtained from audits or investigations conducted by a local, state or federal agency of the Vendor's {Bidder's} work experience; current licensure, registration, and/or certification status and relevant history thereof; or its status or rating with established business/financial reporting services, as applicable. Vendors {Bidders} should note that this list is not exhaustive.

7.0 BLANKET P.O. {CONTRACT} AWARD

7.1 DOCUMENTS REQUIRED BEFORE BLANKET P.O. {CONTRACT} AWARD

7.1.1 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134), EXECUTIVE ORDER NO. 117 (2008) AND N.J.A.C. 17:12-5 ET SEQ.

- A. The State shall not enter into a Blanket P.O. {Contract} to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods;
- B. Prior to awarding any Blanket P.O. {Contract} or agreement to any Business Entity, the Business Entity proposed as the intended Vendor {Contractor} of the Blanket P.O. {Contract} shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four (4) years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the means of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Division’s website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Vendor {Contractor} for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Blanket P.O. {Contract}, the intended Vendor {Contractor} shall submit to the Division, in care of the Division Procurement Specialist, the Certification and Disclosure(s) within five (5) business days of the State’s request. The Certification and Disclosure(s) may be executed electronically by typing the name of the authorized signatory in the “Signature” block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form. Failure to submit the required forms will preclude award of a Blanket P.O. {Contract} under this Bid Solicitation, as well as future Blanket P.O. {Contract} opportunities; and
- C. Further, the Vendor {Contractor} is required, on a continuing basis, to report any contributions it makes during the term of the Blanket P.O. {Contract}, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Division’s website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Vendor {Contractor} with the Notice of Intent to Award.

The Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form is located on the [Division’s website](#). The form is also available in [NJSTART](#). Vendors {Bidders} may refer to the QRGs “Vendor Forms” and “Attaching Files” for instructions on submitting the forms required by this section of the Bid Solicitation through [NJSTART](#). QRGs are located on the [NJSTART Vendor Support Page](#).

Vendors {Bidders} should verify its Chapter 51 Compliance status on the “Maintain Terms and Categories” Tab within its profile in [NJSTART](#). In the event of an issue with a Vendor’s {Bidder’s} Chapter 51 Compliance status, [NJSTART](#) provides a link to take corrective action.

7.1.2 SOURCE DISCLOSURE REQUIREMENTS

Not applicable to this procurement.

7.1.2.1 BREACH OF BLANKET P.O. {CONTRACT}

Not applicable to this procurement.

7.1.3 AFFIRMATIVE ACTION

The intended Vendor {Contractor} must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended Vendors {Contractors} not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf.

Vendors {Bidders} should verify its Affirmative Action Compliance status on the “Maintain Terms and Categories” Tab within its profile in **NJSTART**. In the event of an issue with a Vendor’s {Bidder’s} Affirmative Action Compliance status, **NJSTART** provides a link to take corrective action.

7.1.4 BUSINESS REGISTRATION

In accordance with N.J.S.A. 52:32-44(b), a Vendor {Bidder} and its named Subcontractors must have a valid Business Registration Certificate (“BRC”) issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Blanket P.O. {Contract}. See Section 4.4.2.1 of this Bid Solicitation for further information.

Vendors {Bidders} should verify its Business Registration Certification Active status on the “Maintain Terms and Categories” Tab within its profile in **NJSTART**. In the event of an issue with a Vendor’s {Bidder’s} Business Registration Certification Active status, **NJSTART** provides a link to take corrective action. Vendors {Bidders} may refer to the QRG “Vendor Categories and Certifications” for instructions on completing certifications on the “Maintain Terms and Categories” Tab within its profile in **NJSTART**. QRGs are located on the [NJSTART Vendor Support Page](#).

7.2 FINAL BLANKET P.O. {CONTRACT} AWARD

Blanket P.O. {Contract} award[s] will be made with reasonable promptness by written notice to that responsible Vendor(s) {Bidder(s)}, whose Quote(s) {Proposal(s)}, conforming to this Bid Solicitation, is(are) most advantageous to the State, price, and other factors considered. Any or all Quotes {Proposals} may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

7.3 INSURANCE CERTIFICATES

The Vendor {Contractor} shall provide the State with current certificates of insurance for all coverages required by the terms of this Blanket P.O. {Contract}, naming the State as an Additional Insured. See Section 4.2 of the SSTC accompanying this Bid Solicitation.

Vendors {Bidders} should verify its Insurance Certification Compliance status on the “Maintain Terms and Categories” Tab within its profile in **NJSTART**. In the event of an issue with a Vendor’s {Bidder’s} Insurance Certification Compliance status, contact the Division Procurement Specialist.

7.4 PERFORMANCE SECURITY

Not applicable to this procurement.

8.0 BLANKET P.O. {CONTRACT} ADMINISTRATION

8.1 STATE CONTRACT MANAGER

The State Contract Manager (SCM) is the State employee responsible for the overall management and administration of the Blanket P.O. {Contract}.

The SCM for this project will be identified at the time of execution of Blanket P.O. {Contract}. At that time, the Vendor {Contractor} will be provided with the State Contract Manager's name, department, division, agency, address, telephone number, fax phone number, and e-mail address.

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

For an agency Blanket P.O. {Contract} where only one (1) State office uses the Blanket P.O. {Contract}, the SCM will be responsible for engaging the Vendor {Contractor}, assuring that Purchase Orders are issued to the Vendor {Contractor}, directing the Vendor {Contractor} to perform the work of the Blanket P.O. {Contract}, approving the deliverables and approving payment vouchers. The SCM is the person who the Vendor {Contractor} will contact **after the Blanket P.O. {Contract} is executed** for answers to any questions and concerns about any aspect of the Blanket P.O. {Contract}. The SCM is responsible for coordinating the use of the Blanket P.O. {Contract} and resolving minor disputes between the Vendor {Contractor} and any component part of the SCM's Department. The SCM is also responsible for notifying OIT and other appropriate parties of security and privacy violations or incidents. The SCM cannot modify the Blanket P.O. {Contract}, direct or approve a Change Order {Contract Amendment}.

If the Blanket P.O. {Contract} has multiple users, the SCM shall be the central coordinator of the use of the Blanket P.O. {Contract} for all Using Agencies, while other State employees engage and pay the Vendor {Contractor}. All persons and agencies using the Blanket P.O. {Contract} must notify and coordinate the use of the Blanket P.O. {Contract} with the SCM.

8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER

Any Blanket P.O. {Contract} user that is unable to resolve disputes with a Vendor {Contractor} shall refer those disputes to the SCM for resolution. Any questions related to performance of the work of the Blanket P.O. {Contract} by Blanket P.O. {Contract} users shall be directed to the SCM. The Vendor {Contractor} may contact the SCM if the Vendor {Contractor} cannot resolve a dispute with Blanket P.O. {Contract} users.



Attachment #2: NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

a. Any Order placed under this Master Agreement shall consist of the following documents:

- (1) A Participating Entity's Participating Addendum ("PA");
- (2) NASPO ValuePoint Master Agreement Terms & Conditions;
- (3) A Purchase Order issued against the Master Agreement;
- (4) The Scope of Work;
- (5) The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
- (6) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

2. Definitions

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

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

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

Intellectual Property means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

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

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended. The term “Blanket PO” in the request for proposal is synonymous with “Master Agreement” as used in these terms and conditions.

