



**Enterprise Alternate Contract Source (ACS)  
No. 31160000-25-NASPO-ACS  
For  
Facilities Maintenance Repair, and Operations (MRO) and Industrial  
Supplies**

This Enterprise Alternate Contract Source No. 31160000-25-NASPO-ACS Facilities Maintenance Repair, and Operations (MRO) and Industrial Supplies ("Term Contract"), is between the Department of Management Services ("Department"), an agency of the State of Florida, located at 4050 Esplanade Way, Tallahassee, FL 32399; and W.W. Grainger, Inc. ("Contractor"), located at 100 Grainger Parkway, Lake Forest, IL 60045; collectively referred to herein as the "Parties."

**WHEREAS**, section 287.042(16), Florida Statutes (F.S.) authorizes the Department to evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services;

**WHEREAS**, the Lead State of Kentucky, competitively procured Facilities Maintenance Repair, and Operations (MRO) and Industrial Supplies and executed Contract No. MA 758 2500000413, ("Master Contract"), with the Contractor; and

**WHEREAS**, pursuant to section 287.042(16), F.S., the Secretary evaluated the Master Contract and determined that use of the Master Contract is cost-effective and the best value to the state.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Term and Effective Date.**

The Master Contract became effective on September 1, 2024, and its term currently ends on August 31, 2026. The Master Contract has four years of renewals available. This Term Contract will become effective on January 1, 2025, or on the date signed by all Parties, whichever is later. This Term Contract will expire on August 31, 2026, unless terminated earlier or renewed in accordance with the Exhibit B, Enterprise Standard Terms and Conditions.

**2. Order of Precedence.**

This contract document and the attached exhibits constitute the Term Contract and the entire understanding of the Parties. This contract document, Exhibits A, B, C, and D constitute the Participating Addendum to the Master Contract and modify or supplement the terms and conditions of the Master Contract. All exhibits listed below are incorporated into this Term

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Contract by reference herein. In the event of a conflict, the following order of precedence shall apply:

- a) This contract document
- b) Exhibit A, Additional Terms and Conditions to the Enterprise Contract
- c) Exhibit B, Enterprise Standard Terms and Conditions
- d) Exhibit C, PUR 7801 Vendor Certification Form
- e) Exhibit D, Master Contract (including any amendments to the Master Contract made prior to the effective date of this Term Contract and any subsequent amendments to the Master Contract that are added to this Term Contract in accordance with the Modifications Section listed below)

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Contract, such citation or reference shall be replaced by the comparable Florida law or regulation.

**3. Purchases off this Contract.**

Upon execution of this Term Contract, agencies, as defined in section 287.012, F.S., may purchase products and services under this Term Contract. Any entity making a purchase off of this Term Contract acknowledges and agrees to be bound by the terms and conditions of this Term Contract. The Contractor shall adhere to the terms included in any contract or purchase orders issued pursuant to this Term Contract.

**4. Primary Contacts.**

**Department's Contract Manager:**

Joseph Thomas  
Division of State Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, Suite 360  
Tallahassee, Florida 32399  
Telephone: (850) 488-8367  
Email: [Joseph.Thomas@dms.fl.gov](mailto:Joseph.Thomas@dms.fl.gov)

**Contractor's Contract Manager:**

Jon Harwood  
W.W. Grainger, Inc.  
3924 W. Pensacola, Street  
Tallahassee, Florida 32304  
Telephone: (448) 206-4256  
Email: [Jon.Harwood@grainger.com](mailto:Jon.Harwood@grainger.com)

Either party may notify the other by email of a change to a designated Contract Manager providing the contact information for the newly designated contact, and such notice is

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**For**

**Facilities Maintenance Repair, and Operations (MRO) and Industrial Supplies**

sufficient to effectuate this change without requiring a written amendment to the Term Contract.

**5. Modifications.**

Unless otherwise stated in the Term Contract, any amendments to this Term Contract must be in accordance with Exhibit B, Enterprise Standard Terms and Conditions. If amendments are made to the Master Contract after the effective date of this Term Contract, the Contractor shall: 1) notify the Department of such amendments; and 2) provided the Department is amenable to incorporating the amendments into this Term Contract, enter into a written amendment with the Department in accordance with Exhibit B, Enterprise Standard Terms and Conditions.

**IN WITNESS THEREOF**, the Parties hereto have caused this Term Contract to be executed by the undersigned duly authorized undersigned officials.

**W.W. GRAINGER, INC.**

**DEPARTMENT OF MANAGEMENT SERVICES**

Signed by:  
  
18ED7E7067C4461...  
**Jon Harwood**

DocuSigned by:  
  
C64713928439485...  
**Pedro Allende, Secretary**

Government Sales Manager

12/9/2024 | 4:24 PM EST

12/10/2024 | 1:14 PM EST

**Date:**

**Date:**



## EXHIBIT A

### ADDITIONAL TERMS AND CONDITIONS TO THE ENTERPRISE CONTRACT

The following subsections are added to the Enterprise Standard Terms and Conditions:

#### SECTION 18: PUNCHOUT CATALOG AND ELECTRONIC INVOICING.

The Contractor is encouraged to provide a MFMP punchout catalog. The punchout catalog provides an alternative mechanism for suppliers to offer the State access to Products awarded under the Term Contract. The punchout catalog also allows for direct communication between the MFMP eProcurement System and a supplier's Enterprise Resource Planning (ERP) system, which can reflect real-time Product inventory/availability information.

The punchout catalog enables Florida buyers to "punch out" to a supplier's website. Using the search tools on the supplier's Florida punchout catalog site, the user selects the desired Products. When complete, the user exits the supplier's punchout catalog site and the shopping cart (full of Products) is "brought back" to MFMP. No orders are sent to a supplier when the user exits the supplier's punchout catalog site. Instead, the chosen Products are "brought back" to MFMP as line items in a purchase order. The user can then proceed through the normal workflow steps, which may include adding/editing the Products (i.e., line items) in the purchase order. An order is not submitted to a supplier until the user approves and submits the purchase order, at which point the supplier receives an email with the order details.

The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through MFMP. Electronic invoices may be submitted to the Customer through one of the mechanisms as listed below:

- 1) EDI (Electronic Data Interchange)  
This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the Ariba Network (AN) for catalog and non-catalog goods and services.
- 2) PO Flip via AN  
This online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

The Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider of MFMP, a State contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within MFMP. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider the right and license to reproduce and display within MFMP the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that

identifies the Products made available by the Contractor under the Term Contract.

**SECTION 19: FINANCIAL CONSEQUENCES**

Failure to comply with the requirements of the Term Contract will result in the imposition of financial consequences. The following financial consequences will apply for the Contractor’s failure to meet the performance metric standard and due date corresponding with the deliverables under the Term Contract. The Customer may impose additional Financial Consequences beyond those stated herein to apply to that Customer’s purchase. The State of Florida reserves the right to withhold payment or implement other appropriate remedies, such as Term Contract termination, or nonrenewal, when the Contractor has failed to comply with the provisions of the Term Contract.

The financial consequences below will be paid and received by the Department of Management Services within 30 calendar days from the due date specified by the Department. These financial consequences below are individually assessed for failures over each target period beginning with the first full month or quarter of the Term Contract performance and every month or quarter, respectively, thereafter.

**Financial Consequences Chart**

<b>Deliverable</b>	<b>Performance Metric</b>	<b>Performance Due Date</b>	<b>Financial Consequence for Non-Performance</b>
Contractor will timely submit complete Term Contract Quarterly Sales Reports	All Term Contract Quarterly Sales Reports will be submitted timely with the required information	Completed reports are due on or before the 30 <sup>th</sup> calendar day after the close of each State fiscal quarter	\$250 per day late
Contractor will timely submit complete MFMP Transaction Fee Reports	All MFMP Transaction Fee Reports will be submitted timely with the required information	Completed reports are due on or before the 15 <sup>th</sup> calendar day after the close of each month	\$100 per day late

**No favorable action will be considered when Contractor has outstanding Term Contract Quarterly Sales Reports, MFMP Transaction Fee Reports, or any other documentation owed to the Department or Customer, to include fees / monies, that are required under this Term Contract.**





## **Exhibit B**

# **ENTERPRISE STANDARD TERMS AND CONDITIONS**

**These Enterprise Standard Terms and Conditions set forth the terms and conditions regarding the administration of the Term Contract, including the provision of Products to Customers. Customer specific terms for purchases off this Term Contract shall be set forth in the Customer specific agreement.**

## SECTION 1. DEFINITIONS

Capitalized terms used herein are defined as follows:

**“Attachments”** means the attachments, addenda, schedules, exhibits, and other documents, however so titled, attached hereto or incorporated by reference herein.

**“Business Days”** means Monday through Friday, inclusive, excluding State holidays specified in section 110.117, Florida Statutes (“F.S.”).

**“Contractor”** means the person or entity that is a party to the Term Contract and is offering Products for purchase.

**“Customer”** means the agency, as defined in section 287.012, F.S., or eligible user, as defined in Rule 60A-1.001, Florida Administrative Code (“F.A.C.”), that makes a purchase off the Term Contract. For the avoidance of doubt, this also includes the Department when it purchases off the Term Contract.

**“Department”** means the Department of Management Services, an agency as defined in section 287.012, F.S., responsible for the administration of this Term Contract.

**“Enterprise Alternate Contract Source”** means a contract authorized pursuant to section 287.042(16), F.S., or approved pursuant to section 287.057(3)(b), F.S., for statewide use.

**“Product”** means any deliverable under the Term Contract, which may include commodities and contractual services, as each is defined in section 287.012, F.S. “Product” does not include, and no State funding under the Term Contract is being provided for, promoting, advocating for, or providing training or education on “Diversity, Equity, and Inclusion” (“DEI”). DEI is any program, activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification, or promotes the position that a group or an individual’s action is inherently, unconsciously, or implicitly biased on the basis of such classification.

**“State”** means the State of Florida

**“State Term Contract”** means a term contract that is competitively procured by the department pursuant to section 287.057, F.S. and that is used by agencies and eligible users pursuant to section 287.056, F.S.

**“Term Contract”** means the legally enforceable term contract, as defined in section 287.012, F.S., between the Department and Contractor to which these Enterprise Standard Terms and Conditions apply, including all Attachments thereto. The Term Contract is either a State Term Contract or an Enterprise Alternate Contract Source.

## SECTION 2. CONTRACT AMENDMENT

**2.1 Amendment.** The Term Contract contains all the terms and conditions agreed upon by the parties. Unless otherwise stated in Term Contract, the Term Contract may only be amended upon mutual written agreement signed by the parties. No oral agreements or representations will be valid or binding upon the Department or the Contractor. Unless explicitly agreed to by the Department in the Term Contract, no unilateral alteration or modification of the Term



Contract terms, including substitution of Product, will be valid or binding against the Customer.

The Department and Contractor may modify the Term Contract to alter, add to, or deduct from the Term Contract specifications, provided that such changes are within the general scope of the Term Contract. The parties may make an equitable adjustment in the Term Contract price or delivery date if the change affects the cost or time of performance.

### **SECTION 3. CONTRACT CONSTRUCTION AND ADMINISTRATION**

**3.1 Construction.** Unless the context requires otherwise, (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to the Term Contract as a whole, inclusive of all Attachments. Unless the context requires otherwise, references herein to (i) sections or Attachments mean the sections of, or Attachments to, the Term Contract; (ii) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (iii) a statute, rule, or other law or regulation means such statute, rule, or other law or regulation as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

Unless the context requires otherwise, whenever the masculine is used in the Term Contract, the same will include the feminine and whenever the feminine is used herein, the same will include the masculine. Unless the context requires otherwise, whenever the singular is used in the Term Contract, the same will include the plural, and whenever the plural is used herein, the same will include the singular, where appropriate. All references to "\$" or "dollars" means the United States Dollar, the official and lawful currency of the United States of America.

The Term Contract will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Attachments referred to herein will be construed with, and as an integral part of, the Term Contract to the same extent as if they were set forth verbatim herein.

**3.2 Administration.** Execution in Counterparts. The Term Contract may be executed in counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

**3.2.1 Notices.** Where the term "written notice" is used to specify a notice requirement herein, said notice will be deemed to have been given (i) when personally delivered; (ii) email (with confirmation of receipt) the day immediately following the day (except if not a Business Day then the next Business Day) on which the notice or communication has been provided prepaid by the sender to a recognized overnight delivery service; or (iii) on the date actually received except where there is a date of the certification of receipt.

Unless otherwise specified, the Contractor shall deliver all notices to the Department's Contract Manager and the Department shall deliver all notices to the Contractor's Contract Manager.

3.2.2 **Severability.** If a court deems any non-material provision of the Term Contract void or unenforceable, all other provisions will remain in full force and effect. Upon a determination that any material provision is void or unenforceable, the parties shall negotiate in good faith to modify this Term Contract to give effect to the original intent of the parties as closely as possible in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

3.2.3 **Waiver.** The delay or failure by the Department to exercise or enforce any of its rights under the Term Contract will not constitute or be deemed a waiver of the Department's right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

3.2.4 **Survivability.** The Term Contract and any and all promises, covenants, and representations made herein are binding upon the parties hereto and any and all respective heirs, assigns, and successors in interest. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of the Term Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, reporting, and public records, will survive termination or expiration of the Term Contract.

3.2.5 **Third Party Beneficiaries.** The parties acknowledge and agree that the Term Contract is for the benefit of the parties hereto. The Term Contract is not intended to confer any legal rights or benefits on any other party, except such rights and benefits associated with a purchase made by a Customer off this Term Contract.

#### **SECTION 4. CONTRACT TERM, SUSPENSION, AND TERMINATION.**

4.1 **Term.** The initial term will begin on the date set forth in the Term Contract documents or on the date the Term Contract is signed by all parties, whichever is later.

Upon written agreement, the Department and the Contractor may renew the Term Contract in whole or in part only as set forth in the Term Contract documents, and in accordance with section 287.057(13), F.S. No costs may be charged for the renewals.

#### **4.2 Suspension of Work and Termination.**

4.2.1 **Suspension of Work.** The Department may, in its sole discretion, suspend any or all activities under the Term Contract, at any time, when it is in the best interest of the State of Florida to do so. The Department will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Term Contract. Suspension of work will not entitle the Contractor to any compensation for services not performed or commodities not delivered during the suspension period nor for any additional compensation.

4.2.2 **Termination for Convenience.** The Term Contract may be terminated by the Department, by written notice to the Contractor thirty (30) calendar days in advance, in whole or in part at any time, when the Department determines in its sole discretion that it is in the Department's interest to do so. The Contractor shall not furnish any Product after it receives the notice of termination, except as necessary to complete

the continued portion of the Term Contract, or a continued purchase off the Term Contract, if any. The Contractor will not be entitled to recover any cancellation charges or lost profits. If the Term Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of any Customer contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

- 4.2.3 **Termination for Cause.** The Department may terminate the Term Contract if the Contractor fails to (i) on multiple occasions, timely deliver Products purchased by Customers, (ii) on multiple occasions, maintain adequate progress on Customer purchases, thus endangering performance, (iii) honor any term of the Term Contract, or (iv) abide by any statutory, regulatory, or licensing requirement. The Department may, at its sole discretion, (i) immediately terminate the Term Contract, (ii) notify the Contractor of the deficiency and require that the deficiency be corrected within a specified time, otherwise the Term Contract will terminate at the end of such time, or (iii) take other action deemed appropriate by the Department. The Contractor shall continue work on any work not terminated.

Except for defaults of subcontractors at any tier, the Contractor will not be liable for any excess costs if the failure to perform arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor will not be liable for any excess costs for failure to perform, unless the subcontracted Products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Department. The rights and remedies of the Department in this clause are in addition to any other rights and remedies provided by law or under the Term Contract. The Customer will notify the Department of any vendor that has met the grounds for placement of the vendor on the Department of Management Services' Suspended Vendor List, as required in section 287.1351, F.S.

- 4.2.4 **Termination for Non-Compliance with E-Verify.** Pursuant to section 448.095(5)(c)1., F.S., the Department shall terminate the Term Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. Pursuant to section 448.095(5)(c)2., F.S., if the Department has a good faith belief that a subcontractor knowingly violated section 448.09(1), F.S., the Department shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
- 4.2.5 **Termination Related to Statutory Certifications.** At the Department's option, the Term Contract may be terminated if the Contractor is placed on any of the lists referenced in the attached PUR 7801, Vendor Certification Form, or would otherwise be prohibited from entering into or renewing the Term Contract based on the statutory provisions referenced therein.

- 4.2.6 **Termination for Refusing Access to Public Records.** In accordance with section 287.058, F.S., the Department may unilaterally terminate the Term Contract for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Term Contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.071(1), F.S.

## **SECTION 5. PURCHASES OFF THE TERM CONTRACT.**

- 5.1 **Purchases.** By executing the Term Contract, the Contractor agrees to allow Customers to make purchases off the Term Contract. Purchases from Customers other than the Department are independent of the agreement between the Department and the Contractor, and the Department shall not be a party to such transaction. Customers' purchases off the Term Contract are limited to Products offered under the Term Contract, and no additional Products may be provided under a purchase off the Term Contract.

- 5.2 **Purchase Submission.** For any purchases off the Term Contract, either the contract (as defined in Rule 60A-1.001, F.A.C.) must be executed between the Customer and Contractor, or the purchase order (as defined in Rule 60A-1.001, F.A.C.) must be issued by the Customer to the Contractor, no later than the last day of the Term Contract's term to be considered timely. Contracts executed, or purchase orders issued, after the last day of the Term Contract's term shall be considered void.

- 5.3 **Terms.** The terms of the Form PUR 1000, General Contract Conditions, incorporated in Rule 60A-1.002, F.A.C., and linked here <http://www.flrules.org/Gateway/reference.asp?No=Ref-16731>, are hereby incorporated by reference herein and will apply to all purchases made by a Customer off the Term Contract. The Customer may attach additional terms and conditions specific to its particular purchase made off the Term Contract, which are considered Special Conditions. The term "Special Conditions" does not include any Contractor-provided documents, including attachments or standard preprinted forms, service agreements, end user agreements, product literature, or "shrink wrap" terms accompanying or affixed to a Product, whether written or electronic, or terms incorporated onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. Any Customer Special Conditions shall not become a part of the Term Contract.

- 5.3.1 **Term.** The term of the Customer purchase off the Term Contract will be as specified in the purchase, except that if renewals of the purchase are permitted, the Customer and Contractor shall not renew the purchase if the Term Contract expires prior to the effective date of the renewal. Any existing term of a purchase off the Term Contract shall not extend more than forty-eight (48) months beyond the end of the Term Contract. However, if an extended pricing plan offered in the Term Contract is agreed upon by the Customer and Contractor and extends more than forty-eight (48) months beyond the end of the Term Contract, the agreed upon extended pricing plan terms shall govern the maximum duration of the purchase. The Contractor is required to fulfill timely purchases that extend performance beyond the Term Contract term even when such extended delivery will occur after expiration of the Term Contract. For such purchases, all terms and conditions of the Term Contract shall survive the termination or expiration of the Term Contract and apply to the Contractor's continued performance.

- 5.3.2 **Additional Requirements.** All Customer purchases off the Term Contract shall

contain the Term Contract name and number and shall be placed by the Customer. Delivery or furnishing Products shall not occur until the Customer executes their contract or transmits the purchase order, as defined in Rule 60A-1.001, F.A.C.

## **SECTION 6. PAYMENT AND FEES.**

**6.1 Pricing.** The Contractor shall not exceed the pricing set forth in the Term Contract documents.

**6.2 Best Pricing Offer.** During the term of the Term Contract, if the Department or Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a Product outside the Term Contract, but upon the same or similar terms of the Term Contract, then the Department or Customer may request that the Contractor immediately reduce to the lower price.

**6.3 Price Decreases.** The following price decrease terms will apply to the Term Contract:

**6.3.1 Quantity Discounts.** The Contractor may offer additional discounts for one-time delivery of large single orders. The Customer should seek to negotiate additional price concessions on quantity purchases of any Products offered under the Term Contract.

**6.3.2 Sales Promotions.** In addition to decreasing prices for the balance of the Term Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. If conducting a sales promotion, the Contractor must submit documentation to the Department's Contract Manager identifying the proposed: (1) starting and ending dates of the promotion, (2) Products involved, and (3) promotional prices compared to then-authorized prices. The Contractor shall provide notice to Customers of the promotion and shall make the promotional prices available to all Customers.

**6.3.3 Equitable Adjustment.** The Department may, in its sole discretion, make an equitable adjustment in the Term Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Term Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Term Contract would result in a substantial loss.

**6.4 Purchase Prerequisites.** The Contractor may be required to accept the State of Florida Purchasing Card and MyFloridaMarketPlace (MFMP) purchase orders. The Contractor must ensure that entities receiving payment directly from Customers under this Term Contract must have met the following requirements:

- Have an active registration with the Florida Department of State, Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)), or, if exempt from the registration requirements, provide the Department with the basis for such exemption.
- Be registered in the MFMP Vendor Information Portal (<https://vendor.myfloridamarketplace.com>).
- Have a current W-9 filed with the Florida Department of Financial Services (<https://flvendor.myfloridacfo.com>)

**6.5 Transaction Fees.** The State of Florida, through the Department of Management Services,

has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(24), Florida Statutes (F.S.). All payments issued by Agencies to registered vendors for purchases of Commodities or Contractual Services under Chapter 287, F.S., shall be assessed the Transaction Fee of one percent (1.0%) of the total amount of the payments received from the State or Eligible Users, as prescribed by Rule 60A-1.031, Florida Administrative Code (F.A.C.), or as may otherwise be established by law. Vendors shall pay the Transaction Fee and are subject to automatic deduction of the Transaction Fee, when automatic deduction becomes available. Vendors shall submit any monthly reports required pursuant to Rule 60A-1.031, F.A.C. All such reports and payments are subject to audit. The Agency will have grounds for declaring the vendor in default if the vendor fails to comply with the payment of the Transaction Fee or reporting of payments, which may subject the vendor to being suspended from business with the State of Florida.

- 6.6 Exclusivity.** The Term Contract is not an exclusive license to provide the Products described in the Term Contract. The Department may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar Products.

## SECTION 7. PERFORMANCE

- 7.1 Warranty of Ability to Perform.** Upon the effective date of the Term Contract, and each year on the anniversary date of the Term Contract, the Contractor shall submit to the Department a completed PUR 7801, Vendor Certification Form. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Term Contract obligations.

Additionally, the Contractor shall promptly notify the Department in writing if its ability to perform is compromised in any manner during the term of the Term Contract (including potential inability to renew the Term Contract due to section 287.138 or 908.111, F.S.) or if it or its suppliers, subcontractors, or consultants under the Term Contract are placed on the Suspended Vendor, Convicted Vendor, Discriminatory Vendor, Forced Labor Vendor, or Antitrust Violator Vendor Lists. The Contractor shall use commercially reasonable efforts to avoid or minimize any delays in performance and shall inform the Department of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor shall promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

- 7.2 Further Assurances.** The parties shall, with reasonable diligence, do all things and provide all reasonable assurances as may be necessary to complete the requirements of the Term Contract, and each party shall provide such further documents or instruments requested by the other party as may be reasonably necessary or desirable to give effect to the Term Contract and to carry out its provisions. The Department is entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and the details thereof.
- 7.3 Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Term Contract without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance of

the Term Contract, unless the Department expressly waives such secondary liability. The Department may assign the Term Contract with prior written notice to Contractor of its intent to do so.

#### **7.4 Employees, Subcontractors, and Agents.**

7.4.1 **Subcontractors.** The Contractor will not subcontract any work under the Term Contract without prior written consent of the Department. The Contractor shall obtain prior written consent using the process identified on the Department's website: [Subcontractor/Dealer/Reseller Forms / Vendor Resources / State Purchasing / Business Operations - Florida Department of Management Services \(myflorida.com\)](https://myflorida.com). The use of the term "subcontractor" may refer to affiliates, resellers, dealers, distributors, partners, teammates, and all other third parties utilized by the Contractor at any tier under the Term Contract. The Contractor is responsible for ensuring that its subcontractors providing commodities and performing services in furtherance of the Term Contract do so in compliance with the terms and conditions of the Term Contract. By execution of the Term Contract, the Contractor acknowledges that it will not be released of its contractual obligations to Customers because of any failure of a subcontractor. The Contractor is fully responsible for satisfactory completion of all work performed under the Term Contract. The Contractor's use of a subcontractor not approved by the Department will be considered a material breach of the Term Contract.

7.4.2 **Independent Contractor.** The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department or the State and are not entitled to the benefits of Department or State employees. Neither the Customer nor the State will be bound by any acts or conduct of the Contractor or its employees, subcontractors, or agents. The Contractor shall include this provision in all of its subcontracts under the Term Contract.

7.5 **Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees, subcontractors, or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect suppliers if no alternate source of supply is available to the Contractor.

In case of any delay the Contractor believes is excusable, the Contractor shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either (i) within ten (10) calendar days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result; or (ii) if a delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING WILL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO ANY DELAY except if such delay is caused by the fraud, bad faith, or active interference of the Department. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy, and a rebuttable presumption of prejudice will exist based on Contractor's untimely notice. The Contractor shall not assert any claim for damages related to such delay. The Contractor will not be entitled to an increase in the Term Contract price or payment of any kind from the Department for direct, indirect, consequential, impact, or other costs, expenses, or damages, including costs of acceleration or inefficiency, arising

because of delay, disruption, interference, or hindrance from any cause whatsoever.

If performance is suspended or delayed, in whole or in part, due to any of the causes described in this subsection, the Department may unilaterally (and with no recourse on the part of the Contractor) identify and use an alternate source to complete any work under the Term Contract as the Department deems necessary, in its sole discretion. After the causes have ceased to exist, the Contractor shall perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the Department or State, in which case the Department may (i) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Department with respect to Products subjected to allocation; or (ii) terminate the Term Contract in whole or in part.

## **SECTION 8. CONTRACT MANAGEMENT**

**8.1 Department's Contract Manager.** The Department's Contract Manager for the Term Contract, who is primarily responsible for the Department's oversight of the Term Contract, will be identified in a separate writing to the Contractor upon Term Contract signing in the following format:

Department's Contract Manager Name  
Department's Name  
Department's Physical Address  
Department's Telephone #  
Department's Email Address

**8.2 Contractor's Contract Manager.** The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Term Contract performance, will be identified in a separate writing to the Department upon Term Contract signing in the following format:

Contractor's Contract Manager Name  
Contractor's Name  
Contractor's Physical Address  
Contractor's Telephone #  
Contractor's Email Address

Either party may notify the other by email of a change to a designated contact providing the contact information for the newly designated contact, and such notice is sufficient to effectuate this change without requiring a written amendment to the Term Contract.

## **SECTION 9. COMPLIANCE WITH LAWS.**

**9.1 Conduct of Business.** The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business and that are applicable to the Term Contract, including those of federal, state, and local agencies having jurisdiction and authority, and shall ensure that any and all subcontractors utilized do the same. The Contractor represents and warrants that no part of the funding under the Term Contract will be used in violation of any state or federal law, including, but not limited to, 8 U.S.C. § 1324 or 8 U.S.C. § 1325, or to aid or abet another in violating state or federal law. The Department may terminate the Term Contract at any time if the Contractor violates, or aids or abets another in violating, any state or federal law.



If the requirements of the Term Contract conflict with any governing law, codes or regulations, the Contractor shall notify the Department in writing and the parties shall amend the Term Contract to comply with the applicable code or regulation. Similarly, if the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the Products offered under the Term Contract, the Contractor shall immediately notify the Department in writing, indicating the specific restriction. The Department reserves the right and the complete discretion to accept any such alteration or to cancel the Term Contract at no further expense to the Department.

Pursuant to section 287.057(26), F.S., the Contractor shall answer all questions of, and ensure a representative will be available to, a Customer's continuing oversight team for purchases off this Term Contract.

**9.2 Integrity.** In addition to any applicable statutory restrictions, the Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (i) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or (ii) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (ii), "gratuity" means any payment in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

## **SECTION 10. DISPUTES AND LIABILITIES.**

**10.1 Dispute Resolution.** Should any disputes arise between the Department and the Contractor with respect to the Term Contract, the Contractor and the Department shall act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

Exhaustion of this administrative remedy detailed in the Dispute Resolution Process contemplated in this Term Contract is an absolute condition precedent to the Contractor's ability to seek other remedies related to the Term Contract.

### **10.2 Dispute Resolution Process.**

- (a) Department Review. The parties shall resolve disputes through written submission of their dispute to the Department's Contract Manager. The Department shall respond to the dispute in writing within ten (10) Business Days from the date that the Department's Contract Manager receives the dispute. The Department's decision shall be final unless a party provides the other party with written notice of the party's disagreement with the decision within ten (10) Business Days from the date of the Department's decision. If a party disagrees with the Department's decision, the party may proceed to subsection (b) below.
- (b) Meeting between the Principals. If either party disagrees with the Department's decision, such disagreeing party shall notify the other party of the disagreement within ten (10) Business Days. The parties shall then schedule a meeting between each party's principal (for the Department, the Department head or designee; for the Contractor, the Chief Executive Officer or designee) on a mutually agreed upon date, no later than ten (10) Business Days after the provision of the notice. The principals shall attempt to mutually resolve the disagreement at such meeting.
- (c) Mediation. If the dispute is not resolved through a meeting of the Principals, the parties, upon mutual agreement, may mediate such dispute. If such mediation is not completed

within 100 calendar days from receipt of the Department's decision, then either party may seek other remedies.

If the dispute is not resolved through the full process in subsections (a) - (c) above (or (a) - (b), if mediation is not agreed to), either party may pursue any other remedies.

- 10.3 Contractor's Obligation to Perform While Disputes are Pending.** The Contractor shall proceed diligently with performance under the Term Contract pending the final resolution of any dispute or request for relief, claim, appeal, or action arising under the Term Contract and shall comply with directions to perform from the Department. Should the Contractor not perform while a dispute is pending, including by not performing disputed work, such nonperformance by the Contractor may be deemed to be an unexcused breach of the Term Contract which is separate and apart from any other dispute.
- 10.4 Governing Law and Venue.** The Term Contract will be governed by, and construed in accordance with, the laws of the State. Jurisdiction and venue for suit arising under the terms of the Term Contract will exclusively be in the appropriate State court located in Leon County, Florida. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees and costs incurred in connection with disputes arising under the terms of the Term Contract.
- 10.5 Remedies Cumulative.** No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy will be cumulative, and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.
- 10.6 JURY WAIVER. THE PARTIES, ON BEHALF OF THEMSELVES AND ASSIGNS, WAIVE ALL RIGHT TO TRIAL BY JURY FOR ANY ACTION, APPEAL, CLAIM, OR PROCEEDING, WHETHER IN LAW IN OR IN EQUITY, WHICH IN ANY WAY ARISES OUT OF OR RELATES TO THE TERM CONTRACT OR ITS SUBJECT MATTER.**
- 10.7 Indemnification.** For any and all third-party claims, actions, demands, liabilities, and expenses of any kind which are caused by, related to, growing out of or happening in connection with the Term Contract (including any determination arising out of or related to the Term Contract that the Contractor or its employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Department or State), the Contractor shall be fully liable for the actions of its employees, subcontractors, and agents and shall fully indemnify, defend, and hold harmless the Department and the State (including each of their current and former officers, agents, and employees) for any and all loss, damage, injury, costs, reasonable expenses, or other casualty to person or property. Without limiting this indemnification requirement, the Department may provide the Contractor (i) written notice of any action or threatened action, (ii) the opportunity to take over and settle or defend any such action at the Contractor's sole expense, and (iii) assistance in defending the action at the Contractor's sole expense. The above indemnity requirement does not apply to that portion of any loss or damages proximately caused by the negligent act or omission of the Department or the State. Nothing herein is intended to act as a waiver of the Department's or State's sovereign immunity or to be deemed consent by the Department or State or its subdivisions to suit by third parties.

## **SECTION 11. MISCELLANEOUS.**

- 11.1 Department of State Registration.** Consistent with Title XXXVI, F.S., if the Contractor asserts status other than that of a sole proprietor, it must provide the Department with i) conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity; ii) a certificate of authorization if a foreign business entity; or iii) if exempt from the registration requirements, a basis for such exemption.
- 11.2 Time is of the Essence.** Time is of the essence regarding every obligation of the Contractor under the Term Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.
- 11.3 Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, governmental entities that are not Customers may make purchases under the terms and conditions contained herein, if agreed to by the Contractor. Such purchases are independent of the Term Contract between the Department and the Contractor, and the Department is not a party to these transactions.

## **SECTION 12. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.**

- 12.1 General Record Management and Retention.** The Contractor shall retain all records that were made in relation to the Term Contract for the longer of five (5) years after expiration of the Term Contract or the period required by the General Records Schedules maintained by the Florida Department of State available at: <https://dos.fl.gov/library-archives/records-management/general-records-schedules/>.
- 12.2 Identification and Protection of Confidential Information.** Article 1, section 24, of the Florida Constitution, guarantees every person access to public records, and section 119.011, F.S., provides a broad definition of “public record.” As such, records submitted to the Department (or any other State agency) are public records and are subject to disclosure unless exempt from disclosure by law. If the Contractor considers any portion of a record it provides to the Department (or any other State agency) to be trade secret or otherwise confidential or exempt from disclosure under Florida or federal law (“Confidential Information”), the Contractor shall mark as “confidential” each page of a document or specific portion of a document containing Confidential Information and simultaneously provide the Department (or other State agency) with a separate, redacted copy of the record. The Contractor shall state the basis of the exemption that the Contractor contends is applicable to each portion of the record redacted, including the specific statutory citation for such exemption. The Contractor shall only redact portions of records that it claims contains Confidential Information. If the Contractor fails to mark a record it claims contains Confidential Information as “confidential,” or fails to submit a redacted copy in accordance with this section of a record it claims contains Confidential Information, the Department (or other State agency) shall have no liability for release of such record. The foregoing will apply to every instance in which the Contractor fails to both mark a record “confidential” and redact it in accordance with this section, regardless of whether the Contractor may have properly marked and redacted the same or similar Confidential Information in another instance or record submitted to the Department (or any other State agency).

In the event of a public records request, to which records the Contractor marked as “confidential” are responsive to the request, the Department shall provide the Contractor-redacted copy to the requestor. If the Contractor has marked a record as “confidential” but

failed to provide a Contractor-redacted copy to the Department, the Customer may notify the Contractor of the request and the Contractor may have up to ten (10) Business Days from the date of the notice to provide a Contractor-redacted copy, or else the Department may release the unredacted record to the requestor without liability. If the Department provides a Contractor-redacted copy of the documents and the requestor asserts a right to the Contractor-redacted Confidential Information, the Department shall promptly notify the Contractor such an assertion has been made. The notice will provide that if the Contractor seeks to protect the Contractor-redacted Confidential Information from release it must, within thirty (30) days after the date of the notice and at its own expense, file a cause of action seeking a declaratory judgment that the information in question is exempt from section 119.07(1), F.S., or other applicable law and an order prohibiting the Department from publicly disclosing the information. The Contractor shall provide written notice to the Department of any cause of action filed. If the Contractor fails to file a cause of action within thirty (30) days the Department may release the unredacted copy of the record to the requestor without liability.

If the Department is requested or compelled in any legal proceeding to disclose documents that are marked as "confidential" (whether by oral questions, interrogatories, requests for information or documents, subpoena, or similar process), unless otherwise prohibited by law, the Department shall give the Contractor prompt written notice of the demand or request prior to disclosing any Confidential Information to allow the Contractor to seek a protective order or other appropriate relief at the Contractor's sole discretion and expense. If the Contractor fails to take appropriate and timely action to protect the Confidential Information contained within documents it has marked as "confidential" or fails to provide a redacted copy that may be disclosed, the Department may provide the unredacted records in response to the demand without liability.

The Contractor shall protect, defend, and indemnify the Department for all claims, costs, fines, settlement fees, and attorneys' fees, at both the trial and appellate levels, arising from or relating to the Contractor's determination that its records contain Confidential Information. In the event of a third-party claim brought against the Department for failure to release the Contractor's redacted Confidential Information, the Contractor shall assume, at its sole expense, the defense or settlement of such claim, including attorney's fees and costs at both the trial and appellate levels. If the Contractor fails to continuously undertake the defense or settlement of such claim or if the Contractor and Department mutually agree that the Department is best suited to undertake the defense or settlement, the Department will have the right, but not the obligation, to undertake the defense or settlement of such claim, at its discretion. The Contractor shall be bound by any defense or settlement the Department may make as to such claim, and the Contractor agrees to reimburse the Department for the expense, including reasonable attorney's fees and costs at both the trial and appellate levels associated with any defense or settlement that the Department may undertake to defend Contractor's Confidential Information. The Department will also be entitled to join the Contractor in any third-party claim for the purpose of enforcing any right of indemnity under this section.

If at any point the Department is reasonably advised by its counsel that disclosure of the Confidential Information is required by law, including but not limited to Florida's public records laws, the Department may disclose such Confidential Information without liability hereunder.

**12.3 Public Records Requirements Pursuant to Section 119.0701, F.S.** Solely for the purpose of this section, the Department's Contract Manager is the agency custodian of public records. If, under the Term Contract, the Contractor is providing services and is acting on behalf of the public agency, as provided in section 119.0701, F.S., the Contractor shall:

- i. Keep and maintain public records required by the Department to perform the service.
- ii. Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Term Contract term and following the completion of the Term Contract if the Contractor does not transfer the records to the Department.
- iv. Upon completion of the Term Contract, transfer, at no cost, to the Department all public records in possession of the Contractor or keep and maintain public records required by the Department to perform the service. If the Contractor transfers all public records to the Department upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Term Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS TERM CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT [PUBLICRECORDS@DMS.FL.GOV](mailto:PUBLICRECORDS@DMS.FL.GOV), (850) 487-1082 OR 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950.**

**12.4 Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Term Contract without prior written approval from the Department, including mentioning the Term Contract in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Contractor's name and either a description of the Term Contract or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a party to the Term Contract, except potential or actual Customers or authorized distributors, dealers, resellers, or service representatives.

**12.5 Intellectual Property.**

**12.5.1 Ownership.** Unless specifically addressed otherwise in the Customer's contract, the State of Florida shall be the owner of all intellectual property rights to all new property created or developed in connection with the Customer's contract. This shall not apply

to intellectual property developed prior to the execution of the Term Contract.

**12.5.2 Patentable Inventions or Discoveries.** Any inventions or discoveries developed in the course, or as a result, of services in connection with the Customer's contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer and the Department of any inventions or discoveries developed or made through performance of the Customer's contract, and such inventions or discoveries will be referred to the Florida Department of State for a determination on whether patent protection will be sought. The State of Florida will be the sole owner of all patents resulting from any invention or discovery made through performance of the Customer's contract. This shall not apply to any invention or discovery made prior to the execution of the Term Contract.

**12.5.3 Copyrightable Works.** Contractor must notify the Customer and the Department of any publications, artwork, or other copyrightable works developed in connection with the Customer's contract. All copyrights created or developed through performance of the Customer's contract are owned solely by the State of Florida. This shall not apply to any copyrightable works created or developed prior to the execution of the Term Contract.

## **SECTION 13. DATA SECURITY.**

The Contractor will maintain the security of State of Florida data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. "State of Florida data" means data collected by, transmitted from, created for, or provided by the Department or the Customer. The Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a Security Incident involving State of Florida data, the Contractor shall give notice to the Customer and the Department within one business day of becoming aware of the Security Incident. "Security Incident" for purposes of this section will refer to an actual or imminent threat of a violation of information technology resources, security, policies, or practices, unauthorized access of State of Florida data, or occurrences that compromise the confidentiality, integrity, or availability of State of Florida data. An imminent threat refers to a situation in which the Contractor has a factual basis for believing that a specific incident is about to occur. Once a data breach has been contained, the Contractor must provide the Department and the Customer with a post-incident report documenting all containment, eradication, and recovery measures taken. The Department reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other current state and federal rules and regulations regarding security of information.