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

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

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

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

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

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

Purchasing Entity means a state (as well as the District of Columbia and U.S. territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase. The term “Using Agency” in the request for proposal is synonymous with Purchasing Entity.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

- a. The base term of this Master Agreement shall be for a period three (3) years. This Master Agreement may be extended up to two (2) years with no single extension exceeding one (1) year.

- b. The Master Agreement may be extended for a reasonable period of time, not to exceed six months, if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. Amendments

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

5. Participants and Scope

- a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

- b. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

- c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an

informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

d. NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO cooperative purchasing program for state government departments, institutions, agencies, and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia, and the territories of the United States.

e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarket Center; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

g. **Resale.** "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Administrative Fees

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty

(60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products 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.

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; (5) Purchasing Entity and Contractor Purchase Order identifier/number(s); (6) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (7) Purchase Order date; (8) Ship Date; (9) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is shown in Section 3.9 of the Master Agreement.

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

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

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

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

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

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

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

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 three (3) 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-part contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

9. NASPO ValuePoint eMarket Center

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

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

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

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 60 days prior to the effective date. Requests for price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

12. Individual Customers

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

Administration of Orders

13. Ordering

a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure

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

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum, shall include:

- (1) The services or supplies being delivered;
- (2) The place and requested time of delivery;
- (3) A billing address;
- (4) The name, phone number, and address of the Purchasing Entity representative;
- (5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
- (6) A ceiling amount of the order for services being ordered; and
- (7) The Master Agreement identifier.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration, cancellation, or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement,

notwithstanding the term of any such indefinite delivery order agreement.

14. Shipping and Delivery

a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number, and the Purchasing Entity's Purchase Order number.

15. Laws and Regulations

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

16. Inspection and Acceptance

a. Where the Master Agreement or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent

or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

c. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

d. The warranty period shall begin upon Acceptance.

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

17. Payment

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail. Payments may be made via a State or political

subdivision "Purchasing Card" with no additional charge.

18. Warranty

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

19. Title of Product

Ownership of Material in Orders placed by the State of New Jersey shall be government by section 5.8 of the request for proposals. In other Orders, upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

20. License of Pre-Existing Intellectual Property

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

General Provisions

21. Insurance

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term

of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;

(2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

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

22. Records Administration and Audit

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

23. Confidentiality, Non-Disclosure, and Injunctive Relief (applicable to Orders not placed by the State of New Jersey)

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can

be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 23. To the extent permitted by law, Contractor shall notify

the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

24. Public Information

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

25. Assignment/Subcontracts

a. Contractor shall not assign, sell, transfer, subcontract, or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

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

26. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

27. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

28. Cancellation

Unless otherwise stated, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

29. Force Majeure

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

30. Defaults and Remedies

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this Master Agreement; or
- (3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or
- (4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- (5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

- (1) Exercise any remedy provided by law; and
- (2) Terminate this Master Agreement and any related Contracts or portions thereof; and
- (3) Impose liquidated damages as provided in this Master Agreement; and
- (4) Suspend Contractor from being able to respond to future bid solicitations; and
- (5) Suspend Contractor's performance; and
- (6) Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

31. Waiver of Breach

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

32. Debarment

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

33. Indemnification

a. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or

causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

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

(a) Provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) Specified by the Contractor to work with the Product; or

(c) Reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(d) It would be reasonably expected to use the Product in combination with such product, system, or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

34. No Waiver of Sovereign Immunity

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity

and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

35. Governing Law and Venue

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute, or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute, or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

36. Assignment of Antitrust Rights

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

37. Contract Provisions for Orders Utilizing Federal Funds

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing

Entities for incorporation in Orders placed under this Master Agreement.

38. Leasing or Alternative Financing Methods

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

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 quarter to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than [once per 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 or call the JAGGAER Supplier Network Services team at 800-233-1121.

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

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

(2) The accuracy of the catalog must be maintained by Contractor throughout the

duration of the cooperative contract; and

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

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

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

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

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

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

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

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

k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog.

NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

(August 2017)

Attachment #2

Prospective Participating State-Specific Terms and Condition

Please note that this is not an inclusive list of all demonstrated potential Participating States.

State-Specific Terms and Conditions included:

1. Illinois;
2. Ohio;
3. Montana;
4. New Jersey; and
5. Utah.

Illinois

Terms and Conditions

STATE OF ILLINOIS
NASPO ValuePoint Child Safety Seats
Specific Terms and Conditions

1. Participating Addendum executed by the State of Illinois will be designated as available to governmental units in Illinois. "Governmental unit" means State of Illinois, any State agency as defined in Section 1-15.100 of the Illinois Procurement Code (30 ILCS 500/), officers of the State of Illinois, any public authority which has the power to tax, or any other public entity created by statute. 30ILCS 525/.
2. In no event will the total term of any Participating Addendum, including the initial term and any extensions or amendments, exceed ten (10) years.
3. This contract and all related public records maintained by, provided to, or required to be provided to the State are subject to the Illinois Freedom of Information Act notwithstanding any provision to the contrary that may be found in this contract. 5 ILCS 140.
4. Any Participating Addendum executed by the State of Illinois is contingent upon and subject to the availability of funds. The State of Illinois, at its sole option, may terminate or suspend any Participating Addendum, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the Federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason (30 ILCS 500/20-60), (2) the Governor of Illinois decreases the Agency's funding by reserving some or all of the Agency's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. Vendor will be notified in writing of the failure of appropriation or of a reduction or decrease.
5. Any claim against any State of Illinois, any State of Illinois agency as defined in Section 1-15.100 of the Illinois Procurement Code (30 ILCS 500/), or officers of the State of Illinois arising out of any Participating Addendum must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be Vendor's sole remedy for late payments by the State of Illinois. Payment terms contained in Vendor's invoices shall have no force or effect. The State of Illinois shall not enter into binding arbitration to resolve any dispute arising out of any Participating Addendum. The State of Illinois does not waive sovereign immunity.
6. Illinois may further evaluate the lead state's awarded contracts to make best value determinations.
7. Any Vendor with a Participating Addendum must complete the Standard Certifications. A copy is available at <https://www.illinois.gov/cpo/general/Pages/SolicitationandContractTemplates.aspx>.
8. Vendor with a Participating Addendum must complete the Financial Disclosures and Conflicts of Interest. A copy is available at <https://www.illinois.gov/cpo/general/Pages/SolicitationandContractTemplates.aspx>.
9. Registration in the Illinois Procurement Gateway is required before a Participating Addendum with the State of Illinois may be executed. For information on registration, please visit www.ipg.vendorreg.com.