## **SECTION 14. CONTRACT MONITORING.**

**14.1 Performance Standards.** The Contractor agrees to perform all tasks and provide deliverables as set forth in the Term Contract. The Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

**14.2 Contract Reporting.** The Contractor shall provide the Department the following accurate and complete reports associated with this Term Contract.

- 14.2.1 **Term Contract Quarterly Sales Reports.** The Contractor shall submit Quarterly Sales Reports in the manner and format required by the Department within 30 calendar days after the close of each State fiscal quarter (the State's fiscal quarters close on September 30, December 31, March 31, and June 30).

The Quarterly Sales Report template can be found here: [Quarterly Sales Report Format / Vendor Resources / State Purchasing / Business Operations / Florida Department of Management Services - DMS \(myflorida.com\)](#). Initiation and submission of the most recent version of the Quarterly Sales Report posted on the DMS website is the responsibility of the Contractor without prompting or notification from the Department. Sales will be reviewed on a quarterly basis. If no sales are recorded in two consecutive quarters, the Contractor may be placed on probationary status, or the Department may terminate the Term Contract. Failure to provide the Quarterly Sales Report, or other reports requested by the Department, will result in the imposition of financial consequences and may result in the Contractor being found in default and the termination of the Term Contract.

- 14.2.2 **Certified and Minority Business Enterprises Reports.** Upon Customer request, the Contractor shall report to each Customer spend with certified and other minority business enterprises in the provision of commodities or services related to the Customer orders. These reports shall include the period covered; the name, minority code, and Vendor Identification Information of each minority business enterprise utilized during the period; commodities and services provided by the minority business enterprise; and the amount paid to each minority business enterprise on behalf of the Customer.

- 14.2.3 **Ad Hoc Sales Reports.** The Department may require additional Term Contract sales information such as copies of purchase orders or ad hoc sales reports. The Contractor shall submit these documents and reports in the format acceptable to the Department and within the timeframe specified by the Department.

- 14.2.4 **MFMP Transaction Fee Reports.** The Contractor shall submit complete monthly MFMP Transaction Fee Reports to the Department. Reports are due 15 calendar days after the end of each month. Information on how to submit MFMP Transaction Fee Reports online can be located at [https://www.dms.myflorida.com/business\\_operations/state\\_myfloridamarketplace/mfmp\\_vendors/transaction\\_fee\\_and\\_reporting](https://www.dms.myflorida.com/business_operations/state_myfloridamarketplace/mfmp_vendors/transaction_fee_and_reporting). Assistance with transaction fee reporting is also available by email at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com) or telephone at 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.

- 14.3 **Business Review Meetings.** Both the Department and Customer reserve the right to schedule business review meetings. The Department or Customer may specify the format or agenda for the meeting. At a minimum, the Business Review Meeting may include the following topics:

- Term Contract or Customer contract compliance
- Term Contract savings (in dollar amount and cost avoidance)
- Spend reports by Customer
- Recommendations for improved compliance and performance

#### 14.4 Performance Deficiencies.

14.4.1 **Proposal of a Corrective Action Plan.** In addition to the processes set forth in the Term Contract (e.g., service level agreements), if the Customer or the Department determines that there is a performance deficiency that requires correction by the Contractor, then the Customer or the Department will notify the Contractor. The correction must be made within a timeframe specified by the Customer or the Department. The Contractor must provide the Customer or the Department with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Customer or the Department.

14.4.2 **Retainage for Unacceptable Corrective Action Plan or Plan Failure.** For Customer-requested Corrective Action Plans, if the corrective action plan is unacceptable to the Customer, or implementation of the plan fails to remedy the performance deficiencies, the Customer will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Customer for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate the Customer for the performance deficiencies.

#### 14.5 Inspection.

14.5.1 **Inspection at Contractor's Site.** The Department reserves the right to inspect, or enlist a third-party to perform, at any reasonable time with prior notice, the equipment, product, plant or other facilities of the Contractor to assess conformity with Term Contract requirements and to determine whether they are adequate and suitable for proper and effective Term Contract performance.

14.5.2 **Statutory Inspection Rights.** If services are to be provided pursuant to the Term Contract, in accordance with section 216.1366, F.S., the Department is authorized to inspect the: (i) financial records, papers, and documents of the Contractor that are directly related to the performance of the Term Contract or the expenditure of State funds; and (ii) programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Term Contract or to ensure that the terms of the Term Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within ten (10) Business Days after the request is made.

Further, for any Term Contract for services with a nonprofit organization as defined in section 215.97(2)(m), F.S., the Contractor must provide documentation that indicates the amount of state funds:

1. Allocated to be used during the full term of the Term Contract for remuneration to any member of the board of directors or an officer of the contractor; and
2. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the contractor.

The documentation must indicate the amounts and recipients of the remuneration.



14.5.3 **Inspection Compliance.** The Contractor understands its, and its subcontractors (if any), duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Department's Inspector General, or other authorized State official, the Contractor shall provide any type of information the State official deems relevant to the Contractor's integrity or responsibility. Such information may include the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Term Contract. The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of the Term Contract or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs will include salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

## **SECTION 15. PERFORMANCE OR COMPLIANCE AUDITS.**

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Term Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Term Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Term Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Term Contract.

## **SECTION 16. CONFIDENTIALITY.**

The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its employees, subcontractors, or agents in the course of performing Term Contract work, including security procedures, business operations information, or commercial proprietary information in the possession of the Customer or State. The Contractor will not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the Customer's or State's confidential information, or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, the Contractor shall take appropriate steps as to its employees, subcontractors, and agents.

## **SECTION 17. SUPPLIER DEVELOPMENT.**

17.1 **Office of Supplier Development.** The State of Florida supports its business community by creating opportunities for business enterprises to participate in procurements and contracts. The Department encourages supplier development through certain certifications and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Development (OSD) at [OSDHelp@dms.fl.gov](mailto:OSDHelp@dms.fl.gov).

**17.2 Reporting Certified Business Enterprises.** Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and vendor identification information of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under the Term Contract.

**Exhibit 1**  
**Description of Goods and/or Services and Discount Percentages**  
**SERVICES AND GOODS AVAILABLE UNDER THIS MASTER AGREEMENT**

Contractor has been awarded all products and services in the awarded categories below.

Category	Minimum Discount Percentage
1. Janitorial Supplies, Equipment, and Sanitation Cleaning Chemicals	17%
2. Fasteners	34%
3. Material Handling	10%
4. Plumbing Equipment	20%
5. Power Sources	18%
6. Landscaping and Outdoor Supplies and Equipment	13%
7. Lamps, Lighting, Ballasts, and Equipment	22%
8. Heating, Ventilation, Air Conditioning (HVAC)	16%
9. Hand Tools	12%
10. Power Tools	10%
11. Electrical Supplies and Equipment	23%
12. Paint and Related Supplies	13%
13. Security	17%
14. Safety	19%
15. Other	5%

Products and Services are available to Authorized Purchasers.

Addition or Deletion of Items or Services. The Lead State reserves the right to add new and similar items, by issuing a contract modification, to this contract with the consent of the Contractor. Until such time as the Contractor receives a modification, the Contractor shall not accept delivery orders from any Participating Entity referencing such items or services.

**RETURN POLICY:**

Grainger’s standard return process is as follows:

**GRAINGER 30-DAY SATISFACTION GUARANTEE:** Customers can return a Grainger Catalog product purchased for any reason for exchange or refund up to thirty (30) days from the date of invoice unless otherwise noted. Proof of purchase from Grainger is required for all returns. Grainger’s 30-day satisfaction guarantee does not apply to “Sourced Products” and products sold on a “Final

## Janet Similien

---

**From:** Marcus Wilson  
**Sent:** Friday, January 10, 2025 11:25 AM  
**To:** Janet Similien  
**Subject:** Fw: **[\*\*External\*\*]**: FW: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

**BROWARD  
COLLEGE**

**Marcus Wilson**  
Associate Vice President, Facilities Collegewide Maintenance, Broward College  
**P:** +1 (954) 2016974  
**E:** [mwilson2@broward.edu](mailto:mwilson2@broward.edu) | **W:** [broward.edu](http://broward.edu)  
**A:** 3501 Davie Road  
Davie, FL 33314



---

**From:** Orlando Aponte <[ooponte@broward.edu](mailto:ooponte@broward.edu)>  
**Sent:** Friday, January 10, 2025 11:23 AM  
**To:** Marcus Wilson <[mwilson2@broward.edu](mailto:mwilson2@broward.edu)>  
**Cc:** Monique Drake <[m Drake@broward.edu](mailto:m Drake@broward.edu)>; Aaron McGibbon <[amcgibbo@broward.edu](mailto:amcgibbo@broward.edu)>  
**Subject:** RE: **[\*\*External\*\*]**: FW: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

Marcus,

Please proceed to revise the CS item and attach the documents provided in the link. Include a copy of the email from W.W. Grainger stating the PA will suffice. Not sure if you will only include Grainger in this new STC piggyback.

Thank you.

**BROWARD  
COLLEGE**

**Orlando Aponte**  
Associate Vice President, Procurement, Broward College  
**P:** +1 (954) 2017897  
**E:** [ooponte@broward.edu](mailto:ooponte@broward.edu) | **W:** [broward.edu](http://broward.edu)  
**A:** 6400 NW 6th Way  
Fort Lauderdale, FL 33309





**From:** Marcus Wilson <mwilson2@broward.edu>  
**Sent:** Friday, January 10, 2025 11:15 AM  
**To:** Orlando Aponte <oaponte@broward.edu>  
**Subject:** Fw: [\*\*External\*\*]: FW: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

Please see message below



**Marcus Wilson**  
 Associate Vice President, Facilities Collegewide Maintenance, Broward College  
**P:** +1 (954) 2016974  
**E:** mwilson2@broward.edu | **W:** broward.edu  
**A:** 3501 Davie Road  
 Davie, FL 33314



**From:** Goforth, Biz <Biz.Goforth@grainger.com>  
**Sent:** Monday, January 6, 2025 3:46 PM  
**To:** Marcus Wilson <mwilson2@broward.edu>  
**Cc:** Harwood, Jon <Jon.Harwood@grainger.com>  
**Subject:** Re: [\*\*External\*\*]: FW: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

**CAUTION:** This email originated from outside of Broward College. DO NOT click links or open attachments unless you are expecting the information and recognize the sender.

Hi Marcus-  
 Happy New Year!

I spoke to our contract manager for the State and he stated that the State of Florida Participating Addendum (PA) will suffice.

I have included him in this email in case there is anything else contract related you may need answered.

Let us know. We are happy to help!

Thank you Marcus!

**Thank you,**

**Biz Goforth | Government Account Manager**

Mobile: 786-714-0760 | Customer Service: 1-800-GRAINGER

Email: [biz.goforth@grainger.com](mailto:biz.goforth@grainger.com) | [www.grainger.com](http://www.grainger.com)



Low Sensitivity

---

**From:** Marcus Wilson <[mwilson2@broward.edu](mailto:mwilson2@broward.edu)>

**Sent:** Monday, January 6, 2025 12:09 PM

**To:** Goforth, Biz <[Biz.Goforth@grainger.com](mailto:Biz.Goforth@grainger.com)>

**Subject:** [**\*\*External\*\***]: FW: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

**[EXTERNAL EMAIL]: Please do not click links or open attachments if you don't recognize the sender.**

BIZ,  
Please let me know what I need to do.  
Marcus

Sent from my Galaxy



**Marcus Wilson**  
Associate Vice President, Facilities Collegewide Maintenance, Broward College  
**P:** +1 (954) 2016974  
**E:** [mwilson2@broward.edu](mailto:mwilson2@broward.edu) | **W:** [broward.edu](http://broward.edu)  
**A:** 3501 Davie Road  
Davie, FL 33314





----- Original message -----

From: Orlando Aponte <oaponte@broward.edu>

Date: 1/6/25 12:07 PM (GMT-05:00)

To: Marcus Wilson <mwilson2@broward.edu>, Aaron McGibbon <amcgibbo@broward.edu>

Cc: Monique Drake <mdrake@broward.edu>, Deborah Czubkowski <dczubkow@broward.edu>

Subject: RE: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

Marcus,

Further to below email, please reach out to your contact person at W.W. Grainger and ask if Broward College will need to complete the attached form (Model PA) or will the State of Florida Participating Addendum (PA) suffice (also attached). @Aaron McGibbon can assist as needed. There is also a contact person in the state's PA.

Jon Harwood  
W.W. Grainger, Inc.  
3924 W. Pensacola, Street  
Tallahassee, Florida 32304  
Telephone: (448) 206-4256  
Email: [Jon.Harwood@grainger.com](mailto:Jon.Harwood@grainger.com)

Thank you.



**Orlando Aponte**  
Associate Vice President, Procurement, Broward College  
P: +1 (954) 2017897  
E: [oaponte@broward.edu](mailto:oaponte@broward.edu) | W: [broward.edu](http://broward.edu)  
A: 6400 NW 6th Way  
Fort Lauderdale, FL 33309



From: Orlando Aponte  
Sent: Monday, January 6, 2025 9:51 AM  
To: Marcus Wilson <mwilson2@broward.edu>

**Cc:** Aaron McGibbon <amcgibbo@broward.edu>; Monique Drake <mdrake@broward.edu>  
**Subject:** RE: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)  
**Importance:** High

Marcus,

No, it does not need a piggyback letter, it is a State of Florida state term contract, where Broward College is an eligible user. However, it is a new piggyback contract starting 01/01/2025 so you need to upload all the documents to CS (master agreement, participating addendum, solicitation documents, etc.) and request authorization to piggyback this new DMS agreement. I have included a link to the documents for your convenience: [https://broward4-my.sharepoint.com/:f:/g/personal/oaponte\\_broward\\_edu/EskBWxn9RaNAn1r1Dyhd0c4BxV\\_Yf1K98m0gNF2cc1ZWog?e=3kcQpa](https://broward4-my.sharepoint.com/:f:/g/personal/oaponte_broward_edu/EskBWxn9RaNAn1r1Dyhd0c4BxV_Yf1K98m0gNF2cc1ZWog?e=3kcQpa)

Please note this contract has four awarded vendors (Fastenal Company, Global Equipment Company, Lawson Products, and W.W. Grainger). I have only included the documents for W.W. Grainger. You may want to consider including more than one vendor in the CS item for any eventual future use.

Please advise.

---

**From:** Marcus Wilson <mwilson2@broward.edu>  
**Sent:** Monday, January 6, 2025 8:56 AM  
**To:** Orlando Aponte <oaponte@broward.edu>  
**Subject:** Fw: Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

Orlando,

Do we need a piggyback letter for Grainger to proceed with this Cobblestone item?

Marcus

**BROWARD  
COLLEGE**

Marcus Wilson  
Associate Vice President, Facilities Collegewide Maintenance, Broward College  
**P:** +1 (954) 2016974  
**E:** mwilson2@broward.edu | **W:** broward.edu  
**A:** 3501 Davie Road  
Davie, FL 33314



---

**From:** Broward College Contract Alert <alerts@cobblestone.software>  
**Sent:** Monday, January 6, 2025 12:29 AM  
**To:** Marcus Wilson <mwilson2@broward.edu>



**Subject:** Action Required W.W. GRAINGER, INC. - Non-Standard Agreement - Janet Similien - Review Piggyback with Procurement (Task ID: 1755)

**CAUTION:** This email originated from outside of Broward College. DO NOT click links or open attachments unless you are expecting the information and recognize the sender.



## Action Required

### Task: Review Piggyback with Procurement

There is a task alert below:

**Task Name:** Review Piggyback with Procurement

**Employee Assigned To:** Wilson, Marcus

**End/Due Date:** Jan 06 2025

**Notify Days:** 15

**Details:**

**Notes:**

**Task ID:** 1755

**Contract ID:** 209

**Days Left to Task End Date:** 0

### Contract Details Record Information

**Primary Record Information:**

**Contract ID:** 209

**Short Title:** W.W. Grainger dba Grainger

**Vendor / Counterparty Name:** W.W. GRAINGER, INC.

**Employee:** Similien, Janet

**Effective Date:** Jan 01 2025

**Expiration Date:** Aug 31 2026

**Annual Review Date:**

**Department/Business Unit:** Facilities Management

**Description of Contract:**

**Status:** Pending Department Approval

**Renewal Notes:**

**Term/Occurrence:** 02 Year

**Updated By:** Drake, Monique

**Term In Days:** 607

To view this event's contract record visit:

[Contract Details](#)

Please log in and review this alert.

Reference: 47 - Task ID: 1755

CobbleStone Software - Leaders in Contract Management and Procurement Software

Start managing your contracts using Contract Insight at:

[www.cobblestonesoftware.com](http://www.cobblestonesoftware.com)



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Please Note: Due to Florida's very broad public records law, most written communications to or from College employees regarding College business are public records, available to the public and media upon request. Therefore, this email communication may be subject to public disclosure.

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Please consider the environment before printing this email.



# Commonwealth of Kentucky

## MASTER AGREEMENT

CONTRACT INFORMATION		
<b>MASTER AGREEMENT NUMBER: MA 758 2500000413</b>		
Effective Date:	09/01/2024	Record Date:
Expiration Date:	08/31/2026	Procurement Folder: 1306457
Document Description:	Facilities MRO and Industrial Supplies NASPO (Grainger)	Procurement Type: Standard Goods and Services
Cited Authority:	Competitive Negotiation-Goods and Services	Version Number: 1

CONTACT INFORMATION
---------------------

**ISSUER:**  
 Daniel Salvato  
 502-564-5862  
 daniel.salvato@ky.gov

VENDOR INFORMATION	
<b>Name /Address:</b>	<b>Contact:</b>
KY0028426: W.W. Grainger, Inc.  100 GRAINGER PKY STE B4T46  LAKE FOREST IL 60045	Michelle Hammer 15135050141 michelle.hammer@grainger.com

COMMODITY / SERVICE INFORMATION							
---------------------------------	--	--	--	--	--	--	--

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Total
1	1.00000	EA	\$0.010000	\$0.00			\$0.01

Facilities MRO and Industrial Supplies

**Extended Description:**

--

DocuSign Envelope ID: 02530391-45F2-4EF2-BA07-B17210D55BD7			
	Document ID	Document Description	Page 2
2500000413	Draft	Facilities MRO and Industrial Supplies NASPO (Grainger)	Total Pages: 2

See "Attachment A" for Terms and Conditions. The terms and conditions set out in "Attachment A" are incorporated into and are a part of the Contract.

**Master Agreement Number MA 758 2500000413**  
**for**  
**FACILITIES MRO AND INDUSTRIAL SUPPLIES**  
**between**  
**the State of Kentucky**  
**and**  
**W.W. Grainger, Inc.**

This Master Agreement is entered into by the State of Kentucky (“Lead State”) and the following contractor (each a “Party” and collectively the “Parties”) as a result of Solicitation Number RFP 758 2400000228 (the “RFP”) for the purpose of providing Facilities MRO and Industrial Supplies through the NASPO ValuePoint cooperative purchasing program:

W.W. Grainger, Inc. (“Contractor”)  
100 Grainger Parkway  
Lake Forest, IL 60045

**MASTER AGREEMENT CONTACTS.**

Contractor’s contact for this Master Agreement is:

Christopher Carroll  
National Government Sales Manager  
Christopher.carroll@grainger.com  
706-424-1743

Lead State’s contact for this Master Agreement is:

Daniel Salvato, CPPB, NIGP-CPP, KCPM  
Office of Procurement Services  
200 Mero Street, 5<sup>th</sup> Floor  
Frankfort, KY 40622  
(502) 564-5862  
[daniel.salvato@ky.gov](mailto:daniel.salvato@ky.gov)

**TERM.** This Master Agreement is effective as of the date September 1, 2024, and will terminate on August 31, 2026 unless terminated sooner or extended or renewed in accordance with the terms set forth herein. Renewals totaling up to four years following the initial term may be exercised upon mutual agreement by the Parties.

**ATTACHMENTS.** This Master Agreement includes the following attachments:

- Attachment A: Master Agreement Terms and Conditions
- Exhibit 1: Description of Goods and/or Services and Discount Percentages
- Exhibit 2: Environmentally Preferred Products
- Exhibit 3: NASPO ValuePoint Sales Data Report Form

**SIGNATURE.** The undersigned for each Party represents and warrants that this Master Agreement is a valid and legal agreement binding on the Party and enforceable in accordance with the Master Agreement’s terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Master Agreement and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Master Agreement.

**CONTRACTOR:**

Signed by: Christopher Carroll 8/29/2024  
Signature Date

Christopher Carroll Sr. National Government Sales Manager

**Printed Name and Title**

**LEAD STATE:**

DocuSigned by: Kathy Robinson 8/30/2024  
Signature Date

Kathy Robinson, Executive Director  
**Printed Name and Title**

## Attachment A



## MASTER AGREEMENT TERMS AND CONDITIONS

## NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

## I. Definitions

- 1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 **Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 **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.
- 1.5 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. 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.
- 1.8 **Order or Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

- 1.9 Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.11 Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 Product or Products and Services** 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 Product includes goods and services.
- 1.13 Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or 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.

## II. Term of Master Agreement

- 2.1 Initial Term.** The initial term of this Master Agreement is for two years. The term of this Master Agreement may be amended beyond the initial term for four additional years (two renewals for two years each) at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.
- 2.2 Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period 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 will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

## III. Order of Precedence

- 3.1 Order.** Any Order placed under this Master Agreement will consist of the following



documents:

- 3.1.1 A Participating Entity's Participating Addendum ("PA");
  - 3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;
  - 3.1.3 A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;
  - 3.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
  - 3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will 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.
- 3.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. **The term of a Participating Addendum will not exceed the term of this Master Agreement, except when a Participating Entity determines an extension of its Participating Addendum is necessary to avoid a lapse in contract coverage and is permitted by law.**

#### IV. Participants and Scope

- 4.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 **Applicability of Master Agreement.** 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, subject to Section III. For the purposes 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.
- 4.3 **Obligated Entities.** 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. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

- 4.4 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to [pa@naspovaluepoint.org](mailto:pa@naspovaluepoint.org) to support documentation of participation and posting in appropriate databases.

**4.5 Participating Entities.**

- 4.5.1** If not proscribed by law or by the Chief Procurement Official of the state in which the entity is located, an entity may be eligible to execute a Participating Addendum directly with Contractor. Such entities may include:

- 4.5.1.1** Political subdivisions, public agencies, and service districts;
- 4.5.1.2** Public and private educational institutions, including K-12 public, charter, and private schools; institutions of higher education; and trade schools;
- 4.5.1.3** Federally recognized tribes;
- 4.5.1.4** Quasi-governmental entities; and
- 4.5.1.5** Eligible non-profit organizations.

- 4.5.2** Prior to execution of a Participating Addendum with an entity listed above, Contractor shall coordinate with NASPO to confirm the entity's eligibility to execute a Participating Addendum. A determination that an entity is eligible to execute a Participating Addendum is not a determination that procurement authority exists; each entity must ensure it has the requisite procurement authority to execute a Participating Addendum.

- 4.6 Prohibition on Resale.** 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 purchased under this Master Agreement. 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.
- 4.7 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, 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 and as the Participating Entity has in the Participating Addendum, 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.

**4.8 Release of Information.** 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.

**4.9 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity'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.

## V. NASPO ValuePoint Provisions

**5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

### 5.2 Administrative Fees

**5.2.1 NASPO ValuePoint Fee.** 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 must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less returns, credits, 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 a vendor's response to the Lead State's solicitation.

**5.2.2 State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

### 5.3 NASPO ValuePoint Summary and Detailed Usage Reports

- 5.3.1 Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum (“Sales Data”). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint, subject to Section 14.2.2, Non-Disclosure terms and conditions, shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.
- 5.3.2 Summary Sales Data.** “Summary Sales Data” is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.
- 5.3.3 Detailed Sales Data.** “Detailed Sales Data” is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
- 5.3.4 Sales Data Crosswalks.** Intentionally Omitted.
- 5.3.5 Executive Summary.** Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

### 5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

- 5.4.1 Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall 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 eligible entities can participate in the Master Agreement.
- 5.4.2 Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.
- 5.4.3 Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.
- 5.4.4 Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.
- 5.4.5 Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any

contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement 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.

**5.5 NASPO ValuePoint eMarketPlace (Upon mutual agreement by all parties)**

- 5.5.1** The NASPO ValuePoint cooperative provides an eMarketPlace for public entities to access a central online platform to view and/or purchase the goods, services, and solutions available from NASPO ValuePoint's cooperative Master Agreements. This eMarketPlace is provided by NASPO at no additional cost to the Contractor or public entities. Its purpose is to facilitate the connection of public entities with Contractors who meet the requisite needs for a good, service, or solution by that entity through a NASPO ValuePoint Master Agreement.
- 5.5.2** Contractor shall cooperate in good faith with NASPO, and any third party acting as an agent on behalf of NASPO, to integrate Contractor's industry presence by either an electronic hosted catalog, punchout site, or providing eQuotes through the NASPO eMarketPlace, per the Implementation Timeline as further described below.
- 5.5.3** Regardless of how Contractor's presence is reflected in the eMarketPlace (*i.e.*, hosted catalog, punchout site, or eQuote), Contractor's listed offerings must be strictly limited to Contractor's awarded contract offerings through the NASPO award. Products and/or services not authorized through the resulting NASPO cooperative contract should not be viewable by NASPO ValuePoint eMarketPlace users. Furthermore, products and/or services not authorized through a Participating Addendum should not be viewable by NASPO ValuePoint eMarketPlace users utilizing that Participating Addendum. The accuracy of Contractor's offerings through the eMarketPlace must be maintained by Contractor throughout the duration of the Master Agreement.
- 5.5.4** Contractor agrees that NASPO controls which Master Agreements appear in the eMarketPlace and that NASPO may elect at any time to remove any of Contractor's offerings from the eMarketPlace.
- 5.5.5** Contractor is solely responsible for the accuracy, quality, and legality of Contractor's Content on the eMarketPlace. "Content" means all information that is generated, submitted, or maintained by Contractor or otherwise made available by Contractor on the eMarketPlace, including Contractor catalogs. Contractor's Content shall comply with and accurately reflect the terms and pricing of this Master Agreement.
- 5.5.6 Contractor's use of the eMarketPlace shall comply with the**

**eMarketPlace's Terms of Use (upon mutual agreement by all parties.)**

- 5.5.7 Contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace, including the assessment, collection, and remittance of any sales tax.**
- 5.5.8** Lead State reserves the right to approve all pricing, catalogs, and information on the eMarketPlace. 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 required by the Master Agreement.
- 5.5.9** NASPO Participating Entities may have their own procurement system, separate from the NASPO eMarketPlace, that enables the use of certain NASPO Master Agreements. In the event one of these entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarketPlace) but publish to their own eMarketPlace, Contractor agrees to work in good faith with the entity and NASPO to implement the catalog.
- 5.5.10 In the event a Participating Entity has entity-specific catalog requirements set forth in its Participating Addendum (e.g., entity-specific pricing, restrictions in the scope of offerings, etc.), Contractor shall ensure its eMarketPlace Content for that Participating Entity accurately reflects and is compliant with these requirements.**
- 5.5.11 Implementation Timeline:** Following the execution of Contractor's Master Agreement, NASPO will provide a written request to Contractor to begin the onboarding process into the eMarketPlace. Contractor shall have fifteen (15) days from receipt of written request to work with NASPO to set up an enablement schedule, at which time the technical documentation for onboarding shall be provided to Contractor. The schedule will include future calls and milestone dates related to test and go live dates (upon mutual agreement by all parties.)
  - 5.5.11.1** Contractor's NASPO eMarketPlace account with eQuoting functionality shall minimally be established within thirty (30) days following the written request.
  - 5.5.11.2** Contractor shall deliver either a (1) hosted catalog or (2) punchout site, pursuant to the mutually agreed upon enablement schedule.
  - 5.5.11.3** NASPO will work with Contractor to decide which structures between hosted catalog, punchout site, and/or eQuoting as further described below will be provided by Contractor.
    - 5.5.11.3.1** Hosted Catalog. By providing a hosted catalog, Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to NASPO, such as a tab delimited

text file. Contractor is solely responsible for ensuring the most up-to-date versions of its product/service offerings approved by the Lead State under this Master Agreement are reflected in the eMarketPlace.

**5.5.11.3.2** Punchout Site. By providing a punchout site, Contractor is providing its own online catalog, which must be capable of being integrated with the eMarketPlace as a Standard punchout via Commerce eXtensible Markup Language (cXML). Contractor shall validate that its online catalog is up-to-date. The site must also return detailed UNSPSC codes for each line item.

**5.5.11.3.3** eQuoting. NASPO will work with Contractor to set up participation and use to provide eQuotes through the NASPO eMarketPlace. This requirement would be in addition to any requirement to provide a hosted catalog or punchout site.

**5.5.12** Hosted catalogs and punchout sites will provide all of the eMarketPlace standard data elements/information including, but not limited to, the following:

**5.5.12.1** 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 this Master Agreement;

**5.5.12.2** A Lead State contract identification number for this Master Agreement;

**5.5.12.3** Detailed product line item descriptions;

**5.5.12.4** Pictures illustrating products, services, or solutions where practicable; and

**5.5.12.5** Any additional NASPO, Lead State, or Participating Addendum requirements.

**5.6 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also



does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

- 5.7 Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.
- 5.8 Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

## VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The discount percentages contained in this Master Agreement or offered under this Master Agreement represent the minimum discount to any Purchasing Entity.
- 6.1.1** All discount percentages must be guaranteed for the term of the Master Agreement.
  - 6.1.2** Pricing shall be held static, or reduced, from order through delivery. No pricing increases between order and delivery shall be accepted.
  - 6.1.3** Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State and Contractor.
  - 6.1.4** No retroactive adjustments to prices or rates will be allowed.
- 6.2 Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (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 or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- 6.3 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.

## VII. Ordering

- 7.1 Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 Quotes.** Purchasing Entities may define entity-specific 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.
- 7.3 Applicable Rules.** 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.
- 7.4 Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
- 7.5.1** 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.
  - 7.5.2** Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
  - 7.5.3** 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.
  - 7.5.4** Notwithstanding the expiration, cancellation or termination of this Master

Agreement, Contractor shall 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 in any manner inconsistent with this Master Agreement's terms.

**7.5.5** Orders for any separate indefinite quantity, task order, 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.

**7.6 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:

**7.6.1** The services or supplies being delivered;

**7.6.2** A shipping address and other delivery requirements, if any;

**7.6.3** A billing address;

**7.6.4** Purchasing Entity contact information;

**7.6.5** Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;

**7.6.6** A not-to-exceed total for the products or services being ordered; and

**7.6.7** The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

**7.7 Communication.** All communications concerning administration of Orders placed must 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.

**7.8 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.

## VIII. Shipping and Delivery

**8.1 Shipping Terms.** All deliveries, except as noted below, will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.

- 8.1.1 Additional shipping charges, as defined by the carrier, for oversized or overweight items that require special shipping are allowed but must be identified as part of the ordering process.
- 8.1.2 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

- 8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. 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 will be shipped without charge.
- 8.3 **Inside Deliveries.** To the extent applicable, 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 a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.
- 8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

## IX. Inspection and Acceptance

- 9.1 **Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 **Inspection.** 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, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

**9.3.1** 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.

**9.3.2** 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.

**9.4 Failure to Conform.** 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.

**9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.

**9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

**9.5.2** If the Product does not meet the standard of performance or specifications 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.

**9.5.3** Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, 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.

**9.5.4** Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.

**9.5.5** No Product will be deemed Accepted and no charges will be paid until the

standard of performance or specification is met.

## X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- 10.2 Warranty.** 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.
- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, 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.
- 10.4 Rights Reserved.** 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.
- 10.5 Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

## XI. Product Title

- 11.1 Conveyance of Title.** 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.
- 11.2 Embedded Software.** Transfer of title to the Product must 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 will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 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. In all such instances, Contractor's ability to convey this license is limited by the terms of any third-party license accompanying the product purchased.

**XII. Indemnification**

**12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.

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

- 12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
  - 12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates;
  - 12.2.1.2** specified by the Contractor to work with the Product;
  - 12.2.1.3** reasonably required 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
  - 12.2.1.4** reasonably expected to be used in combination with the Product.
- 12.2.2** 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 the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.
- 12.2.3** 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 the Intellectual Property Claim 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.

- 12.2.4** Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

### **XIII. Insurance**

- 13.1 Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.
- 13.2 Class.** 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.
- 13.3 Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
- 13.3.1** Contractor shall maintain Commercial General Liability insurance 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 and \$2 million general aggregate;
- 13.3.2** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.4 Notice of Cancellation.** 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.
- 13.5 Notice of Endorsement.** 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) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary



and noncontributory.

**13.6 Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.

**13.7 Furnishing of Certificates.** 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 will 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.

**13.8 Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

#### **XIV. General Provisions**

##### **14.1 Records Administration and Audit**

**14.1.1** 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 will 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 will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master 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.

**14.1.2** 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.

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

## **14.2 Confidentiality, Non-Disclosure, and Injunctive Relief**

- 14.2.1 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.

**14.2.1.1** 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").

**14.2.1.2** 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.

**14.2.1.3** 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.

- 14.2.2 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.

- 14.2.2.1** 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.
- 14.2.2.2** 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.
- 14.2.2.3** 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.
- 14.2.2.4** 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.
- 14.2.3** **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary 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.
- 14.2.4** **Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- 14.2.5** **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not

limited to Participating Addenda, 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 this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

**14.2.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.**

**14.3 Assignment/Subcontracts**

**14.3.1** 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.

**14.3.2** The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

**14.3.3** The Contractor is permitted to make subcontract(s) with any other equally qualified/ able parties including suppliers, vendors, and service providers ("Other Party or Parties"), for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire contract whether or not Other Parties are used.

The Lead State shall not be involved in the relationship between the Contractor and the Other Parties. Any issues that arise as a result of this relationship shall be resolved by the Contractor. All references to the contractor shall be construed to encompass both the Contractor and any Other Parties of the contractor.

**14.4 Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall 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.

**14.5 Independent Contractor.** Contractor is an independent contractor. Contractor has 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 shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

- 14.6 Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (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 will 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.
- 14.7 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 acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

**14.8 Defaults and Remedies**

- 14.8.1** The occurrence of any of the following events will be an event of default under this Master Agreement:
- 14.8.1.1** Nonperformance of contractual requirements;
  - 14.8.1.2** A material breach of any term or condition of this Master Agreement;
  - 14.8.1.3** 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;
  - 14.8.1.4** 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
  - 14.8.1.5** Any default specified in another section of this Master Agreement.
- 14.8.2** 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 fifteen (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 will not diminish or eliminate Contractor's liability for damages.

**14.8.3** 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:

**14.8.3.1** Any remedy provided by law;

**14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof;

**14.8.3.3** Intentionally Omitted

**14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations;

**14.8.3.5** Suspension of Contractor's performance; and

**14.8.3.6** Withholding of payment until the default is remedied.

**14.8.4** 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 an 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 will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

**14.9 Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. 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 will 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, any Participating Addendum, or any Purchase Order.

**14.10 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 public procurement or contracting 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.

#### **14.11 No Waiver of Sovereign Immunity**

- 14.11.1** In no event will 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.
- 14.11.2** 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.

#### **14.12 Governing Law and Venue**

- 14.12.1** The procurement, evaluation, and award of the Master Agreement will 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 will 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 will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.
- 14.12.2** 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 state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will 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 will be in the Purchasing Entity's state.
- 14.12.3** 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.

- 14.13 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.
- 14.14 Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.
- 14.15 Discrimination.** Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:
- 14.15.1** The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- 14.15.2** 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,



- religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
- 14.15.3** The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative 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. 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.
  - 14.15.4** The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
  - 14.15.5** The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his 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.
  - 14.15.6** 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 cancelled, 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 No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
  - 14.15.7** The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 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 No. 11246 of September 24, 1965, as amended, 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 agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**14.16 Accessibility.** Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 504 of the

Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

## **XV. Protest**

Pursuant to KRS 45A.285, the Secretary of the Finance and Administration Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective offerors in connection with the solicitations or selection for award of a contract.

Any actual or prospective offeror or contractor, who is aggrieved in connection with solicitation or selection for award of a contract, may file a protest with the Secretary of the Finance and Administration Cabinet. A protest or notice of other controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing and shall be addressed and mailed to:

**Holly M. Johnson, Secretary  
COMMONWEALTH OF KENTUCKY  
FINANCE AND ADMINISTRATION CABINET  
200 MERO STREET, 5TH FLOOR  
FRANKFORT, KY 40622**

The Secretary of Finance and Administration Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

**Exhibit 1**  
**Description of Goods and/or Services and Discount Percentages**  
**SERVICES AND GOODS AVAILABLE UNDER THIS MASTER AGREEMENT**

Contractor has been awarded all products and services in the awarded categories below.

Category	Minimum Discount Percentage
1. Janitorial Supplies, Equipment, and Sanitation Cleaning Chemicals	17%
2. Fasteners	34%
3. Material Handling	10%
4. Plumbing Equipment	20%
5. Power Sources	18%
6. Landscaping and Outdoor Supplies and Equipment	13%
7. Lamps, Lighting, Ballasts, and Equipment	22%
8. Heating, Ventilation, Air Conditioning (HVAC)	16%
9. Hand Tools	12%
10. Power Tools	10%
11. Electrical Supplies and Equipment	23%
12. Paint and Related Supplies	13%
13. Security	17%
14. Safety	19%
15. Other	5%

Products and Services are available to Authorized Purchasers.

Addition or Deletion of Items or Services. The Lead State reserves the right to add new and similar items, by issuing a contract modification, to this contract with the consent of the Contractor. Until such time as the Contractor receives a modification, the Contractor shall not accept delivery orders from any Participating Entity referencing such items or services.

**RETURN POLICY:**

Grainger’s standard return process is as follows:

**GRAINGER 30-DAY SATISFACTION GUARANTEE:** Customers can return a Grainger Catalog product purchased for any reason for exchange or refund up to thirty (30) days from the date of invoice unless otherwise noted. Proof of purchase from Grainger is required for all returns. Grainger’s 30-day satisfaction guarantee does not apply to “Sourced Products” and products sold on a “Final

Sale” basis.

**RETURNS AFTER 30 DAYS:** Unless otherwise noted, a customer can also return Grainger Catalog product for up to one (1) year from date of invoice provided that product is in its original packaging, unused, unexpired, undamaged, and in salable condition. Proof of purchase from Grainger is required in all instances. Products sold on a “Final Sale” basis as defined below cannot be returned. “Sourced Product” is subject to the manufacturer’s return policy and may not be returnable. Some product returns may be denied or made subject to restocking fees and other charges by Supplier.

**FINAL SALE ITEMS:** Items sold on a “Final Sale” basis include: (i) Custom items; (ii) Purchases made under the Custom Product Center on Grainger.com; (iii) Special-order items; (iv) Emergency response items; (v) Items marked in Sourced Product quotations or invoices as “Non-Cancellable” or “Non-Returnable”; and (vi) Any other items that Supplier may designate as a “Final Sale”.

## **VALUE ADDED SERVICES:**

Additional Terms and Conditions may apply to these additional services. These terms and conditions must be negotiated in the Participating Addendum.

- Installation of Products and Services
- Warehouse Management Solutions
- Inventory Management
- Disaster Recovery Plans and Services
- Diverse Supplier Network
- Discounts and Other Incentives

## **Exhibit 2**

### **Environmentally Preferred Products**

#### **1.1 Description of Goods and/or Services, Prices and Discount Percentages or Environmentally Preferred Products (if applicable).**

#### **1.2 Terms and Conditions for Environmentally Preferred Products**

##### **Accurate Labeling of Environmentally Preferable Products (EPPs)**

Offeror must certify in writing that all claims made about the environmental attributes of the products they are offering are consistent with the Federal Trade Commission's (FTC's) *Guidelines for the Use of Environmental Marketing Terms*. In addition, Offerors may be required to provide documentation, at the request of the Purchasing Entity that the products they are offering meet the Environmental Specifications for this contract.