STATE OF ILLINOIS
NASPO ValuePoint Child Safety Seats
Specific Terms and Conditions

SIGNATURE

State of Illinois

Ellen H. Daley, Chief Procurement Officer for General Services

Printed Name and Title



Signature

12-7-17

Date

Ohio

Terms and Conditions

**STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
GENERAL SERVICES DIVISION
OFFICE OF PROCUREMENT SERVICES**

GROUP PURCHASING STANDARD CONTRACT TERMS AND CONDITIONS

I. CONTRACT TERM PROVISIONS:

- A. APPROPRIATION OF FUNDS.** The State of Ohio's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding for the payments or obligations due hereunder, the Work under this Contract that is affected by the lack of funding will terminate and the State will have no further obligation to make any payments and will be released from its obligations on the date funding expires.
- B. OBM CERTIFICATION.** None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance, until all of the following conditions have been met:
1. All statutory provisions under the O.R.C., including Section 126.07, have been met.
 2. All necessary funds are made available by the appropriate state agencies.
 3. If required, approval of this Contract is given by the Controlling Board of Ohio; and
 4. If the State is relying on Federal or third-party funds for this Contract the State gives the Contractor written notice that such funds have been made available.
- C. TERMINATION / SUSPENSION.**
1. **Contract Termination.** If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the State may terminate this Contract in accordance with this section. The termination will be effective on the date delineated by the State.
 - a. **Termination for Default.** If Contractor's default is unable to be cured in a reasonable time, the State may terminate the Contract by written notice to the Contractor.
 - b. **Termination for Unremedied Default.** If Contractor's default may be cured within a reasonable time, the State will provide written notice to Contractor specifying the default and the time within which Contractor must correct the default. If Contractor fails to cure the specified default within the time required, the State may terminate the Contract. If DAS does not give timely notice of default to Contractor, the State has not waived any of the State's rights or remedies concerning the default.
 - c. **Termination for Persistent Default.** The State may terminate this Contract by written notice to Contractor for defaults that are cured, but are persistent. "Persistent" means three or more defaults. After the State has notified Contractor of its third default, the State may terminate this Contract without providing Contractor with an opportunity to cure, if Contractor defaults for a fourth time. The four defaults are not required to be related to each other in any way.
 - d. **Termination for Endangered Performance.** The State may terminate this Contract by written notice to the Contractor if the State determines that the performance of the Contract is endangered through no fault of the State.
 - e. **Termination for Financial Instability.** The State may terminate this Contract by written notice to the Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.
 - f. **Termination for Delinquency, Violation of Law.** The State may terminate this Contract by written notice, if it determines that Contractor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. The State also may cancel this Contract, if it determines that Contractor has violated any law during the performance of this Contract. However, the State may not terminate this Contract if the Contractor has entered into a repayment Contract with which the Contractor is current.
 - g. **Termination for Subcontractor Default.** The State may terminate this Contract for the default of the Contractor or any of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Subcontractors will hold the State harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Contractor for any compensation to which they may be entitled.

- h. **Termination for Failure to Retain Certification.** Pursuant to O.R.C. Section 125.081, the State may set aside a bid for supplies or services for participation only by minority business enterprises (MBE's) certified by the State of Ohio, Equal Opportunity Coordinator. After award of the Contract, it is the responsibility of the MBE Contractor to maintain certification as a MBE. If the Contractor fails to renew its certification and/or is de-certified by the State of Ohio, Equal Opportunity Coordinator, the State may immediately cancel the Contract.
- i. **Termination for Convenience.** The State may terminate this Contract for its convenience after issuing written notice to the Contractor. If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any supplies or products that the Contractor has delivered or services rendered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only after the Contractor has submitted a proper invoice for the services, products or supplies, with the invoice reflecting the amount determined by the State to be owing to the Contractor.
- j. **Termination, Effectiveness, Contractor Responsibilities.** The notice of termination whether for cause or without cause will be effective as soon as Contractor receives it. Upon receipt of the notice of termination, Contractor will immediately cease all work on the Project, if applicable, and refuse any additional orders and take all steps necessary to minimize the costs the Contractor will incur related to this Contract. The Contractor will immediately prepare a report and deliver it to the State. The report must detail either the work completed at the time of termination or the orders received and not processed prior to termination, and if applicable, the percentage of the Project's completion, estimated time for delivery of all orders received prior to termination, any costs incurred by the Contractor in doing the Project to date and any services completed or partially completed but not delivered to the State at the time of termination. Any and all work, whether completed or not, will be delivered to the State along with the specified report. However, if delivery in that manner would not be in the State's interest, then the Contractor will propose a suitable alternate form of delivery.

- 2. **Contract Suspension.** If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the State may suspend rather than terminate this Contract where the State believes that doing so would better serve its interest.

In the case of a suspension for the State's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as provided in this section for termination for the State's convenience or the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault.

The notice of suspension, whether with or without cause will be effective immediately on the Contractor's receipts of the notice. The Contractor will immediately prepare a report and deliver it to the State as is required in the case of termination.

II. CONTRACT REMEDIES:

- A. **ACTUAL DAMAGES.** Contractor is liable to the State of Ohio for all actual and direct damages caused by Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Contractor's default, from Contractor.
- B. **LIQUIDATED DAMAGES.** If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the services, products or supplies that is the subject of the default, for every day that the default is not cured by the Contractor.
- C. **DEDUCTION OF DAMAGES FROM CONTRACT PRICE.** The State may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the contract, upon prior written notice to being issued to the Contractor by the State.

III. PAYMENT PROVISIONS:

- A. **INVOICE REQUIREMENTS.** The Contractor must submit an original invoice to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:
 - 1. The purchase order number authorizing the delivery of products or services.
 - 2. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36). If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information.

- B. **PAYMENT DUE DATE.** Payments under this Contract will be due on the 30th calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice, or the date the service is delivered and accepted in accordance with the terms of this Contract. The date of the warrant issued in payment will be considered the date payment is made. Interest on late payments will be paid in accordance with O.R.C. Section 126.30.

IV. CONTRACTOR WARRANTY AND LIABILITY PROVISIONS:

- A. **CONTRACTOR'S WARRANTY AGAINST AN UNRESOLVED FINDING FOR RECOVERY.** Contractor warrants that it is not subject to an unresolved finding for recovery under O.R.C. Section 9.24. If the warranty was false on the date the parties signed this Contract, the Contract is void *ab initio*.
- B. **GENERAL REPRESENTATIONS AND WARRANTIES.** The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will:

1. Be in accordance with the sound professional standards and the requirements of this Contract and without any material defect.
2. No services, products or supplies will infringe on the intellectual property rights of any third party.
3. All warranties are in accordance with Contractor's standard business practices attached.
4. That the products or supplies hereunder are merchantable and fit for the particular purpose described in this contract.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that:

5. The Contractor has the right to enter into this Contract.
6. The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract.
7. The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control.
8. The Contractor has good and marketable title to any products or supplies delivered under this Contract and which title passes to the State.
9. The Contractor has the right and ability to grant the license granted in products or supplies in which title does not pass to the State.

If any services of the Contractor or any products or supplies fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the services, products or supplies. The Contractor will also indemnify the State for any direct damages and claims by third parties based on breach of these warranties.

- C. **INDEMNITY.** The Contractor will indemnify the State for any and all claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities resulting from bodily injury to any person (including injury resulting in death) or damage to property that may arise out of or are related to Contractors performance under this Contract, providing such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors.

The Contractor will also indemnify the State against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property rights based on the State's proper use of any products or supplies under this Contract. This obligation of indemnification will not apply where the State has modified or misused the products or supplies and the claim of infringement, is based on the modification or misuse. The state agrees to give the Contractor notice of any such claim as soon as reasonably practicable and to give the Contractor the authority to settle or otherwise defend any such claim upon consultation with and approval by the Office of the State Attorney General. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will take one (1) of the following four (4) actions:

1. Modify the products or supplies so that is no longer infringing.
2. Replace products or supplies with an equivalent or better item.
3. Acquire the right for the State to use the infringing products or supplies as it was intended for the State to use under this Contract; or
4. Remove the products or supplies and refund the fee the State paid for the products or supplies and the fee for any other products or supplies that required the availability of the infringing products or supplies for it to be useful to the State.

- D. **LIMITATION OF LIABILITY.** Notwithstanding any limitation provisions contained in the documents and materials incorporated by reference into this contract, the parties agree as follows:

1. Neither party will be liable for any indirect, incidental or consequential loss or damage of any kind including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of damages.
2. The contractor further agrees that the contractor shall be liable for all direct damages due to the fault or negligence of the contractor.