Over the life of the Master Agreement if awarded, the Offeror must label the environmental attributes of all environmentally preferable products (EPPs) per the Environmental Specifications below in any catalogs, marketing materials, price lists, and online ordering portal associated with this contract. Upon request of the Purchasing Entity, the Offeror if awarded, must provide documentation that each EPP has the required third-party certification(s), minimum amount of recycled content, or other environmental attributes listed in the Environmental Specifications.

The Purchasing Entity reserves the right to require the Offeror if awarded, to remove any environmental claims that are false, vague, misleading or unsubstantiated in catalogs, price sheets, websites or other marketing materials that are provided to the Purchasing Entity under a Master Agreement or Participating Addendum, if awarded.

##### **1.2.2 EPP Sales Reports**

The Purchasing Entity reserves the right to request from the Vendor quarterly sales data over the life of this contract. This information must include details about the environmental attributes of the EPPs sold on this contract consistent with the Environmental Specifications. To facilitate consistent reporting on this contract, the Vendor may be required to submit its sales report using the Purchasing Entity's Green Sales Report Template.

**Training.** Over the life of the contract, the Vendor at a minimum must offer educational/marketing materials and at least one training that can be accessed by contract users explaining its EPP labeling and reporting practices.

**Enforcement.** The Purchasing Entity may consider failure to comply with the Environmental Specifications for this contract as well as the EPP labeling, reporting, and training requirements described above to be grounds for termination of this contract.

### Exhibit 3 NASPO ValuePoint Detailed Sales Data Report Form

Field Name	Field Description
VENDOR	The awarded Contractor's name
VENDOR CONTRACT NUMBER	Lead State assigned contract number (using Lead State's numbering protocol)
STATE	State postal abbreviation code (Alaska = AK, Missouri = MO, etc.)
CUSTOMER TYPE (SEGMENT)	State Gov't, Education-K12, Education-HED, Local Gov't, Medical, Other - are acceptable segments. [determined by industrial practice for each contract - uniform for each contract]
BILL TO NAME	Customer (agency) Bill to name
BILL TO ADDRESS	Customer (agency) Bill to address
BILL TO CITY	Customer (agency) Bill to city
BILL TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
SHIP TO NAME	Customer (agency) Ship to name
SHIP TO ADDRESS	Customer (agency) Ship to address
SHIP TO CITY	Customer (agency) Ship to city
SHIP TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
ORDER NUMBER	Vendor assigned order number
CUSTOMER PO NUMBER	Customer provided Purchase Order Number
CUSTOMER NUMBER	Vendor assigned account number for the purchasing entity
ORDER TYPE	Sales order, Credit/Return, Upgrade/Downgrade, etc. [determined by industrial practice for each contract - uniform for each contract]
PO DATE (ORDER DATE)	(mm/dd/ccyy)
SHIP DATE	(mm/dd/ccyy)
INVOICE DATE	(mm/dd/ccyy)
INVOICE NUMBER	Vendor assigned Invoice Number
PRODUCT NUMBER	Product number of purchased product
PRODUCT DESCRIPTION	Product description of purchased product
UNSPSC	Commodity-level code based on UNSPSC code rules (8 Digits)
CATEGORY	Product Category
LIST PRICE/MSRP/CATALOG PRICE	List Price - US Currency (\$99999.999) [determined by industrial practice for each contract - uniform for each contract]
QUANTITY	Quantity Invoiced (99999.999)
TOTAL PRICE	Extended Price (unit price multiplied by the quantity invoiced) - US Currency (\$999999999.99)
VAR/Reseller/Distributor	If a VAR/Reseller/Distributor, name of VAR/Reseller/Distributor and state where located
Energy Star Compliant	Yes = 1 No = 2 Energy Star Does not Apply = 0
Optional	More information

VENDOR	VENDOR CONTRACT NUMBER	STATE	CUSTOMER SEGMENT	BILL TO NAME	BILL TO ADDRESS	BILL TO CITY	BILL TO ZIP CODE	SHIP TO NAME	SHIP TO ADDRESS	SHIP TO CITY	SHIP TO ZIP CODE	ORDER NUMBER	PO NUMBER	CUSTOMER NUMBER	ORDER TYPE	PO DATE (ORDER DATE)	SHIP DATE	INVOICE DATE	INVOICE NUMBER	PRODUCT NUMBER	PRODUCT DESCRIPTION	UNSPSC CATEGORY	LIST PRICE (MSRP)	CATALOG PRICE	QUANTITY	TOTAL PRICE	VAT Reseller Distributor	Energy Star Compliant	Optional	



Grainger's Louisville, KY, Distribution Center

## Facilities MRO & Industrial Supplies - REDACTED

Commonwealth of Kentucky in  
collaboration with NASPO  
ValuePoint

Solicitation Number RFP 758 2400000228

Submitted by:

Christopher Carroll  
National Government Sales Manager  
W.W. Grainger, Inc,  
Christopher.Carroll@grainger.com  
706-424-1743

April 29, 2024

*Supplies and Solutions  
for Every Industry®*







## Executive Summary

April 29, 2024

Mr. Daniel Salvato, CPPB, NIGP-CPP, KCPM  
Assistant Director, Division of Goods and Services  
Finance and Administration Cabinet  
Office of Procurement Services  
Commonwealth of Kentucky  
200 Metro Street, 5<sup>th</sup> Floor  
Frankfort, KY 40622

Re: Response of W.W. Grainger, Inc.,  
Request for Proposals for Facilities MRO and Industrial Supplies  
Solicitation Number RFP 759 2400000228

Dear Mr. Salvato:

On behalf of W.W. Grainger, Inc. (Grainger), thank you for the opportunity to provide our response to Request for Proposal (RFP) 758 2400000228, Facilities MRO and Industrial Supplies, issued by the Commonwealth of Kentucky (Commonwealth) in collaboration with NASPO ValuePoint (NASPO).

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

**This Page Contains Open Records Act and Trade Secret Act Protected Information**

Request for Proposals for  
Facilities MRO and Industrial Supplies



Issued by the Commonwealth of Kentucky  
Solicitation Number RFP 758 2400000228

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Attachment 07, OFFEROR RESPONSE WORKSHEET



Request for Proposals for  
Facilities MRO and Industrial Supplies



Issued by the Commonwealth of Kentucky  
Solicitation Number RFP 758 2400000228

○ [REDACTED]

[REDACTED]

[REDACTED]

\*\*\*\*

For over 20 years, Grainger has been privileged to partner with NASPO and its State and Local Government Members in helping keep its citizens and employees safe and facilities well maintained.

[REDACTED]

Thank you for considering our proposal.

Respectfully,

Christopher Carroll  
Senior National Government Sales Manager- NASPO ValuePoint  
W.W. Grainger, Inc.  
Christopher.Carroll@grainger.com  
Phone: 706-424-1743 | www.grainger.com

**CONFIDENTIALITY**

Information contained in this proposal is owned by W.W. Grainger, Inc. ("Grainger"). Sections annotated as **"This Page Contains Open Records Act and Trade Secret Act Protected Information"** contain information that is protected from release by the Kentucky Open Records Act, KRS 61.878(1)(c)1. and Kentucky Uniform Trade Secrets Act, KRS 365.880(4). The contents of this proposal are solely intended for use by the Commonwealth of Kentucky (Commonwealth) in collaboration with NASPO ValuePoint (NASPO) Members to assist in the evaluation of Grainger's proposal and subsequent ordering of products from Grainger and may not be disclosed to any person not an employee of the Commonwealth of Kentucky (Commonwealth) and NASPO ValuePoint (NASPO) Members without the prior written consent of Grainger.

**This Page Contains Open Records Act and Trade Secret Act Protected Information**

Page 4 of 48

Attachment 07, OFFEROR RESPONSE WORKSHEET





## Attachment 07 OFFEROR RESPONSE WORKSHEET

Offeror must provide complete and succinct responses to each item below. **Insert your responses into this worksheet directly below each question or prompt.** While supplementary marketing materials are neither requested nor desired, Offeror should provide all information necessary to demonstrate Offeror's ability to meet the requirements of this RFP and the RFP's Scope of Work.

### I. RESPONSE TO MANDATORY MINIMUM PROPOSAL REQUIREMENTS

To be considered for evaluation, *Proposal must contain each* of the following:

- Categories of Products and EPP (Attachment 02)
- Offeror Information, Acknowledgements, and Certifications (Attachment 06)
- Offeror Response Worksheet (Attachment 07)
- Percentage off List (Attachment 08)
- Market Basket (Attachment 8-1)
- Proposed Deviations to Sample Master Agreement (Attachment 09)
- Redlined Sample Master Agreement, if applicable (Attachment 04)
- Claim of Business Confidentiality (Attachment 10)

### II. RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES

**A.** Attachment 2, Categories of Products and EPP. Offeror must complete the attachment.

~~**B.** Describe Offeror's plan for providing the Products and EPP (if applicable) identified in Attachment 02.~~

~~**C.** Provide evidence of Offeror's ability to provide the Products and EPP (if applicable) identified in Attachment 02.~~

~~**D.** Describe Offeror's ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP, Attachment 02.~~

### III. RESPONSE TO TECHNICAL CRITERIA

**A. Description of Products.** Offerors shall provide a full detailed description of their company and the products offered related to this solicitation. The Offeror shall provide a description of its ability to provide the products, supply chain distribution, stock items, outages notifications, environmental efforts within the company, geographic availability, etc.

#### Company Overview

**W.W. Grainger, Inc. (Grainger)** is a leading broad-line distributor with operations primarily in North America, Japan, and the United Kingdom.

Founded in 1927, Grainger has survived and thrived through some of America's most difficult times: the Great Depression, war, recessions, the COVID-19 global



pandemic, and an ever-changing marketplace. Through it all, our founder, William Wallace Grainger, established an unwavering code of ethics and integrity that he passed on to his colleagues, suppliers, and future company leaders.

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Request for Proposals for  
Facilities MRO and Industrial Supplies



Issued by the Commonwealth of Kentucky  
Solicitation Number RFP 758 2400000228

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Attachment 07, OFFEROR RESPONSE WORKSHEET



Request for Proposals for  
Facilities MRO and Industrial Supplies



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Environmentally Preferred Products (EPP)	Small & Diverse Products	Grainger Exclusive Brands
		



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Request for Proposals for  
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Request for Proposals for  
Facilities MRO and Industrial Supplies



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[REDACTED]

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- [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

**B. Company Information**

1. **Company History.** Provide a brief history of your company, including the year of its founding and any material acquisitions or mergers in which it has been involved.

In 1927, William W. Grainger founded W.W. Grainger (Grainger), Inc., as a wholesale electric motor sales and distribution business in Chicago, Illinois. Grainger has grown to become a leading broad-line distributor, with operations primarily in North America, Japan, and the United Kingdom.

[REDACTED]

2. **Company Size.** Identify the number of employees working for your company.

In 2023, Grainger had more than 26,400 global team members.

3. **Ownership Structure.** Describe your company's ownership structure.

W.W. Grainger, Inc., is a publicly owned Fortune 100 company whose shares are traded on the New York Stock Exchange under the ticker



GWW. Grainger's Board of Directors acts as the Company's steward for its shareholders' benefit. Grainger's Chairman of the Board and Chief Executive Officer oversee and direct the corporation's operations and activities and are assisted by other officers and employees.

4. **Litigation.** List all claims of non-performance or breach from customers in excess of \$5,000, including all pending litigation matters (including civil, criminal, or appellate) or criminal convictions in the past 5 years for the company and all principals. Attach an additional document if necessary.

[Redacted]

5. Any additional information about the Offeror's company that could pertain to this RFP, if applicable.

[Redacted]

[Redacted]

[Redacted]

[Redacted]



2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[Redacted text block]

[Redacted text block]

[Redacted text block]

**C. Customer Service**

1. How will the Offeror service a Participating Entity's account if awarded? Does each representative have access to the Participating Entity's account information to best help them?

[Redacted text block]

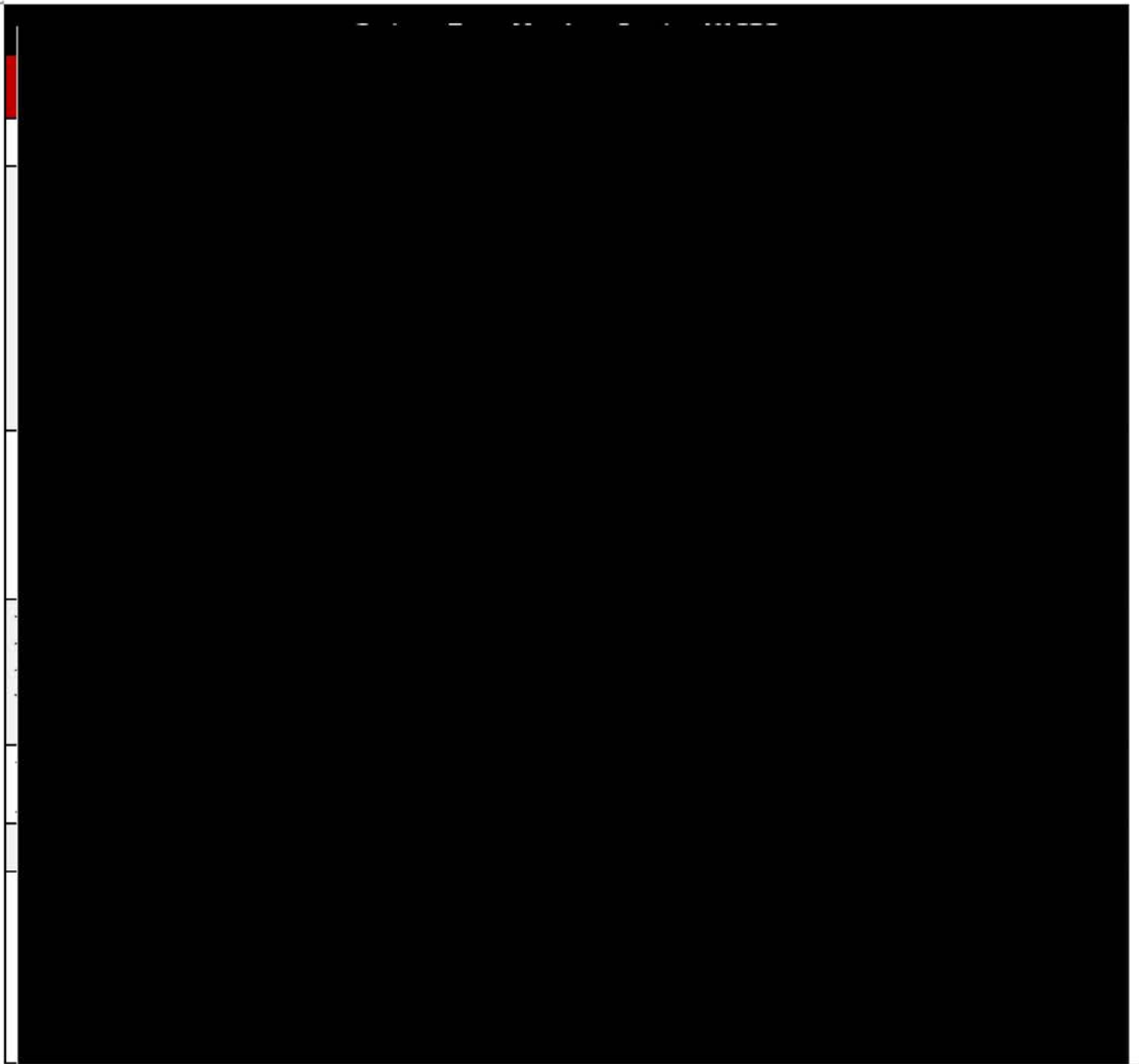
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2. Hours of operation if help is available via phone, a chat function online, etc. 8:00 am to 5:00 PM in EACH time zone would be preferred. Including an emergency contact with phone, email etc. of whom to contact after hours. Include in the response if the Offeror has a dedicated phone line or staffing for government sales.



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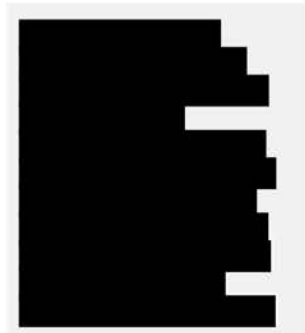
[Redacted]

3. Describe how Customer Service can assist a Purchasing Entity with finding sustainable and/or other products.

[Redacted]



[Redacted]



4. Describe the Offeror's quality assurance measures for both orders and any other customer service-related quality assurance measures.





[REDACTED]

[REDACTED]

5. If there is an issue with an order placed or any other customer service issue, how are those addressed?

[REDACTED]

[REDACTED]

[REDACTED]

- Christopher Carroll, Senior National Government Sales Manager, NASPO Cooperative-Public Sector, at [Christopher.Carroll@grainger.com](mailto:Christopher.Carroll@grainger.com), 706.424.1743.

6. Describe Offeror's substitution policy that would apply if awarded a Master Agreement. Forced substitutions will not be allowed. Explain how the Offeror notifies customers of an out-of-stock item(s) including if Offeror notifies customers about how the equivalent item compares to the out-of-stock item.

[REDACTED]

[REDACTED]

[REDACTED]



- [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

7. Describe the Offeror's online ordering system that Purchasing Entities would use to create a profile, place orders, track orders and other functions the system could have. If there are other ways to order Products, indicate that as well including connecting to eProcurement systems.

[REDACTED]

█ [REDACTED]

█ [REDACTED]

- [REDACTED]

[REDACTED]

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- [REDACTED]

[REDACTED]

8. What is the Offeror's return policy.

Grainger's standard return process is as follows:

[REDACTED]

[REDACTED]

[REDACTED]

**D. Data Security**

1. Describe the standard security measures, including PCI compliance for the Offeror's company. Some states may have additional data security requirements, which the Offeror must work with each Participating Entity if applicable. Describe an instance that a customer had additional security needs and how the Offeror adapted.



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[Redacted]

**Describe an instance that a customer had additional security needs and how the Proposer adapted.**

[Redacted]

2. Included in the response include where data is stored including any back up servers.

[Redacted]



3. Has the Offeror had a data breach within the last 5 years? How quickly was the end user notified, the issue resolved and talk about any other outcomes.

[REDACTED]

[REDACTED]

**E. Reporting**

Participating Entities will have different needs when it comes to reporting. Describe Offeror's reporting capabilities including customization. (e.g., sales reporting, sustainability reporting, sustainable labeling available, usage reports, any other state reports needed by a Participating Addendum etc.).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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• [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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• [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Grainier.com *Advanced, on-demand reporting*

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**F. Implementation Plan**

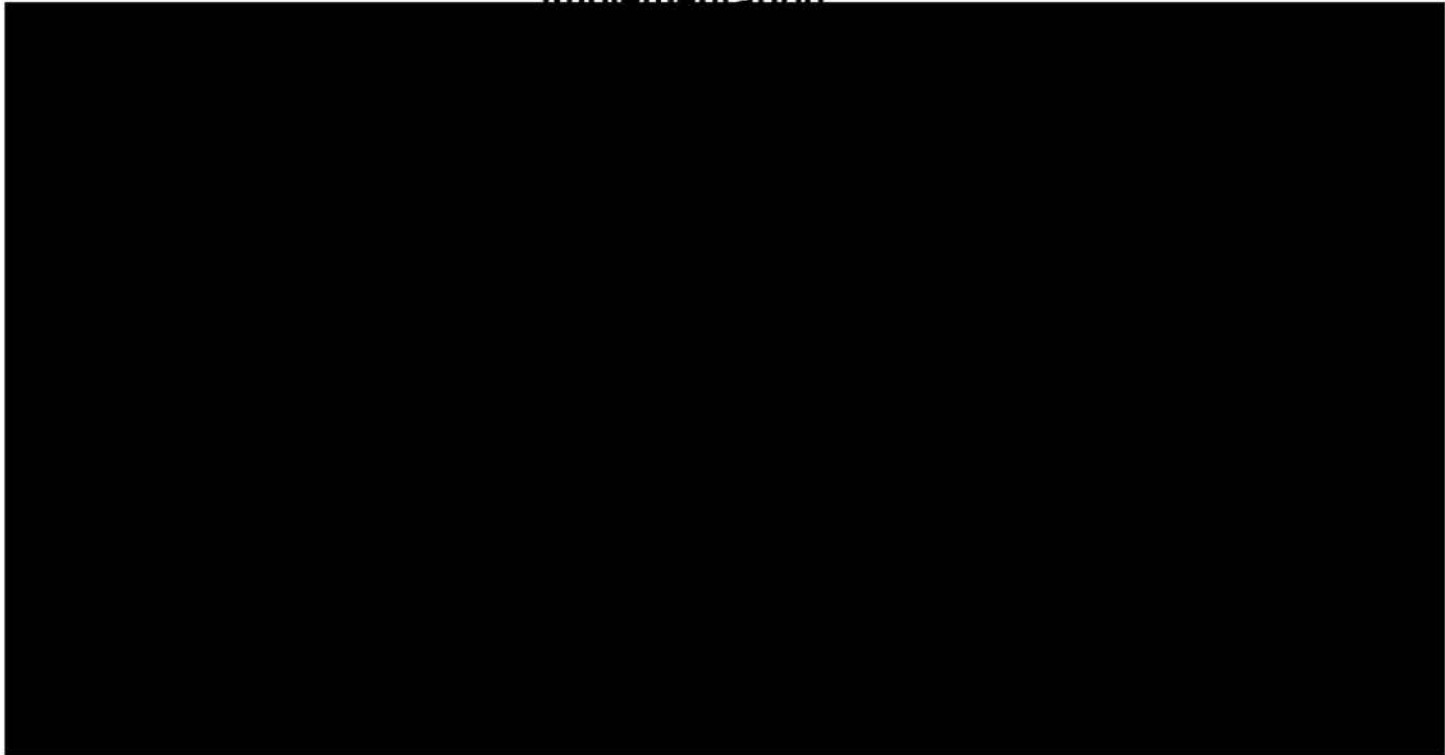
Implementation of a Master Agreement, if awarded is vital to the Participating Entities. Describe in detail the Offeror's implementation plan including an estimated timeline to include at minimum the following points:

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## Implementation



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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

1. Detailed specific information, resources, and assistance the Offeror will require from each Participating Entity to implement the Participating Addendum.

Information, resources, and assistance we require from each Participating Entity includes:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]





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

[Redacted]

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

[Redacted]

[Redacted]

4. Describe any customization abilities for different States or political subdivisions within a Participating Entity.

Grainger customization options, identified through collaboration with the Participating State Contract Administrator and/or Site Champion, include:

- [Redacted]



- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**G. Other Products:** If proposing for Category 15, Offerors must provide a detailed description of the product categories they are proposing and why they do not fit into the already defined categories. The Lead State reserves the right to approve/deny any additional Product Categories proposed. Offerors should note that not all Participating Entities may adopt Category 15 in their Participating Addendum.

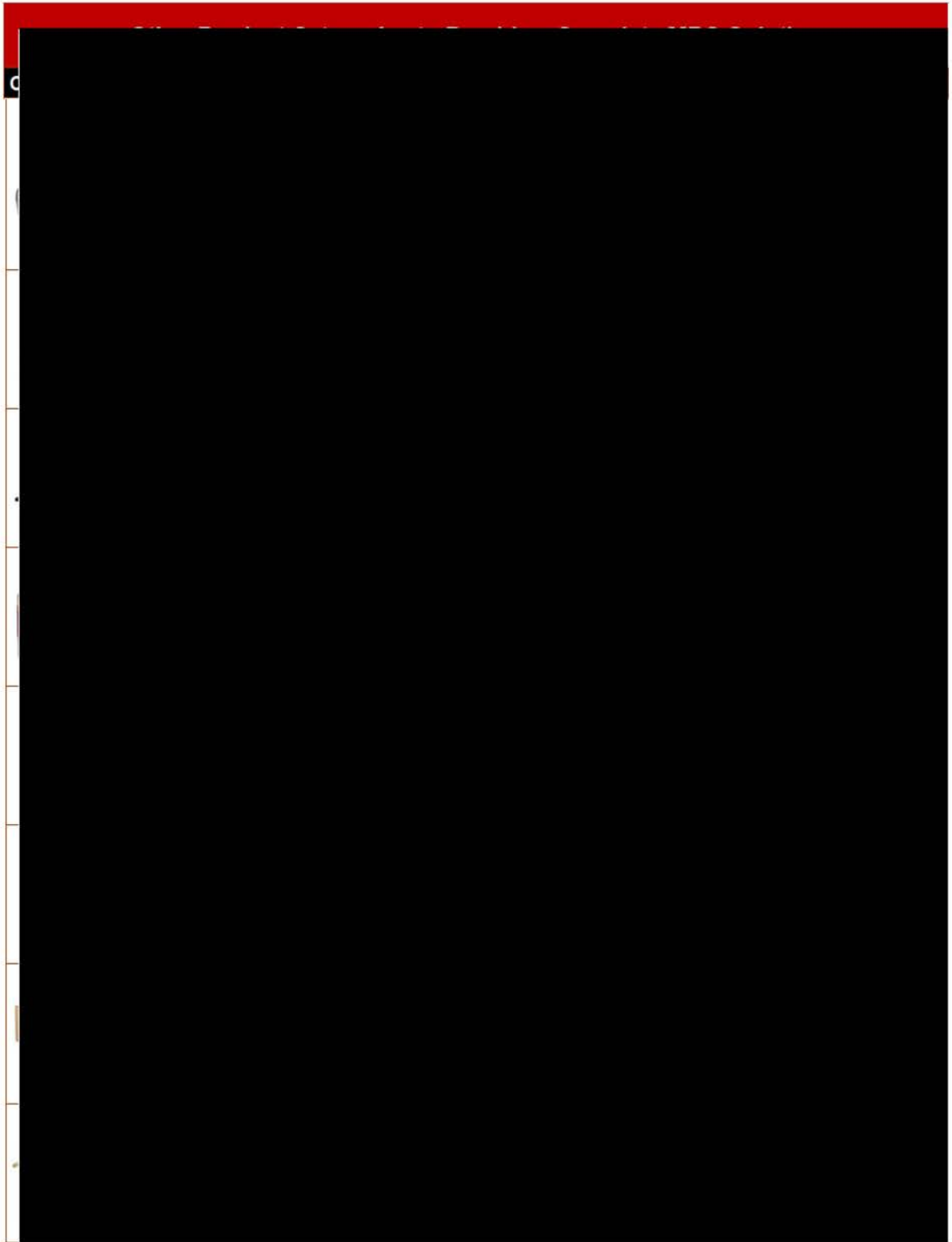
[REDACTED]

Other Product Categories to Provide a Complete MRO Solution	
Ca	[REDACTED]

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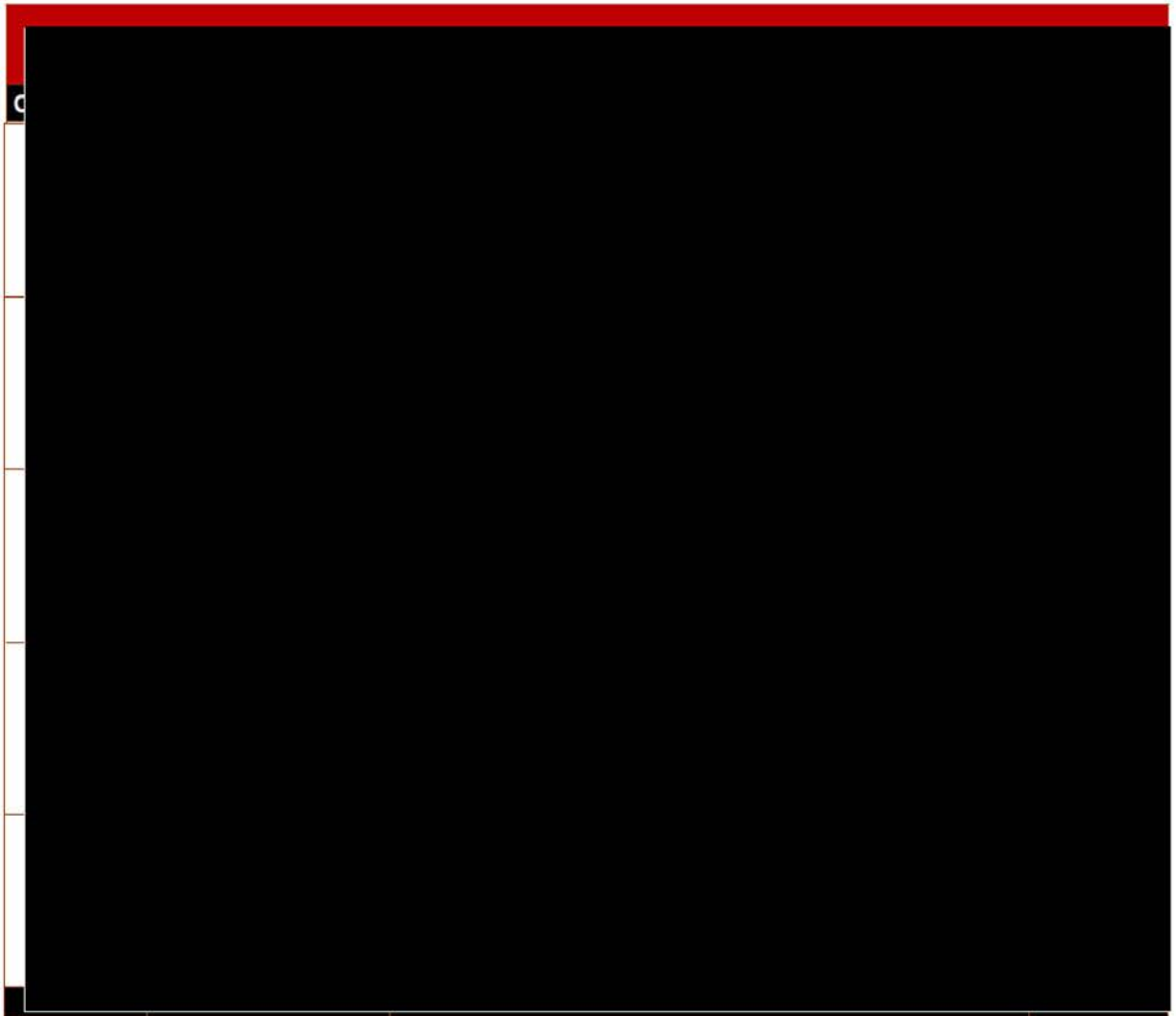
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[REDACTED]

**H. Additional Services that Add Value if Awarded (not scored)**

This Section is required to be part of the Offeror's response. This information will be used if the Offeror is awarded a Master Agreements. However, this area is not scored as part of the evaluation of the RFP.

[REDACTED]

[REDACTED]



Offerors are encouraged to include value-added solutions that may improve or enhance a Participating Entity and Purchasing Entity's use of the Master Agreement, including products, services or both offered, if awarded.

1. **Installation of Products (if applicable).** Describe the Offeror's ability to provide non- third-party installation services of products or equipment that a Participating Entity(ies) may choose to award in their Participating Addendum. Some States may be limited by State rules when it comes to installation of equipment, for instance, electric vehicle charging stations are a Public Improvement. Include in the Offeror's response, if there are any instances a warranty may be voided if not installed by the Offeror.

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]





- [REDACTED]

2. **Warehouse Management Solutions.** If applicable, describe a warehouse management solution that the Offeror has the ability to offer a Participating Entity.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. **Disaster Recovery Plans and Services.** Describe Offeror's emergency management plan to aid Participating Entities during an emergency or disaster recovery. Be specific as to response time, product availability, how to best contact the Offeror during an emergency and other services offered. Include an example of a time the Offeror assisted a State during an emergency. DO NOT include the Offeror's disaster recovery plan for Offeror's own company.

[Grainger is positioned to respond to emergencies immediately.](#) [REDACTED]

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- [REDACTED]
- [REDACTED]
4. **Use of Diverse Suppliers.** Each State has different reporting, statutes and rules that apply to ensure the use of diverse business's (e.g., small business, woman owned, veteran owned, disadvantage and other business's). How does the Offeror intend to use and of these businesses? Provide a plan including how the use of a small business or other identified types would be used if a Master Agreement was awarded. This will be addressed at the Participating Addendum level with States that have requirements may vary.

Grainger Sales and Diversity team members will

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. **Discounts or Other Incentives.** Additional discount options are encouraged, which can distinguish between individual order minimum quantities and other discount terms that may be defined by the Offeror for the evaluation committee to consider. Extensions of additional



discounts past the Master Agreement's initial term are not required but may be offered. If a Offeror has other incentive programs than discounting product, for instance a rebate program that could be offered, include that in the Proposal response as well.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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## Attachment 06

### OFFEROR INFORMATION, ACKNOWLEDGEMENTS, AND CERTIFICATIONS

Offeror must provide complete responses to each item below. **Insert Offeror responses into this worksheet directly below each question or prompt.**

#### I. OFFEROR INFORMATION

**Legal Name of Offeror:** [W.W. Grainger, Inc.](#)

**Address:** [100 Grainger Parkway](#)

**City, State, and Zip:** [Lake Forest, IL 60045](#)

**State of Incorporation:** [Illinois](#)

**Entity Type:** [Public Corporation](#)

**Contact name:** [Christopher Carroll](#)

**Phone:** [706-424-1743](#)

**Email:** [christopher.carroll@grainger.com](mailto:christopher.carroll@grainger.com)

**Federal Tax:** [36-1150280](#)

**Entity Type:**

- Sole Proprietorship
- Partnership
- Limited Liability Company
- Corporation

#### II. PROPOSAL CONTACT

The Proposal Contact must be able to respond timely to communications from the Lead State. Offeror must, within 24 hours, notify the Lead State of any change to Offeror's Proposal Contact.

**A. Proposal Contact Name:** [Christopher Carroll](#)

**B. Proposal Contact Title:** [National Government Sales Manager](#)

**C. Proposal Contact Email:** [christopher.carroll@grainger.com](mailto:christopher.carroll@grainger.com)

**D. Proposal Contact Phone Number:** [706-424-1743](#)





### III. ACKNOWLEDGEMENTS AND CERTIFICATIONS

By signing below and submitting a response to this RFP, Offeror acknowledges and certifies the following:

**A. Firm Offer.** Proposal is a Firm Offer for 180 Days following the Closing.

**B. Debarment.** (Check one of the below.)

- Neither Offeror nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency.
- Offeror cannot certify the statement above, and Offeror will affix a written explanation to this attachment for review by the Lead State. If after reviewing Offeror's written explanation the Lead State determines it is not in the best interest of the Lead State, Participating Entities, or Purchasing Entities to award Offeror a Master Agreement, the Lead State may reject Offeror's proposal.

**C. Non-collusion.**

1. This Proposal has been developed independently by Offeror and has been submitted without collusion and without any agreement, understanding, or planned common course of action with any other Offeror or supplier of Deliverables in a manner designed to limit fair and open competition.
2. The contents of this Proposal have not been communicated by Offeror or its employees or agents to any person not an employee or agent of Offeror and will not be communicated to any such persons prior to the RFP Close Date.

**D. Nondiscrimination in Employment.** Offeror has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. The policy and practice includes giving employees a written notice that the policy both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination.

**E. Data Disclosure to Foreign Governments and Prohibited Technology.**  
(Check one of the below.)

- Offeror is not an entity subject to laws, rules, or policies potentially requiring disclosure of, or provision of access to, customer data to foreign governments or entities controlled by foreign governments, and Offeror's offerings do not contain, include, or utilize components or services supplied by any entity subject to the same. Offeror's offerings also do not contain, include, or utilize



covered technology prohibited under Section 889 of the National Defense Authorization Act, as amended.

- Offeror cannot certify all statements above, and Offeror will affix a written explanation to this attachment for review by the Lead State. If after reviewing Offeror's written explanation the Lead State determines it is not in the best interest of the Lead State, Participating Entities, or Purchasing Entities to award Offeror a Master Agreement, the Lead State may reject Offeror's proposal.

**F. Blocked Persons.** Offeror and Offeror's employees, agents, and subcontractors are not included on: the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>, or the government wide exclusions lists in the System for Award Management found at: <https://www.sam.gov/portal/>

**G. Conflicts of Interest.** (Check one of the below.)

- Offeror represents that none of its officers or employees are officers or employees of the Lead State and that none of its officers or employees have a conflict of interest as defined by the laws, rules, or policies of the Lead State.
- Offeror cannot certify the statement above, and Offeror will affix a written explanation to this attachment for review by the Lead State. If after reviewing Offeror's written explanation the Lead State determines it is not in the best interest of the Lead State, Participating Entities, or Purchasing Entities to award Offeror a Master Agreement, the Lead State may reject Offeror's proposal.

**H. Business Certifications.** (Check if applicable)

- Offeror is a certified MWBE owned business, as defined in [KRS 45.560 - 45.640](#)

**I. Required Insurance.** Offeror agrees to acquire insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state at the levels prescribed in Attachment 4, Sample Master Agreement. Offeror understands that this requirement is mandatory and will not be negotiated by the Lead State.

**J. NASPO ValuePoint Administrative Fee.** Offeror agrees to pay a 0.25% administrative fee and submit summary and detailed sales reports to NASPO



- ValuePoint in accordance with Attachment 4, Sample Master Agreement. All costs proposed by Offeror must be inclusive of the NASPO ValuePoint administrative fee. Offeror understands that the requirements in this section are mandatory and will not be negotiated by the Lead State.
- K. Marketing Plan.** If awarded a Master Agreement resulting from this RFP, within 30 days of execution of the Master Agreement, Offeror will meet with NASPO ValuePoint marketing personnel to review and track progress on the marketing plan described by Offeror in Attachment 8, Offeror Response Worksheet.
- L. Confidential, Proprietary, or Protected Information.** As set forth in Attachment 1, RFP Terms and Conditions, if Offeror is claiming any portion of its proposal as confidential, proprietary, or protected, Offeror must complete the required sections of Attachment 11, Claim of Business Confidentiality, and submit with Offeror's proposal a redacted copy of Offeror's proposal, which must be clearly marked as such. Offeror may not mark pricing or Offeror's entire proposal as confidential, proprietary, or protected. Submission of a Claim of Business Confidentiality does not guarantee that information claimed by Offeror as confidential, proprietary, or protected will not be subject to disclosure in accordance with applicable public information laws, rules, and policies. If Offeror fails to submit a redacted copy of Offeror's proposal, or fails to claim information as confidential, proprietary, or protected in compliance with this RFP, Offeror releases the Lead State, NASPO, NASPO members, and entities represented on the Multistate Sourcing Team from any obligation to keep the information confidential and waives all claims of liability arising from disclosure of the information.
- M. Conditional Awards.** Offeror understands that awards and execution of a Master Agreement are conditional as set forth in Attachment 1, RFP Terms and Conditions, and Offeror agrees to hold the Lead State and NASPO harmless and release the Lead State and NASPO from any liability for damages arising from non-award or non-execution of a contract.
- N. Understanding of the RFP.** Offeror acknowledges receipt of the RFP and all Amendments, if any. Offeror has read the RFP and all Amendments, if any, in their entirety and understands and agrees to comply with all requirements set forth therein. Any conflicts in the materials composing the RFP and any issues relating to the content of the RFP, including instructions, requirements, or specifications Offeror believes to be ambiguous, unduly restrictive, erroneous, anticompetitive, or unlawful, have been brought to the attention of the Lead State using the process described in the RFP for asking questions or, if applicable, by filing a protest. In accordance with Attachment 1, RFP Terms and Conditions,

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Offeror acknowledges and understands that any protest, claim, dispute, or action based upon a conflict or issue described herein must be filed no later than the RFP Close Date, and Offeror waives the right to file any protest, claim, dispute, or action based upon a conflict or issue described herein if not filed by the RFP Close Date.

- O. Performance under Master Agreement.** If awarded a Master Agreement, Offeror agrees to provide the Products and Services as described and meet or exceed the performance standards set forth in the final negotiated scope of work of the Master Agreement.

**Signature**

The undersigned is one of the following:

1. The Offeror, if Offeror is an individual;
2. A partner in the company, if Offeror is a partnership; or
3. An officer or employee of the responding corporation having authority to sign on its behalf, if Offeror is a corporation.