V. GENERAL PROVISIONS:

- A. **AMENDMENTS.** No amendment or modification of this Contract will be effective unless it is in writing and issued by DAS.
- B. **ANTITRUST ASSIGNMENT TO THE STATE.** Contractor assigns to the State of Ohio, through DAS-Procurement Services, all of its rights to any claims and causes of action the Contractor now has or may acquire under state or federal antitrust laws if the claims or causes of action relate to the supplies or services provided under this Contract. Additionally, the State of Ohio will not pay excess charges resulting from antitrust violations by Contractor's suppliers and subcontractors.
- C. **ASSIGNMENT / DELEGATION.** The Contractor will not assign any of its rights nor delegate any of its duties under this Contract without written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.
- D. **AUDITS.** The Contractor must keep all financial records in a manner consistent with generally accepted accounting principles. Additionally, the Contractor must keep separate business records for this Contract, including records of disbursements and obligations incurred that must be supported by contracts, invoices, vouchers and other data as appropriate.

During the period covered by this Contract and until the expiration of three (3) years after final payment under this Contract, the Contractor agrees to provide the State, its duly authorized representatives or any person, agency or instrumentality providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this Contract.

The Contractor shall, for each subcontract in excess of two thousand five hundred (\$2,500), require its subcontractors to agree to the same provisions of this Article. The Contractor may not artificially divide contracts with its subcontractors to avoid requiring subcontractors to agree to this provision.

The Contractor must provide access to the requested records no later than (5) five business days after the request by the State or any party with audit rights. If an audit reveals any material deviation from the Contract requirements, and misrepresentations or any overcharge to the State or any other provider of funds for the Contract, the State or other party will be entitled to recover damages, as well as the cost of the audit.

- E. **CONFIDENTIALITY.** The Contractor may learn of information, documents, data, records, or other material that is confidential in the performance of this Contract. The Contractor may not disclose any information obtained by it as a result of this Contract, without the written permission of the State. The Contractor must assume that all state information, documents, data, records or other material is confidential.

The Contractor's obligation to maintain the confidentiality of the information will not apply where it: (1) was already in the Contractor's possession before disclosure by the State, and it was received by the Contractor without the obligation of confidence; (2) is independently developed by the Contractor; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Contractor from a third party without an obligation of confidence; (5) is disclosed by the Contractor with the written consent of the State; or (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies the State of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the confidential information solely for the purposes intended to be serviced by the original order of production. The Contractor will return all originals of any information and destroy any copies it has made on termination or expiration of this Contract.

The Contractor will be liable for the disclosure of any confidential information. The parties agree that the disclosure of confidential information of the State's may cause the State irreparable damage for which remedies other than injunctive relief may be inadequate, and the Contractor agrees that in the event of a breach of the obligations hereunder, the State shall be entitled to temporary and permanent injunctive relief to enforce this provision without the necessity of providing actual damages. This provision shall not, however, diminish or alter any right to claim and recover.

- F. **CONTRACT CONSTRUCTION.** This Contract will be constructed in accordance with the plain meaning of its language and neither for nor against the drafting party.
- G. **CONTRACTOR DISCLOSURE: LOCATION OF SERVICES. DATA.** As part of this Contract, Contractor shall disclose the following:
1. The location (s) where all services will be performed; and
 2. The location(s) where any state data applicable to the contract will be maintained or made available; and
 3. The principal location of business for the contractor and all subcontractors.

Contractor shall not, during the performance of this Contract, change the location(s) of the country where the services are performed or change the location(s) of the country where the data is maintained or made available without prior written approval of the State.

- H. **DRUG FREE WORKPLACE.** The Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- I. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor will comply with all state and federal laws regarding equal employment opportunity, including O.R.C. Section 125.111 and all related Executive Orders.
- Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using the Ohio Business Gateway Electronic Filing website <http://business.ohio.gov/efiling/>. Contractor must verify compliance on an annual basis for the duration of any contract. Approved Affirmative Action Plans can be found by going to the Equal Opportunity Division's web site: <http://eodreporting.oit.ohio.gov/searchAffirmativeAction.aspx>
- J. **FORCE MAJEURE.** If the State or Contractor is unable to perform any part of its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightning; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; restraint of government and people; war; strikes; and other like events; or any cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.
- K. **GOVERNING LAW / SEVERABILITY.** This Contract shall be governed by the laws of the State of Ohio, and the venue for any disputes will be exclusively with the appropriate court in Franklin County, Ohio. If any provision of the Contract or the application of any provision is held by that court to be contrary to law, the remaining provisions of the Contract will remain in full force and effect.
- L. **HEADINGS.** The headings used in this Contract are for convenience only and will not affect the interpretation of any of the Contract terms and conditions.
- M. **NOTICES.** For any notice under this Contract to be effective it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract.
- N. **ORDER OF PRIORITY.** If there is any inconsistency or conflict between this document and any provision incorporated by reference, this document will prevail.
- O. **PUBLICITY.** The Contractor will not advertise that it is doing business with the State or use this Contract as a marketing or sales tool without prior, written consent of the State.
- P. **STRICT PERFORMANCE.** The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be construed as a waiver of any such term, and either party may at any time demand strict and complete performance by the other party.
- Q. **SUBCONTRACTING.** The State, through DAS-Procurement Services, recognizes that it may be necessary for the Contractor to use a subcontractor to perform a portion of the work under the Contract. In those circumstances, the Contractor shall submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes occur during the term of the Contract, the Contractor shall supplement its list of subcontractors or joint venture business partners. In addition, all subcontractors or joint venture business partners agree to be bound by all of the Terms and Conditions and specifications of the Contract. The State, through DAS-Procurement Services, reserves the right to reject any subcontractor submitted by the Contractor. All subcontracts will be at the sole expense of the Contractor and the Contractor will be solely responsible for payment of its subcontractors. The Contractor assumes responsibility for all sub-contracting and third party manufacturer work performed under the Contract. In addition, Contractor will cause all subcontractors to be bound by the Terms and Conditions and specifications of the contract. The Contractor will be the sole point of contact with regard of all contractual matters.
- R. **SURVIVORSHIP.** All sections herein relating to payment, confidentiality, license and ownership, indemnification, publicity, construction warranties, limitations of warranties and limitations on damages shall survive the termination of this Contract.
- S. **TAXES.** The State is exempt from all state and local taxes and does not agree to pay any taxes.

SUPPLEMENTAL CONTRACT TERMS AND CONDITIONS

S-1. Contract Orders. Participating state agencies will order supplies or services under this Contract from the Contractor directly. The Contractor may receive orders made by participating state agencies by telephone, facsimile, electronically, in person, debit order or by State of Ohio payment card or purchase order from authorized employees of the participating agency. The State will not be responsible for orders placed by unauthorized employees. Contractor is not required to fill an order with a delivery date that is more than 30 days beyond the date of Contract expiration, termination or cancellation, unless the Contract provides for quarterly deliveries. Under a Contract that provides for quarterly deliveries, Contractor is not required to fill an order with a delivery date that is more than 90 days beyond the date of Contract expiration, termination or cancellation.