By signing below, the undersigned warrants that the representations made and the information provided in Offeror's proposal are true, correct, and reliable for purposes of evaluation for a potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from contract award and may subject the undersigned, Offeror, or both to suspension or debarment proceedings, as well as other remedies available to the Lead State by law, including termination of any Master Agreement awarded to Offeror.

**OFFEROR:**

  
\_\_\_\_\_  
**Signature**

4/29/24  
\_\_\_\_\_  
**Date**

Christopher Carroll  
\_\_\_\_\_  
**Printed Name**

National Government Sales Manager  
\_\_\_\_\_  
**Title**

christopher.carroll@grainger.com  
\_\_\_\_\_  
**Email Address**

706-424-1743  
\_\_\_\_\_  
**Phone Number**



## ATTACHMENT 02 CATEGORIES OF PRODUCTS and EPP

### I. GEOGRAPHIC AVAILABILITY

Identify the geographic area(s) in which your products will be available to Participating Entities and Purchasing Entities by checking one of the following:

- Nationwide (including the District of Columbia and U.S. territories)
- Nationwide (including the District of Columbia)
- The following specific states (to include the entire state)

### II. EXCLUSIONS

The Master Agreements resulting from this solicitation are not intended to replace or materially overlap in scope with other NASPO ValuePoint contract portfolios, including the following:

- [Automatic External Defibrillator \(AED\) and Accessories](#)
- [Ground Maintenance Equipment](#)
- [Automotive Parts](#)
- [Professional Grade Tools and Diagnostic Equipment Master Agreements.](#)
- [Office Furniture](#)
- [Office Supplies](#)
- [Audio Video Equipment and Supplies](#)
- [Computer Equipment, Peripherals & Related Services](#)
- [Copiers & Managed Print Services](#)
- [Laboratory Equipment and Supplies](#)

Offerors may include equipment, accessories, and services available under these portfolios only to the extent that such solutions are complementary to the equipment, products, or services being proposed by Offeror. The Lead State may, at its sole discretion, reject products and services from an Offeror's proposal, or remove products and services from a Contractor's Master Agreement, if the Lead State determines that such products and services exceed the intended scope of this solicitation or do not comply with this requirement.

Other Exclusions:

- Electric vehicle charging station and/or installation
- Public safety electronic equipment or any first responder electronic equipment
- Drones, drones' maintenance, and parts
- Software or SaaS solutions

### III. CATEGORIES

Identify the category(ies) for which you are submitting a proposal response by checking one or more of the following (the products listed for each category below are only examples and are not intended to be exhaustive):



- ☒ **Category 1: Janitorial Supplies, Equipment, and Sanitation Cleaning Chemicals** includes but not limited to cleaning chemicals, hand soaps, paper products, trash can liners, adhesives.
- ☒ **Category 2: Fasteners** includes but is not limited to thread fasteners, anchors, bolts, cables, clips, hose couplings, inserts, lock nuts, pins, plates, rivets, screws, studs, and washers.
- ☒ **Category 3: Material Handling** includes but is not limited to hand trucks, ladders, welding supplies, shop supplies, containers, cabinets, chains, wire rope, pails/drums. Motor rider forklifts, reach trucks, order pickers, pallets jacks, stackers, and tow tractors.
- ☒ **Category 4: Plumbing Equipment** includes but is not limited to facets, fittings, pipes, water filters, drains, pumps, and plumbing tools.
- ☒ **Category 5: Power Sources** includes but is not limited to electric power grid, such as an electrical outlet, energy storage devices such as batteries or fuel cells, generators or alternators, solar power converters, or another power supply, other batteries, electric vehicle charging stations and parts, solar energy, and AC and DC power supply.
- ☒ **Category 6: Landscaping and Outdoor Supplies and Equipment** includes but is not limited to seasonal lawn and grounds maintenance supplies.
- ☒ **Category 7: Lamps, Lighting, Ballasts, and Equipment** includes but is not limited to lamps, ballasts, fixtures, bulbs, diodes, and tubes.
- ☒ **Category 8: Heating, Ventilation, Air Conditioning (HVAC)** includes but is not limited to air filters, blowers, diffusers, fans, coolant, small heaters, air conditioning units (window and portable), foam coil cleaners, filters, and valves.
- ☒ **Category 9: Hand Tools** includes but is not limited to hammers, pliers, rakes, screw drivers, shoves, hand saws, and measuring tools.
- ☒ **Category 10: Power Tools** includes drills, saws, table saw, air compressor, band saw, sander.
- ☒ **Category 11: Electrical Supplies and Equipment** includes but is not limited to circuit breakers, conduits, electrical boxes, fuses, switches, outlets, cords, and plugs.
- ☒ **Category 12: Paint and Related Supplies** includes but is not limited to paint interior and exterior, primers, coatings, brushes, paint pans, fire retardant sealants, and stirrers.
- ☒ **Category 13: Security** includes but is not limited to cameras, strobes, safes, locks.
- ☒ **Category 14: Safety** includes personal protective equipment and related building safety equipment, eye protection, protective clothing, barricades, fire escape ladders, master lock, hearing protection and head and face protection, hand sanitizer, gloves, and sorbents.
- ☒ **Category 15: Other** Contractor is allowed to sell other items related to MRO but not specifically listed above. Products that are included in the Exclusion Section II, may not be sold.



Offeror is limited to selling products and services in the category(ies) awarded to Offeror.

#### IV. ENVIRONMENTALLY PREFERABLE PRODUCTS

Many of the Participating States have indicated that sourcing Environmentally Preferable Products (EPP) is important and may become more important in the future with legislative mandates to comply with for sustainable and climate preferable products being used in their state.

Indicate below if the Offeror can offer EPPs (see Specifications for EPP Products in Each Category listed below). If the Offeror is not able to meet the Environmental Specifications listed below, indicate no. If yes, Offeror must fill out the rest of this attachment in full which will be included in the Master Agreement if awarded.

**No, the Offeror will not be able to sell Environmentally Preferable Products, no need to proceed with this Attachment (this attachment must be submitted with the NO checked)**

**Yes, Offeror would like to sell Environmentally Preferable Products and has filled out all sections below:**

1. Does the Offeror have any sustainability policies or programs (e.g., adoption of a sustainability policy, climate action plan, using clean fuel vehicles or sustainable packaging to deliver products, powering your facilities with renewable energy, etc..)? If yes, describe and attach supporting documentation. If no, describe any plans the Offeror may have to do this in the future.

Yes, Grainger strives to operate our business and supply chain sustainably, while also supporting our customers in their sustainability efforts. We recognize the urgency of climate change and are dedicated to reducing our carbon, water and waste footprint. We focus on reducing our dependence on non-renewable energy, improving energy efficiency and embedding sustainability into our operations. Initiatives include:

1. Increasing solar energy use at our facilities.
2. Improving technology and efficiency in our building management systems
3. Implementing high-efficiency life cycle replacements
4. Transitioning from traditional Powered Industrial Equipment batteries to hydrogen fuel cells

Details of these efforts, including reducing carbon emissions referenced by the medium-term goal of the Paris Climate Agreement, are provided in Grainger's 2023 Environmental, Social and Governance Report, at pages 17-20. A copy is attached as **Exhibit 01 Grainger ESG Report**.

Grainger embeds sustainability practices in its operations. Our transportation and shipping practices are designed to optimize the customer experience and reduce environmental waste. We manage order fulfillment with the goal to ship orders in the fewest number of cartons from the nearest shipping point. Grainger continues to be recognized by the U.S. Environmental Protection Agency (EPA) as a SmartWay® partner.

We work to identify opportunities to improve packaging sustainability and protect the products we offer. Our Supplier Packaging Guidelines promote sustainable options and best practices for our suppliers

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to minimize potential product damage and waste while maximizing the use of recyclable materials. These initiatives include, **Right-size packaging and Primary packaging-** ship products in suppliers' packaging whenever possible and using wrapping to consolidate items without adding outer packaging. Grainger boxes and paper dunnage are certified by the Sustainable Forestry Initiative and are recyclable.

2. Does the Offeror identify products with any of the following environmental certifications in catalogs and/or price sheets (print and online)?

US EPA ENERGY STAR  Yes  No

US EPA Safer Choice  Yes  No

US EPA WaterSense  Yes  No

Biodegradable Products Institute (BPI, certified compostable)  Yes  No

Design Lights Consortium (DLC) for LED lighting products  Yes  No

Forest Stewardship Council (FSC)  Yes  No

Green Seal  Yes  No

UL ECOLOGO  Yes  No

UL GREENGUARD, SCS Indoor Advantage, etc. (certified low emitting)  Yes  No

Other(s): please list \_\_\_\_\_

3. Does the Offeror identify products with any of the following environmental attributes in catalogs and/or price sheets (print and online):

Percentage of post-consumer recycled content  Yes  No

RoHS-compliance (for electrical equipment)  Yes  No

Rechargeable batteries  Yes  No

Prop 65 Warning  Yes  No

Identified in online catalog? Yes

4. Describe how a buyer finds environmental products in your online ordering catalog. Does it show the ecolabels and environmental attributes that the Offeror recognizes? Include whether there are filters for EPP's in the online catalog. Provide examples.

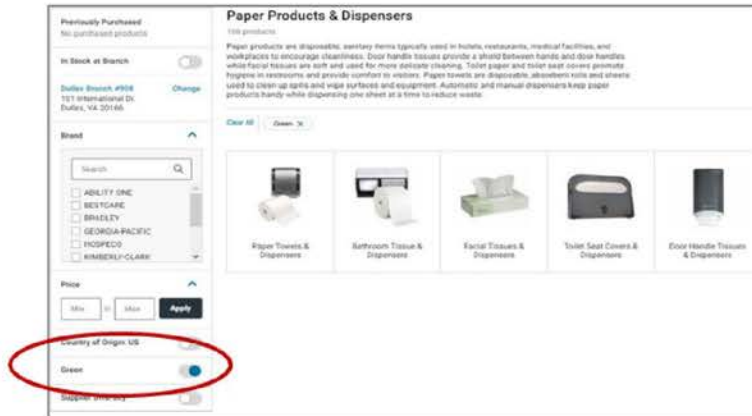
Yes, NASPO Members can find and filter results based on GREEN. Environmental attributes are presented in the Technical Specifications.



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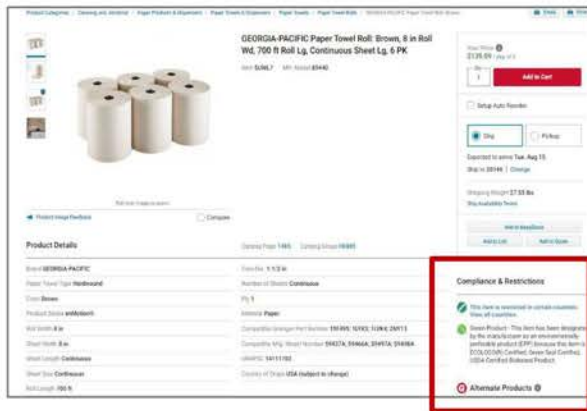


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NASPO Members may click on the toggle button to search for Green Products.

All EPP items are denoted with a Green Leaf within the catalog and **environmental attributes** are found within the Product Details:



- Does the Offeror offer any product take-back or recycling services? If yes, describe what services are available. If not, describe if the Offeror has any plans for the future:

Yes, Grainger works with the following suppliers that have **Take-back programs**:

- Kimberly Clark
- Kimtech
- Kleenguard

We also offer prepaid recycling and disposal kits as to universal wastes - light bulbs, batteries, ballasts, and home/electronic products. These kits include prepaid shipping labels, recycling fees and instructions for sealing the boxes and shipping to a recycling facility. The recycling facility will upon request verify proper disposal.

- Using the check boxes below, indicate what categories of products the Offeror offers that includes *at least* one of the listed required Environmental Specifications for the sub-category. If awarded, the subcategories will be included in the Master Agreement.



## Specifications for EPP Products in Each Category

### **Environmental Product Specifications**

Offeror has the ability to provide product with the following environmental certifications or attributes, as identified below:

### **Category #1: Janitorial Supplies, Equipment, and Sanitation Cleaning Chemicals**

#### A. Cleaning chemicals

1.  *Cleaning and floor maintenance chemicals* have at least one of the following certifications: Green Seal, US EPA Safer Choice, UL ECOLOGO, or Cradle to Cradle (Silver level or higher).

This product category includes, but is not limited to general-purpose cleaners, floor cleaners, glass cleaners, degreasers, non-disinfecting restroom cleaners, carpet and upholstery cleaners, deodorizers, dish and laundry detergents, wood and metal polishes, floor polish and strippers, air conditioner coil cleaners, etc. It also includes onsite generators of cleaning chemicals such as aqueous ozone.

2.  *Hand sanitizers* have at least one of the following certifications: Green Seal, UL ECOLOGO or Cradle to Cradle (Silver level or higher). This product category includes liquids, gels and wipes.

In addition, the product contains at least 60% ethanol per the Centers for Disease Control (CDC) guidance, does not contain any active ingredients other than ethyl alcohol or isopropyl alcohol, and is not on the US Food and Drug Administration's (FDA's) Hand Sanitizer Do-Not-Use List which may be viewed at: <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-hand-sanitizers-consumers-should-not-use>. This list includes products that are dangerous because they are found or likely to be contaminated with methanol or 1-propanol or that are packaged in food or drink containers.

3.  *Hand soaps, body washes, and hair shampoos* have at least one of the following certifications: Green Seal, US EPA Safer Choice, UL ECOLOGO or Cradle to Cradle (Silver level or higher).
4.  *Keyboard cleaners* are EITHER mechanical or a chemical formulation that is free of chlorinated and fluorinated compounds (e.g., air dusters containing HFC-134a: 1,1,1,2-Tetrafluoroethane or HFC-152a: 1,1-Difluoroethane)
5.  *Surface disinfectants and sanitizers* are US EPA-registered and contain only the following active ingredients: Citric acid, Ethanol, Hydrogen peroxide, Isopropanol, Lactic acid, Octanoic acid (Caprylic acid), or Thymol OR are certified by either Green Seal or EPA's Design for Environment Program. ([Hand sanitizers only](#))



B. Janitorial paper products EITHER have one of the following third-party certifications: Green Seal, UL ECOLOGO or Forest Stewardship Council (FSC); OR comply with the US EPA's Comprehensive Procurement Guideline (CPG), including:

- *Paper Towels and Industrial Wipers*: 40% post-consumer recycled content (PCRC)
- *Toilet Tissue and Toilet Seat Covers*: 20% PCRC
- *Facial Tissue*: 10% PCRC
- *Paper Napkins*: 30% PCRC

In addition, they do not contain intentionally added antimicrobial ingredients, fragrances, or dyes.

C. Waste, Recycling and Trash Supplies

1.  *Organic waste bags* have at least one of the following compostability certifications: Biodegradable Products Institute (BPI) or OK Compost (Industrial or Home). In addition, they are labeled with the certification. This includes bags that are made of bioplastic or paper lined with bioplastic.
2.  *Paper bags* are unlined and EITHER have at least 20% post-consumer recycled content (PCRC), which complies with the US Environmental Protection Agency's Comprehensive Procurement Guideline for Paper Bags, have 100% total recycled content, or are certified by the Forest Stewardship Council (FSC).
3.  *Plastic trash can liners* have at least 10% post-consumer recycled content (PCRC) OR are certified by UL ECOLOGO or Green Seal. In addition, the product does not contain any intentionally added antimicrobial ingredients, chlorinated compounds such as vinyl (PVC), fragrances, or PFAS (e.g., polytetrafluoroethylene (PTFE) and is not labeled "oxo-degradable" or "oxo-biodegradable".
4.  *Waste receptacles and recycling containers* comply with the applicable US EPA Comprehensive Procurement Guideline (CPG) for this category, which means it contains:
  - At least 20% post-consumer recycled-content plastic;
  - At least 25% post-consumer recycled-content corrugated cardboard; OR
  - 100% steel.

In addition, the product is free of vinyl (PVC) and fiberglass.

D. Janitorial Supplies

1.  *Cleaning cloths* are reusable and are made of EITHER microfiber, reused material or recycled-content fabric with at least 10% post-consumer recycled content. In addition, they do not contain antimicrobial ingredients, fragrances, cleaning chemicals, or other chemical treatments.



2.  *Floor pads used with powered janitorial equipment* EITHER contain at least 30% post-consumer recycled content (PCRC) OR are certified by Green Seal.
3.  *Gloves (including disposable and reusable products)* are free of PVC (vinyl) and latex. Gloves that are labeled compostable must be certified by the Biodegradable Products Institute (BPI) or Vincotte OK Compost.
4.  *Entryway, anti-fatigue and safety floor mats are PVC-free AND:*
  - Contain at least 30% post-consumer or 50% total recycled content (e.g., rubber or PET); OR
  - Are 100% biobased (e.g., coir)
5.  *Mops, mop heads and dusters* are reusable and EITHER contain microfiber or are certified by Green Seal. In addition, the product does not contain vinyl (PVC), antimicrobial ingredients, fragrances, or cleaning chemicals (e.g., dust mop treatments).
6.  *Sorbents and other dust-control products*, including but not limited to loose and granular formulations as well as pads, socks and booms, meet one of the following criteria:
  - Contain at least 89% total recycled content (which complies with the US EPA's Comprehensive Procurement Guideline (CPG) for this product category);
  - Contain at least 30% post-consumer recycled content; OR
  - Have one of the following certifications: Cradle to Cradle (Silver or higher), Green Seal, UL ECOLOGO, US EPA's Safer Choice or USDA Certified Biobased.
7.  *Sponges and scrubbers* are made of 100% cellulose and/or other plant-based fiber OR at least 20% post-consumer recycled material. In addition, the product does not contain antimicrobial ingredients, fragrances, cleaning chemicals, or other chemical treatments.

E. Powered Janitorial Equipment

1.  *Vacuum cleaners, carpet extractors, and deep cleaning equipment* are certified by the Carpet and Rug Institute (CRI) under its Seal of Approval Program.

A list of CRI-certified vacuum cleaners can be accessed at: <https://carpet-rug.org/testing/seal-of-approval-program/certified-vacuums>.

A list of CRI-certified carpet extractors can be accessed at <https://carpetrug.org/testing/seal-of-approval-program/certified-deep-cleaning-extractors>.



A list of CRI-certified deep cleaning equipment can be accessed at <https://carpet-rug.org/testing/seal-of-approval-program/certified-deep-cleaning-extractors/>.

2.  *Powered floor maintenance equipment (e.g., burnishers and polishers)* are electric-powered AND are equipped with controls or other devices for capturing and collecting particulates.
3.  *Hand dryers* meet all of the following criteria:
  - a. UL or ETL listed.
  - b. RoHS-compliant
  - c. Energy consumption does not exceed 1500 watts.
  - d. Operate at a sound level of less than 80 dBA (decibels)

#### Category #4: Plumbing Equipment

1.  *Bathroom sink faucets and showerheads* are WaterSense-certified.
2.  *Toilets and urinals* are EITHER WaterSense-certified or waterless.
3.  *Water bottle refill stations* are UL listed, certified to NSF/ANSI Standard 61-G & 372 and conform with the lead content requirements for "Lead Free" plumbing by the State of California. (Lead free only)
4.  *Water coolers, bottled water dispensers, and pool pumps* are ENERGY STAR-certified. (Bottled water dispensers only)
5.  *Water filters* (e.g., carbon filtration and reverse osmosis systems) meet applicable NSF standards.

#### Category #5: Power Sources

1.  *Batteries (AAA, AA, C, D and 9V only)* are rechargeable and uses nickel-metal hydride chemistry.
2.  *Battery chargers* are UL Listed and compatible with nickel-metal hydride rechargeable batteries.
3.  *Electricity generators* are battery-powered, and the battery does not contain lead.
4.  *Flashlights, lanterns, or headlamps* use LEDs as the light source OR have a built-in rechargeable battery.
5.  *Motors* are variable speed or labeled NEMA Premium Efficiency.



6.  *Solar powered-generating equipment* is UL or ETL listed.