S-2. Compensation. In consideration for Contractor's performance each participating state agency will pay Contractor directly at the rate specified in the Contract. Payments may be made by the Ohio Payment Card, an Auditor of State warrant or by electronic funds transfer (EFT). For all transactions the Contractor must have a valid W-9 form on file with the Office of Budget and Management. Registration in OBM's database requires the Contractor to complete a Vendor Information Form and IRS W-9 Form. The completed original form should be mailed to Vendor Maintenance, Ohio Shared Services. Information on submitting appropriate documents is available at <http://supplier.obm.ohio.gov/Info/training.aspx>

S-3. Ohio Payment Card. Participating state agencies purchasing supplies from the Contract may use the Ohio Payment Card. Such purchases may not exceed \$2,500 unless the Office of Budget & Management has approved the agency to exceed this limit. In the event that OBM increases the dollar limit for payment cards for all state agencies, notice of such increase will be posted on the DAS-Procurement Services website. Participating state agencies are required to use the Ohio Payment Card in accordance with the Ohio, Office of Budget and Management's current guidelines for the Ohio Payment Card and the participating agency's approved plan filed with the Office of Budget of Management. Contractor may process a payment in the payment card network only upon delivery and acceptance of the supplies or services ordered. For partial deliveries or performance, Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the participating agency. Upon completion of the delivery of remaining supplies or services, Contractor may process a payment request in the payment card network for the remainder of the order. Contractor will receive payment through its merchant bank within the time frame agreed upon between Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

S-4. Requirements Contract. The quantity of supplies or services to be provided under this Contract is the quantity determined by the actual, good faith, requirements of the participating state agencies. DAS may allow a participating state agency to purchase supplies or services identical to those provided under this Contract from a supplier other than Contractor, if one of the following conditions apply:

- (A) The supplies or services to be purchased were not anticipated by DAS at the time this Contract was bid and the supplies or services are required in a large quantity;
- (B) The supplies or services to be purchased are unique or unusual from the supplies or services provided under this Contract; or
- (C) The agency requires the supplies or services to remedy an emergency and Contractor is not able to provide the supplies or services, as the emergency requires.

S-5. F.O.B. The Place of Destination. Contractor must provide supplies or services under this Contract F.O.B. the place of destination. The place of destination will be specified by the participating state agency on the agency's purchase order or other ordering document. Freight will be prepaid unless otherwise stated.

S-6. Time of Delivery. If Contractor is not able to deliver the supplies or services on the date and time specified by the participating state agency on the agency's ordering document, Contractor must coordinate an acceptable date and time for delivery with the agency. If Contractor is not able to or does not provide the supplies or services to a participating state agency by the date and time provided on the agency's ordering document or by the date and time later agreed upon, the State may obtain any remedy under Section II, "Contract Remedies", as described in the Standard Contract Terms and Conditions or any other remedy at law.

S-7. Minimum Orders-Transportation Charges. For purchase orders placed that are less than the stated minimum order, transportation charges will be prepaid and added to the invoice by the Contractor to the delivery location designated by the ordering agency. Shipment is to be made by private or commercial freight service provider, air, rail, water, parcel post, express or commercial package delivery, whichever is the most economical and expeditious method for proper delivery of the item. Failure of the Contractor to utilize the most economical mode of transportation shall result in the Contractor reimbursing the ordering agency the difference between the most economical mode of transportation and the mode of transportation used by the Contractor. Failure to reimburse the ordering agency shall be considered as a default.

S-8. Workers' Compensation. Workers' compensation insurance, as required by Ohio law or the laws of any other state where work under this Contract will be done. The Contractor will also maintain employer's liability insurance with at least a \$1,000,000.00 limit.

S-9. Automobile and General Liability Insurance. During the term of the Contract and any renewal thereto, the Contractor, and any agent of the Contractor, at its sole cost and expense shall maintain a policy of Automobile Liability Insurance in accordance with the State and Federal laws, unless otherwise stated. In addition, Contractor shall carry Commercial General Liability Insurance coverage with a \$1,000,000 annual aggregate and a \$500,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside the policy limits. Such policy shall designate the State of Ohio as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation and a statement that the Contractor's commercial general liability insurance shall be primary over any other coverage. Umbrella/excess liability insurance may be used to meet the required limits and the coverage must follow form. DAS-Procurement Services reserves the right to approve all policy deductibles and levels of self-insured retention-captive insurance programs and may require the Contractor to have their policy(ies) endorsed to reflect per project / per location general aggregate limits.

If not submitted with the Bidder's response, copies of the respective insurance certificates shall be filed with DAS-Procurement Services within seven (7) calendar days after notification. Failure to submit the insurance certificates within this time period may result in the bidder being deemed not responsive. Said certificates are subject to the approval of DAS and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to DAS. Failure of the Contractor to maintain this coverage for the duration of the Contract, and any renewals thereto, may be considered as a default. All insuring companies shall have and maintain at least an A- (Excellent) rating from A.M. Best unless otherwise approved by DAS..

S-10. Quality Assurance. At the option of DAS or the participating agency, samples may be taken from deliveries made and submitted for laboratory tests. The State will bear the cost of the testing when samples are found to be in compliance with the Contract. If samples do not conform to the Contract, Contractor will bear the costs of testing and the State will apply the terms and conditions of the Termination provision of this Contract.

S-11. Electronic Commerce Program. The State of Ohio is an active participant in E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the Contractor by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Contractor is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio. Information regarding E-Commerce is available on the Office of Budget and Management's website at <http://obm.ohio.gov/StateAccounting/edi/>

S-12. Usage Reports. At no cost to the State, the Contractor shall be required to provide quarterly, bi-annual or annual usage reports as requested by the DAS-Procurement Services. The reports will include information as to purchase activity under the Contract by all participating agencies and Co-operative Purchasing Program members. Report topics will include, but will not be limited to: customer name, date of purchase, item description, quantity, dollar value, aggregate sales to date for each customer and other such information as requested by the DAS- Procurement Services. Electronic media is the preferred method for these reports. Failure to provide the requested reports will be deemed as an event of default.

S-13. Return Goods Policy. The State will apply the following Return Goods Policy on all purchases made under the Contract. The Bidder acknowledges to have read, understood, and agrees to this Policy.

- (A) Return goods, when due to Contractor error (i.e. over-shipment, defective merchandise, unapproved substitution, etc.) shall be returned to the Contractor, at the Contractor's expense. The Contractor shall make arrangements to remove the return goods from the ordering agency premises within seven (7) calendar days after notification. The Contractor shall not apply any restocking or other charges to the ordering agency. At the option of the ordering agency, replacement items may be accepted and will be shipped within seven (7) calendar days of notification. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the ordering agency will dispose of accordingly.
- (B) For orders of custom manufactured items, the Contractor will provide a production sample of the item to the ordering agency for acceptance. The production sample will be identical to the item to be provided. The ordering agency will provide written acceptance of the item prior to the Contractor continuing with production. Once delivery and acceptance has been completed and the ordering agency determines for any reason that any remaining quantities will not be used, the agency may request the return of the custom manufactured items. Acceptance of the return of custom manufactured items will be at the option of the Contractor. If the Contractor agrees to the return of these items, the agency will be responsible for all costs associated with packaging, shipment and transportation, to include the original shipment to the agency and subsequent return of goods to the location designated by the Contractor. The Contractor may assess restocking fees that are equivalent to restocking fees that are normally assessed to other customers or as published by the Contractor. Failure of the Contractor to provide a production sample and obtain written approval from the ordering agency will result in the Contractor bearing all responsibility and costs associated with the return of these goods.
- (C) Return goods of regular catalog stock merchandise, when due to agency error (i.e. over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the agency within six (6) months of delivery and acceptance. All items to be returned must be unused and in their original containers and in suitable condition for resale. The ordering agency will be responsible for all transportation costs associated with both the original shipment of items to the agency and the subsequent return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee associated with the return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee not to exceed their standard published restocking fee or equivalent restocking fee that is assessed to other customers of the Contractor. Return of regular stock catalog merchandise, when delivery and acceptance exceed six (6) months will be at the option of the Contractor.

S-14. Product Recall. In the event product delivered has been recalled, seized, or embargoed and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption by the packer, processor, manufacturer or by any State or Federal regulatory agency, the Contractor shall be responsible to notify DAS-Procurement Services and all ordering agencies/entities within two business days after notice has been given. Contractor shall, at the option of the ordering agency, either reimburse the purchase price or provide an equivalent replacement product at no additional cost. Contractor shall be responsible for removal and/or replacement of the affected product within a reasonable time as determined by the ordering agency. At the option of the ordering agency, Contractor may be required to reimburse storage and/or handling fees to be calculated from time of delivery and acceptance to actual removal. Contractor will bear all costs associated with the removal and proper disposal of the affected product. Failure to reimburse the purchase price or provide equivalent replacement product will be considered a default.

S-15. Expenditure Of Public Funds For Offshore Services. The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

The Offeror must complete the attached Contractor/Subcontractor Affirmation and Disclosure form 5.2.8 to abide with Executive Order 2011-12K affirming no services of the Contractor or its subcontractors under this Contract will be performed outside the United States. During the performance of this Contract, the Contractor must not change the location(s) of the country where the services are performed, change the location(s) of the country where the data are maintained, or made available unless a duly signed waiver from the State has been attained to perform the services outside the United States.

S-16. Ohio Ethics. Contractor represent that it and its employees engaged in the administration or performance of the Contract are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

S-17. Contract Compliance. The participating state agency will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications for the Contract. If an agency observes any infraction(s), such shall be documented and conveyed to the Contractor for immediate correction. If the contractor fails to rectify the infraction(s), the agency will notify DAS through a Complaint to Vendor (CTV) to help resolve the infraction(s).

S-18. Independent Contractor Acknowledgement. It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the state of Ohio or the Ohio Department of Administrative Services. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an independent contractor, it is not a public employee and is not entitled to contributions from the State to any public employee retirement system.

Contractor acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a "business entity" as that term is defined in O.R.C. Section 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business") Contractor shall have any individual performing services under this contract complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement found at the following link: <https://www.opers.org/forms-archive/PEDACKN.pdf#zoom=80>.

Contractor's failure to complete and submit the Independent Contractor/Worker Acknowledgement prior to commencement of the work, service or deliverable provided under this contract shall serve as Contractor's certification that contractor is a "Business entity" as the term is defined in O.R.C. Section 145.037.

S-19. ORC 9.76(B). Pursuant to Ohio Revised Code 9.76 (B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.

SPECIAL CONTRACT TERMS AND CONDITIONS

COOPERATIVE PURCHASING CONTRACT: This Contract may be relied upon by Ohio institutions of higher education and Ohio political subdivisions. Ohio political subdivisions include any county, township, municipal corporation, school district, conservancy district, township park district, park district created under Chapter 1545 of the Revised Code, regional transit authority, regional airport authority, regional water and sewer district, port authority or any other political subdivision as described in the Ohio Revised Code. To qualify to use this Contract the political subdivision must be currently enrolled in the State's Cooperative Purchasing Program. Purchases made from this Contract by a political subdivision that is not properly registered with the State's Cooperative Purchasing Program will be a violation of law and may be contrary to the political subdivision's competitive bidding requirements. If a political subdivision or institution of higher education relies upon this Contract to issue a purchase order or other ordering document, the political subdivision or institution of higher education "steps into the shoes" of the State under this Contract. The political division's or institution of higher education's order and this Contract are between the Contractor and the political subdivision or institution of higher education. The Contractor must look solely to the political subdivision or institution of higher education for performance, including payment. The Contractor agrees to hold the state of Ohio harmless with regard to political subdivisions and institution of higher education's orders and political subdivision's and institution of higher education's performance. DAS may cancel this Contract and may seek remedies if the Contractor fails to honor its obligations under an order from a political subdivision or institution of higher education.

CONTRACTOR QUARTERLY SALES REPORT: The Contractor must report the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of the sales, to include both state agencies and political subdivisions, under this Contract by calendar quarter (e.g. January-March, April-June, July-September and October-December). The dollar value of the sale is the price paid by the Contract user for the products and/or services listed on the purchase order or other encumbering document, as recorded by the Contractor.

The Contractor will receive an email with a User ID and password and must report the quarterly dollar value of sales to the Department of Administrative Services (DAS) via the Internet using the web form at the Ohio DAS Contract Management Contractor Portal, <https://cm.ohio.gov/>. If no sales occur, the Contractor must show zero. The report must be submitted thirty (30) days following the completion of the reporting period. The Contractor is responsible for emailing the Analyst listed on page one of the contract with any company contact changes.

The Contractor shall also submit a close-out report within one hundred and twenty (120) days after the expiration of this Contract. The Contract expires upon the physical completion of the last outstanding task or delivery order of the Contract. The close-out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero "0" sales in the close-out report.

The Contractor must forward the Quarterly Sales Report to one of the following addresses,

For same day or overnight deliveries:

Huntington National Bank
ATTN: L-3686
7 Easton Oval
Columbus, OH 43219

All other deliveries may be sent to the following address:

Department of Administrative Services
L-3686
Columbus, OH 43260-3686

If the Contractor fails to submit sales reports, falsifies reports or fails to submit sales reports in a timely manner, DAS may suspend, terminate or cancel this Contract.

SPECIAL CONTRACT TERMS AND CONDITIONS (CONT'D)

CONTRACTOR REVENUE SHARE: The Contractor must pay the Department of Administrative Services (DAS) a revenue share of the sales transacted under this contract. The Contractor must remit the revenue share in U.S. dollars within thirty (30) days after the end of the quarterly sales reporting period. The revenue share equals 0.75% of the total quarterly sales reported. Contractors must include the revenue share in their prices. The revenue share is included in the award price(s) and reflected in the total amount charged to ordering agencies which includes both state agencies and political subdivisions using this Contract.

The contractor must remit any monies due as the result of the close-out report at the time the close-out report is submitted to DAS. The Contractor must pay the revenue share amount due by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the Ohio Contract Management Remittance Report

The Contractor should make the check payable to: Treasurer, State of Ohio.

Use the following address for same day or overnight deliveries:

Huntington National Bank
ATTN: L-3686
7 Easton Oval
Columbus, OH 43219

All other deliveries may be sent to the following address:

Department of Administrative Services
L-3686
Columbus, OH 43260-3686

If the full amount of the revenue share is not paid within thirty (30) calendar days after the end of the applicable reporting period, the non-payment constitutes a contract debt to the State. The State may either initiate withholding or setting off payments or employ the remedies available under Ohio law for the non-payment of the revenue share.

If the Contractor fails to pay the revenue share in a timely manner, DAS may suspend, terminate or cancel this Contract.

Montana

Terms and Conditions

Montana

State Terms and Conditions

ACCESS AND RETENTION OF RECORDS: Contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

COMPLIANCE WITH LAWS: Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

HOLD HARMLESS/INDEMNIFICATION: Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

REDUCTION OF FUNDING: State must by law terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (18-4-313(4), MCA) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy.

State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

TAX EXEMPTION: State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].

STATE OF MONTANA ADMINISTRATIVE FEE: The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this PA. The prices paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

REQUIRED REPORTING: Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 30 days after the end of the quarter.

First Quarter:	July 1 through September 30
Second Quarter:	October 1 through December 31
Third Quarter:	January 1 through March 31
Fourth Quarter:	April 1 through June 30

Federal Terms and Conditions (Non-Construction)

1. NONDISCRIMINATION

The Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly, and to the extent applicable, the Contractor agrees to comply with the following:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.

b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.

c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.

d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

2. LOBBYING

a. The Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: 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.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

3. DRUG-FREE WORK PLACE

The Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

4. ENVIRONMENTAL PROTECTION

a. The Contractor agrees that its performance under this contract shall comply with:

- (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
- (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
- (3) The Resources Conservation and Recovery Act (RCRA);
- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (5) The National Environmental Policy Act (NEPA);
- (6) The Solid Waste Disposal Act (SWDA);
- (7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
- (8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

b. In accordance with the EPA rules, the parties further agree that the Contractor shall also identify to the state any impact this contract may have on:

- (1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
 - (2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
 - (3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
 - (4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
 - (5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
- Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).
- (6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking work source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3)

5. USE OF UNITED STATES FLAG VESSELS

a. The Contactor agrees that travel under this contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The Contactor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

6. DEBARMENT AND SUSPENSION

a. The Contractor shall not make any award or permit any award (sub-contract or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension.

b. The Contractor agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the DoD in 2 CFR part 1125. The Contractor shall comply with 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) at www.sam.gov to verify Contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to Contractors listed in EPLS. This verification shall be documented in the Contractor's contract files, and shall be subject to audit by federal/State audit agencies

The Contractor agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Contractor enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DoD implementation in 2 CFR part 1125.

7. BUY AMERICAN ACT

The Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

8. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY POLICES

The Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

9. COPELAND "ANTI-KICKBACK" ACT

The Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

10. CONTRACT WORK HOURS AND SAFETY STANDARDS

The Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.(40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR

Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay.

11. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

12. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED

Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

13. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)

Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

14. PROCUREMENT OF RECOVERED MATERIALS

Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

New Jersey Terms and Conditions

9.0 STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS

(Rev: 7/18/18)

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's Proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

1.1 CONTRACT TERMS CROSSWALK

<u>NJSTART Term</u>	<u>Equivalent Existing New Jersey Term</u>
Bid/Bid Solicitation	RFP/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the bidder who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the Use Tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal

property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

2.2 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions Contracts (Exhibit B and Executive Order 151, August 28, 2009, attached) as appropriate.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.3 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [this proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT

The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;
- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
- E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;

- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards;

No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to

members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.10 COMPLIANCE - LAWS

The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.11 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.12 Warranty of no solicitation on commission or contingent fee basis

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

3. STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

3.3 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

- A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

- A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
- B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
- C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer,

advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.4 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.6 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.7 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States and the contractor shall be required to so certify.

3.8 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14, a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

4. INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor’s liability to the State and its employees in third party suits shall be as follows:

- A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;
- B. The contractor’s indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and
- C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days’ written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor’s insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at:

ccaau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

- A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as “Additional Insureds” and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;
- B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1,000,000 per occurrence as a combined single limit. The State must be named as an “Additional Insured” and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State’s behalf or on State controlled property;
- C. Worker’s Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - 1. \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
 - 2. \$1,000,000 DISEASE EACH EMPLOYEE; and
 - 3. \$1,000,000 DISEASE AGGREGATE LIMIT.
 - a. This \$1,000,000 amount may have been raised by the RFP when deemed necessary by the Director; and
 - b. In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections a., b., and c. above may have been lowered in the RFP for certain commodities when deemed in the best interests of the State by the Director.

5. TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 CONTRACT AMOUNT

The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director’s Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director’s request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions including pricing of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE’S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the

corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
- B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.5 CHANGE IN LAW

Whenever a change in applicable law or regulation affects the scope of work, the Director shall provide written notice to the contractor of the change and the Director's determination as to the corresponding adjusted change in the scope of work and corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- A. If the contractor does not agree with the adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the adjusted contract price. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
- B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

A. For Convenience:

Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;

B. For Cause:

1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and

2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.

C. In cases of emergency, the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and

D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING OR ASSIGNMENT

A. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and

A. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 MERGERS, ACQUISITIONS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

- A. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;
- B. All equipment supplied to the State and operated by electrical current is UL listed where applicable;
- C. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
- D. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
- E. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
- F. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
- G. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with the contract; and
- D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS

The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by law. Such records shall be made available to the State, including the Comptroller, for audit and review.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract. In connection with this assignment, the following are the express obligations of the contractor:

- A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
- B. It shall advise the Attorney General of New Jersey:
 - 1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
 - 2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey; and
- D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the

contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;

- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;
- C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and
- D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by State agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds

are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7. TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section 7 of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 PROCUREMENT OF RECOVERED MATERIALS

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
 - 1. Paper and paper products listed in 40 C.F.R. 247.10;
 - 2. Certain vehicular products as listed in 40 CFR 247.11;
 - 3. Certain construction products listed in 40 C.F.R. 247.12;
 - 4. Certain transportation products listed in 40 C.F.R. 247.13;
 - 5. Certain park and recreation products, 40 C.F.R. 247.14;
 - 6. Certain landscaping products listed in 40 C.F.R. 247.15;
 - 7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
 - 8. Other miscellaneous products listed in 40 C.F.R. 247.17.

- B. As defined in 40 CFR 247.3, "recovered material" means:
 - 1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
 - 2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
 - a. Postconsumer materials such as --
 - i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
 - ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
 - b. Manufacturing, forest residues, and other wastes such as --
 - i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and

including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

- ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
- iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
- iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
- v. Fibers recovered from waste water which otherwise would enter the waste stream.

C. For contracts in an amount greater than \$100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, the contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

7.2 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has

access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may

require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.3 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

7.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must

comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.6 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

7.8 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase and Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase and Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **N.J.A.C. 17:27-1 et seq.**

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)

N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of \$250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contractor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the

individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <http://NJ.gov/JobCentralNJ>;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

Utah

Terms and Conditions

STATE OF UTAH COOPERATIVE CONTRACTS
STANDARD TERMS AND CONDITIONS FOR GOODS

This is a State of Utah Cooperative Contract ("State Cooperative Contract") for goods meaning all things (including specially manufactured goods) which are tangible and usually movable. This State Cooperative Contract is the result of a cooperative procurement for the benefit of Eligible Users and may be used by Eligible Users.

1. DEFINITIONS: The following terms shall have the meanings set forth below:

- a) "**Confidential Information**" means information that is deemed as confidential under applicable state and federal laws, including personal information. The Eligible Users shall have the right to identify, during and after this Contract, additional types of categories of information that must be kept confidential under federal and state laws by Contractor.
 - b) "**Contract**" means either: (i) the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference, or (ii) the Solicitation and the Proposal when accepted and signed by the Division. The format of the Contract, as described in the prior sentence, will be at the sole option of the Division. Additionally, the term "Contract" may include any purchase orders issued by the Division that result from this Contract.
 - c) "**Contract Signature Page(s)**" means the State of Utah cover page(s) that the Division and Contractor sign.
 - d) "**Contractor**" means the individual or entity delivering the Goods identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
 - e) "**Division**" means the State of Utah Division of Purchasing.
 - f) "**Eligible User(s)**" means those authorized to use State Cooperative Contracts and includes the State of Utah's government departments, institutions, agencies, political subdivisions (e.g., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
 - g) "**End User Agreement**" means any agreement that Eligible Users are required to sign in order to participate in this Contract, including an end user agreement, customer agreement, memorandum of understanding, statement of work, lease agreement, service level agreement, or any other named separate agreement.
 - h) "**Goods**" means all types of tangible personal property (commodities), including but not limited to materials, supplies, and equipment that Contractor is required to deliver to the State Entity under this Contract. To the extent this Contract entails delivery or performance of services (including maintenance, installation, or product support), such services will be deemed "Goods" within the meaning of the Utah Uniform Commercial Code when reasonable to do so.
 - i) "**Proposal**" means Contractor's response to the Division's Solicitation.
 - j) "**Solicitation**" means the documents used by the Division to obtain Contractor's Proposal.
 - k) "**State of Utah**" means the State of Utah, in its entirety, including its departments, institutions, agencies, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - l) "**Subcontractors**" means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This "Status Verification System" requirement, also referred to as "E-Verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.

6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the Division or of the State of Utah, unless disclosure has been made to the Division.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of the State Entity or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the Division, the Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the Division, Eligible Users, or the State of Utah. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the Division and Contractor, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract, even if identified elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the Division, upon thirty (30) days written termination notice being given to the Contractor. The Division and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Goods ordered prior to date of termination. In no event shall the Division or Eligible Users be liable to the Contractor for compensation for any Good neither requested nor accepted by the Eligible Users. In no event shall the Division's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the Division or the Eligible Users for any damages or claims arising under this Contract.
13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the Division, if the Division reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the Divisions or the Eligible User's ability to pay Contractor. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered, the Eligible User will reimburse Contractor for the Goods properly ordered until the effective date of said notice. The Division, the Eligible User, and the State of Utah will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.
14. **SALES TAX EXEMPTION:** The Goods under this Contract will be paid for from the Eligible User's funds and may be used in the exercise of the Eligible User's essential functions. Upon request, the Eligible User will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the Eligible User's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
15. **WARRANTY:** Contractor warrants, represents and conveys full ownership, and clear title, free of all liens and encumbrances to the Goods delivered to the Eligible Users under this Contract. Contractor warrants for a period of one (1) year that: (i) the Goods perform according to all specific claims that Contractor made in its Proposal to the Solicitation; (ii) the Goods are suitable for the ordinary purposes for which such Goods are used; (iii) the Goods are suitable for any special purposes identified in the Proposal and the Solicitation; (iv) the Goods are designed and manufactured in a commercially reasonable manner; (v) the Goods are manufactured and in all other respects create no harm to persons or property; and (vi) the Goods are free of defects. Unless otherwise specified in the Contract, all Goods provided shall be new and unused of the latest model or design.

Remedies available to Eligible Users under this section include, but are not limited to, the following: Contractor will repair or replace Goods (at no charge to the Eligible User) within ten (10) days of any written notification informing Contractor of the Goods not

performing as required under this Contract. If the repaired and/or replaced Goods prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the Eligible User may otherwise have under this Contract.

16. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** The Contractor shall maintain the following insurance coverage:
- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate per occurrence.
 - c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
 - d. Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

17. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
18. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions, and prices of this Contract.
19. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
20. **QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.
21. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents, and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
22. **DELIVERY:** Time is of the essence for all deliveries made under this Contract. All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance, when responsibility will pass to the Eligible User, except as to latent defects, fraud, or Contractor's warranty obligations. Contractor's failure to provide the Goods by the required delivery date is deemed a material breach of this Contract. Contractor shall be responsible for the customary industry standard in packing and shipping the Goods.
23. **REPORTS AND FEES:**
1. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a Check or EFT payment. The fee will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be one-half of one percent (.50%) and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
 2. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the quantities and dollar volume of purchases by each agency and political subdivision. The quarterly report will be provided in secure electronic format and/or submitted electronically to the Utah reports email address: salesreports@utah.gov.
 3. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Reports Due</u>
March 31	April 30

June 30	July 31
September 30	October 31
December 31	January 31

4. **Fee Payment:** After the Division receives the quarterly utilization report, it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
5. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
24. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.
25. **ACCEPTANCE AND REJECTION:** The Eligible User shall have thirty (30) days after delivery of the Goods to perform an inspection of the Goods to determine whether the Goods conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Goods by the Eligible User.

If Contractor delivers nonconforming Goods, the Eligible User may, at its option and at Contractor's expense: (i) return the Goods for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Goods; or (iii) obtain replacement Goods from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Goods without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the Eligible User to redeliver the corrected Goods. Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.
26. **INVOICING:** Contractor will submit invoices within thirty (30) days after the delivery date of the Goods to the Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the Eligible User will be those prices listed in this Contract, unless Contractor offers a discount at the time of the invoice. It is Contractor's obligation to provide correct and accurate invoicing. The Eligible User has the right to adjust or return any invoice reflecting incorrect pricing.
27. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or by a Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the Eligible User, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the Eligible User within ten (10) business days of receipt of final payment, shall release the Division, the Eligible User, and the State of Utah from all claims and all liability to the Contractor. The Eligible User's payment for the Goods shall not be deemed an acceptance of the Goods and is without prejudice to any and all claims that the Division, Eligible User, or the State of Utah may have against Contractor. The State of Utah, the Division, and the Eligible User will not allow the Contractor to charge end users electronic payment fees of any kind.
28. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the Division, the Eligible User, and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the Division, the Eligible User, or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability such limitations of liability will not apply to this section.
29. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The Division, the Eligible User, and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Goods, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract, shall be considered work made for hire, and Contractor shall transfer any ownership claim to the Eligible User.
30. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the Division.
31. **REMEDIES:** Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The Division may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the Division may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the Division or the State of Utah; or (v) demand a full refund of any payment that an Eligible User has made to Contractor under this Contract for Goods that do not conform to this Contract.
32. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The Division may terminate this Contract after determining such delay will prevent successful performance of this Contract.
33. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the Division and the relevant Eligible User of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the Division, the Eligible User, and the State of Utah, including anyone for whom the Division, the Eligible User, or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the Eligible User or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

34. **PUBLICITY:** Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. It is within the Division's sole discretion whether to provide approval, which approval must be done in writing.
35. **CONTRACT INFORMATION:** During the duration of this Contract, the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies.
36. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
37. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
38. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees, incurred in connection with such action.
39. **LOCAL WAREHOUSE AND DISTRIBUTION:** If required under the Solicitation, Contractor will maintain a reasonable amount of stock warehoused in the State of Utah for immediate or emergency shipments. Shipments are to be made in the quantities as required by the various ordering agencies. Orders for less than the minimum specified amount will have transportation charges prepaid by the Contractor and added as a separate item on the invoice.
40. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The Division, after consultation with the Eligible User and Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the Division appoints such an expert or panel, the Eligible User and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
41. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); (v) Contractor's terms and conditions that are attached to this Contract, if any; and (vi) Contractor's attachments, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the Division, Eligible Users, or the State of Utah must be in writing and attached to this Contract or it is rendered null and void. Contractor's terms and conditions on its Sales Orders, Invoices, website, etc., will not apply to this Contract.
42. **END USER AGREEMENTS:** If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. The term of the End User Agreement shall not exceed the term of this Contract, and the End User Agreement will automatically terminate upon the completion of termination of this Contract. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.
42. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the Division's or the Eligible User's right to enforce this Contract with respect to any default of this Contract or defect in the Goods.
43. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
44. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

Revised 14 July 2017