### **Category #6: Landscaping and Other Outdoor Products Supplies and Equipment**

1.  *Compost, mulch, and soil amendment products* are certified by the Organic Materials Research Institute (OMRI).
2.  *Deicers and snowmelt products for facilities maintenance* are certified by either Safer Choice or Green Seal, OR are on the Clear Roads Qualified Products List, which can be found at <https://clearroads.org/qualified-product-list/>. All products that contain sodium chloride have a corrosion inhibitor. These products are not intended for use on roads and include products in bags only up to 50 pounds as well as liquids only up to 55 gallons.
3.  *Fertilizers and pesticides* are certified by the Organic Materials Research Institute (OMRI) or the product is a mechanical pest management product such as a bait or trap. A list of OMRI-certified products can be found at <https://www.omri.org/us-list>.
4.  *Garden hoses* are free of vinyl (PVC).
5.  *Irrigation equipment*, including spray sprinkling bodies and irrigation controllers, is WaterSense certified.
6.  *Powered landscaping equipment* (e.g., chain saws; edgers, lawn mowers; leaf blowers, shredders and vacuums; mulchers, snow blowers, trimmers, wood chippers) emits zero emissions, which means it is powered by a battery or an electrical cord.

### **Category #7: Lamps, Lighting, Ballasts and Equipment**

1.  *Lamps, luminaires and retrofit kits* use LEDs as their only light source and have at least one of the following lighting efficiency certifications: DesignLights Consortium (Standard, Premium or Luna), ENERGY STAR, or International Dark Sky Association.
2.  *LED drivers and lighting controllers* (e.g., occupancy sensors) are RoHS compliant AND UL or ETL listed.

### **Category #8: Heating, Ventilation and Air Conditioning (HVAC)**

*Air conditioners, air purifiers, dehumidifiers, and ventilating fans* are ENERGY STAR-certified. Products that have the ENERGY STAR Most Efficient label or use refrigerants that have a "lower impact on global warming" (e.g., R-32) are preferable. Use ENERGY STAR filter to find preferable products.

1.  *Refrigerants* are considered "climate friendly" by US Environmental Protection Agency (US EPA) because they have a lower global warming potential. This includes:
  - R-32 (used in air conditioners)



- R-290 (used in ice machines and refrigerators)
- R-600a (used in freezers and refrigerators)

2.  *Thermostats* are digital and EITHER programmable or ENERGY STAR-certified.

### Category #12: Paint and Related Supplies

- Interior latex wall and ceiling paints and primers* have at least one of the following multi-attribute green certifications: Cradle to Cradle Certified or Material Health Certificate: at the Gold level or higher, Green Seal, Greenwise Gold, or Master Painters Institute (MPI) Extreme Green.
- Specialty paints, primers and coatings* comply with the applicable South Coast Air Quality Management District (SCAQMD) limit on volatile organic compounds (VOCs); OR have a VOC content that does not exceed 100 grams/liter; OR have at least one of the following environmental and/or health third-party certifications:
  - Multi-attribute green certifications: Cradle to Cradle Certified or Material Health Certificate Silver level or higher, Green Seal, MPI Green Performance Standard (Extreme Green, GPS-2 or GPS-1), or Safer Choice (covers spray paint only)
  - OR single-attribute green certifications: SCS Indoor Advantage Gold (low emitting), UL GREENGUARD Gold (low emitting), USDA Certified Biobased, or ENERGY STAR (for roof coatings)
- Paint thinners and removers* do not contain any chemicals on the [CA Prop 65 List](#), which are known to the State of California to cause cancer, birth defects or other reproductive harm (such as methylene chloride or n-methyl pyrrolidone).

### Category #15: Other

If there are other products that meet third party environmental certifications or standards that the Offeror offers that are not listed above, provide, similar to the above, the product type and the specific third-party certification or standard.



**Attachment 04**  
**SAMPLE MASTER AGREEMENT**



**NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS**

**I. Definitions**

- 1.1 Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 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.
- 1.5 Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. 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.
- 1.8 Order or Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.





- 1.9 **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.11 **Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 **Product or Products and Services** 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 Product includes goods and services.
- 1.13 **Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or 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.

## II. Term of Master Agreement

- 2.1 **Initial Term.** The initial term of this Master Agreement is for two years. The term of this Master Agreement may be amended beyond the initial term for four additional years (two renewals for two years each) at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.
- 2.2 **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period 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 will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

## III. Order of Precedence

- 3.1 **Order.** Any Order placed under this Master Agreement will consist of the following



documents:

- 3.1.1 A Participating Entity's Participating Addendum ("PA");
  - 3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;
  - 3.1.3 A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;
  - 3.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
  - 3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will 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.
- 3.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. **The term of a Participating Addendum will not exceed the term of this Master Agreement, except when a Participating Entity determines an extension of its Participating Addendum is necessary to avoid a lapse in contract coverage and is permitted by law.**

#### IV. Participants and Scope

- 4.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 **Applicability of Master Agreement.** 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, subject to Section III. For the purposes 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.
- 4.3 **Obligated Entities.** 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. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

- 4.4 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to [pa@naspo.valuepoint.org](mailto:pa@naspo.valuepoint.org) to support documentation of participation and posting in appropriate databases.

#### **4.5 Participating Entities.**

- 4.5.1** If not proscribed by law or by the Chief Procurement Official of the state in which the entity is located, an entity may be eligible to execute a Participating Addendum directly with Contractor. Such entities may include:
- 4.5.1.1** Political subdivisions, public agencies, and service districts;
  - 4.5.1.2** Public and private educational institutions, including K-12 public, charter, and private schools; institutions of higher education; and trade schools;
  - 4.5.1.3** Federally recognized tribes;
  - 4.5.1.4** Quasi-governmental entities; and
  - 4.5.1.5** Eligible non-profit organizations.
- 4.5.2** Prior to execution of a Participating Addendum with an entity listed above, Contractor shall coordinate with NASPO to confirm the entity's eligibility to execute a Participating Addendum. A determination that an entity is eligible to execute a Participating Addendum is not a determination that procurement authority exists; each entity must ensure it has the requisite procurement authority to execute a Participating Addendum.
- 4.6 Prohibition on Resale.** 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 purchased under this Master Agreement. 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.
- 4.7 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, 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 and as the Participating Entity has in the Participating Addendum, 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.

- 4.8 Release of Information.** 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.
- 4.9 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity'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.

## V. NASPO ValuePoint Provisions

- 5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

### 5.2 Administrative Fees

**5.2.1 NASPO ValuePoint Fee.** 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 must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less returns, credits, 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 a vendor's response to the Lead State's solicitation.

**5.2.2 State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.



### 5.3 NASPO ValuePoint Summary and Detailed Usage Reports

- 5.3.1 Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum (“Sales Data”). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint, subject to Section 14.2.2, Non-Disclosure terms and conditions, shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.
- 5.3.2 Summary Sales Data.** “Summary Sales Data” is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.
- 5.3.3 Detailed Sales Data.** “Detailed Sales Data” is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
- 5.3.4 Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data (“Crosswalks”). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor’s part number or SKU for each Product in Offeror’s catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level



commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog and aligned product category(ies) change. In all such instances, catalog product and product category alignment rests solely with Contractor.

**5.3.5 Executive Summary.** Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

#### **5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review**

**5.4.1 Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall 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 eligible entities can participate in the Master Agreement.

**5.4.2 Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

**5.4.3 Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

**5.4.4 Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

**5.4.5 Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any



contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement 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.

## 5.5 NASPO ValuePoint eMarketPlace

- 5.5.1** The NASPO ValuePoint cooperative provides an eMarketPlace for public entities to access a central online platform to view and/or purchase the goods, services, and solutions available from NASPO ValuePoint's cooperative Master Agreements. This eMarketPlace is provided by NASPO at no additional cost to the Contractor or public entities. Its purpose is to facilitate the connection of public entities with Contractors who meet the requisite needs for a good, service, or solution by that entity through a NASPO ValuePoint Master Agreement.
- 5.5.2** Contractor shall cooperate in good faith with NASPO, and any third party acting as an agent on behalf of NASPO, to integrate Contractor's industry presence by either an electronic hosted catalog, punchout site, or providing eQuotes through the NASPO eMarketPlace, per the Implementation Timeline as further described below.
- 5.5.3** Regardless of how Contractor's presence is reflected in the eMarketPlace (*i.e.*, hosted catalog, punchout site, or eQuote), Contractor's listed offerings must be strictly limited to Contractor's awarded contract offerings through the NASPO award. Products and/or services not authorized through the resulting NASPO cooperative contract should not be viewable by NASPO ValuePoint eMarketPlace users. Furthermore, products and/or services not authorized through a Participating Addendum should not be viewable by NASPO ValuePoint eMarketPlace users utilizing that Participating Addendum. The accuracy of Contractor's offerings through the eMarketPlace must be maintained by Contractor throughout the duration of the Master Agreement.
- 5.5.4** Contractor agrees that NASPO controls which Master Agreements appear in the eMarketPlace and that NASPO may elect at any time to remove any of Contractor's offerings from the eMarketPlace.
- 5.5.5** Contractor is solely responsible for the accuracy, quality, and legality of Contractor's Content on the eMarketPlace. "Content" means all information that is generated, submitted, or maintained by Contractor or otherwise made available by Contractor on the eMarketPlace, including Contractor catalogs. Contractor's Content shall comply with and accurately reflect the terms and pricing of this Master Agreement.
- 5.5.6 Contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.**



- 5.5.7 Contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace, including the assessment, collection, and remittance of any sales tax.**
- 5.5.8** Lead State reserves the right to approve all pricing, catalogs, and information on the eMarketPlace. 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 required by the Master Agreement.
- 5.5.9** NASPO Participating Entities may have their own procurement system, separate from the NASPO eMarketPlace, that enables the use of certain NASPO Master Agreements. In the event one of these entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarketPlace) but publish to their own eMarketPlace, Contractor agrees to work in good faith with the entity and NASPO to implement the catalog.
- 5.5.10 In the event a Participating Entity has entity-specific catalog requirements set forth in its Participating Addendum (e.g., entity-specific pricing, restrictions in the scope of offerings, etc.), Contractor shall ensure its eMarketPlace Content for that Participating Entity accurately reflects and is compliant with these requirements.**
- 5.5.11** Implementation Timeline: Following the execution of Contractor's Master Agreement, NASPO will provide a written request to Contractor to begin the onboarding process into the eMarketPlace. Contractor shall have fifteen (15) days from receipt of written request to work with NASPO to set up an enablement schedule, at which time the technical documentation for onboarding shall be provided to Contractor. The schedule will include future calls and milestone dates related to test and go live dates.
- 5.5.11.1** Contractor's NASPO eMarketPlace account with eQuoting functionality shall minimally be established within thirty (30) days following the written request.
- 5.5.11.2** Contractor shall deliver either a (1) hosted catalog or (2) punchout site, pursuant to the mutually agreed upon enablement schedule.
- 5.5.11.3** NASPO will work with Contractor to decide which structures between hosted catalog, punchout site, and/or eQuoting as further described below will be provided by Contractor.
- 5.5.11.3.1** Hosted Catalog. By providing a hosted catalog, Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to NASPO, such as a tab delimited text file. Contractor is solely responsible for ensuring the





most up-to-date versions of its product/service offerings approved by the Lead State under this Master Agreement are reflected in the eMarketPlace.

**5.5.11.3.2** Punchout Site. By providing a punchout site, Contractor is providing its own online catalog, which must be capable of being integrated with the eMarketPlace as a Standard punchout via Commerce eXtensible Markup Language (cXML). Contractor shall validate that its online catalog is up-to-date. The site must also return detailed UNSPSC codes for each line item.

**5.5.11.3.3** eQuoting. NASPO will work with Contractor to set up participation and use to provide eQuotes through the NASPO eMarketPlace. This requirement would be in addition to any requirement to provide a hosted catalog or punchout site.

**5.5.12** Hosted catalogs and punchout sites will provide all of the eMarketPlace standard data elements/information including, but not limited to, the following:

**5.5.12.1** 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 this Master Agreement;

**5.5.12.2** A Lead State contract identification number for this Master Agreement;

**5.5.12.3** Detailed product line item descriptions;

**5.5.12.4** Pictures illustrating products, services, or solutions where practicable; and

**5.5.12.5** Any additional NASPO, Lead State, or Participating Addendum requirements.

**5.6 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also



does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

- 5.7 Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.
- 5.8 Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

## VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The ~~prices~~discount percentages contained in this Master Agreement or offered under this Master Agreement represent the ~~not to exceed price~~minimum discount to any Purchasing Entity.
- 6.1.1** All ~~prices and rates~~discount percentages must be guaranteed for the term of the Master Agreement.
- 6.1.2** Pricing shall be held static, or reduced, from order through delivery. No pricing increases between order and delivery shall be accepted.
- 6.1.3** ~~Requests for a price or rate adjustment must include sufficient documentation supporting the request.~~ Any adjustment or amendment to the Master Agreement that impacts pricing or discount terms will not be effective unless approved in writing by the Lead State and Contractor.
- 6.1.4** No retroactive adjustments to prices or rates will be allowed.
- 6.2 Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (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 or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- 6.3 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.

## VII. Ordering

- 7.1 **Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 **Quotes.** Purchasing Entities may define entity-specific 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.
- 7.3 **Applicable Rules.** 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.
- 7.4 **Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 **Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
  - 7.5.1 **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.**
  - 7.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
  - 7.5.3 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.
  - 7.5.4 Notwithstanding the expiration, cancellation or termination of this Master



Agreement, Contractor shall 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 in any manner inconsistent with this Master Agreement's terms.**

**7.5.5** Orders for any separate indefinite quantity, task order, 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.

**7.6 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:

**7.6.1** The services or supplies being delivered;

**7.6.2** A shipping address and other delivery requirements, if any;

**7.6.3** A billing address;

**7.6.4** Purchasing Entity contact information;

**7.6.5** Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;

**7.6.6** A not-to-exceed total for the products or services being ordered; and

**7.6.7** The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

**7.7 Communication.** All communications concerning administration of Orders placed must 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.

**7.8 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. In all instances where additional federal requirements apply, Contractor will be provided advanced notice and the opportunity to assess whether Contractor can comply.

## VIII. Shipping and Delivery

**8.1 Shipping Terms.** All deliveries, except as noted below or as otherwise agreed to in writing by the parties, will be F.O.B. destination, freight pre-paid, with all



transportation and handling charges paid by the Contractor Standard ground freight shipments are paid by Contractor on all Catalog Products orders to Participating Entity's place of business within the contiguous United States.

**8.1.1** Additional shipping charges imposed by the freight carrier related to the shipment shall be paid by Participating Entity, unless otherwise agreed to in writing by Contractor for oversized or overweight items that require special shipping. Additional shipping charges are allowed but must be identified as part of the ordering process prior to purchase.

**8.1.2** Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

**8.2 Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. 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 will be shipped without charge.

**8.3 Inside Deliveries.** To the extent applicable, 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 a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

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

## IX. Inspection and Acceptance

**9.1 Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

**9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

**9.3 Inspection.** 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, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

**9.3.1** 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.

**9.3.2** 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.

**9.4 Failure to Conform.** 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.

**9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.

**9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

**9.5.2** If the Product does not meet the standard of performance or specifications 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.

**9.5.3** Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, 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.

**9.5.4** Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.

**9.5.5** No Product will be deemed Accepted and no charges will be paid until the



standard of performance or specification is met.

## X. Warranty

**10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.

**10.2 Warranty.** 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.

### Guarantee and Product Warranty.

If Purchasing Entity is not satisfied with a product for any reason, Contractor will promptly provide an exchange or refund if the product is returned within 30 days of date of invoice, with proof of purchase from Contractor.

LIMITED WARRANTY. ALL PRODUCTS SOLD ARE WARRANTED BY CONTRACTOR FOR USE IN GOVERNMENT.

CONTRACTOR WARRANTS PRODUCTS AGAINST DEFECTS IN MATERIALS AND WORKMANSHIP UNDER NORMAL USE FOR A PERIOD OF ONE (1) YEAR AFTER THE DATE OF INVOICE FROM CONTRACTOR, UNLESS OTHERWISE STATED. CONTRACTOR MAY, AT ITS OPTION: (i) REPAIR; (ii) REPLACE; OR (iii) REFUND THE AMOUNT PAID BY THE PURCHASING ENTITY. PURCHASING ENTITY MUST RETURN THE PRODUCT TO THE APPROPRIATE CONTRACTOR BRANCH OR AUTHORIZED SERVICE LOCATION, AS DESIGNATED BY CONTRACTOR, SHIPPING COSTS PREPAID. CONTRACTOR'S REPAIR, REPLACEMENT, OR REFUND OF AMOUNTS PAID BY CUSTOMER FOR THE PRODUCT, SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY.

WARRANTY DISCLAIMER AND LIMITATIONS OF LIABILITY. EXCEPT AS SET FORTH HEREIN AND WHERE APPLICABLE, CONTRACTOR DISCLAIMS ANY LIABILITY FOR CLAIMS ARISING OUT OF PRODUCT MISUSE, IMPROPER PRODUCT SELECTION, IMPROPER INSTALLATION, PRODUCT MODIFICATION, MISREPAIR OR MISAPPLICATION. CONTRACTOR EXPRESSLY DISCLAIMS ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES TO THE EXTENT PERMISSIBLE. CONTRACTOR'S LIABILITY IN ALL EVENTS IS LIMITED TO THE PURCHASE PRICE PAID FOR THE PRODUCT THAT GIVES RISE TO ANY LIABILITY.

Warranty Product Return. Before returning any product, Purchasing Entity may contact Contractor either by logging on to [granger.com/returns](http://granger.com/returns) or calling



Contractor's Customer Care at 1-800-GRAINER (472-4643). Proof of purchase is required in all cases.

- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, 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.
- 10.4 Rights Reserved.** 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.
- 10.5 Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

## XI. Product Title

- 11.1 Conveyance of Title.** 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.
- 11.2 Embedded Software.** Transfer of title to the Product must 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 will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 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. In all such instances, Contractor's ability to convey this license is limited by the terms of the license accompany the product purchased.

## XII. Indemnification

- 12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property to the extent arising from any negligent act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master





Agreement.

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

**12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

**12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates;

**12.2.1.2** specified by the Contractor to work with the Product;

**12.2.1.3** reasonably required 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

**12.2.1.4** reasonably expected to be used in combination with the Product.

**12.2.2** 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 the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

**12.2.3** 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 the Intellectual Property Claim 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.

**12.2.4** Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other



document executed in conjunction with this Master Agreement.

### XIII. Insurance

- 13.1 Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.
- 13.2 Class.** 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.
- 13.3 Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
- 13.3.1** Contractor shall maintain Commercial General Liability insurance 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 and \$2 million general aggregate;
  - 13.3.2** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.4 Notice of Cancellation.** 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.
- 13.5 Notice of Endorsement.** 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) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- 13.6 Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- 13.7 Furnishing of Certificates.** 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 will 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.

- 13.8 Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

#### **XIV. General Provisions**

##### **14.1 Records Administration and Audit**

- 14.1.1** 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 will 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 will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master 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.
- 14.1.2** 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.
- 14.1.3** The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

##### **14.2 Confidentiality, Non-Disclosure, and Injunctive Relief**

- 14.2.1 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.

**14.2.1.1** 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").

**14.2.1.2** 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.

**14.2.1.3** 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.

**14.2.2 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.

**14.2.2.1** 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.



- 14.2.2.2** 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.
- 14.2.2.3** 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.
- 14.2.2.4** 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.
- 14.2.3 Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary 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.
- 14.2.4 Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- 14.2.5 NASPO ValuePoint.** The rights granted to Purchasing Entities and **Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information**, including but not limited to Participating Addenda, 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 this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

**14.2.6 Public Information.** This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

### 14.3 Assignment/Subcontracts

**14.3.1** 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.

**14.3.2** The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

**14.3.3** The eContractor is permitted to make subcontract(s) with any other ~~party~~parties including suppliers, vendors, and service providers ("Other Party or Parties"), for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire contract whether or not ~~subcontractors~~Other Parties are used. The Lead State shall not be involved in the relationship between the ~~prime eContractor~~ and the ~~subcontractor~~Other Parties. Any issues that arise as a result of this relationship shall be resolved by the ~~prime eContractor~~. ~~All references to the contractor shall be construed to encompass both the contractor and any subcontractors of the contractor.~~

**14.4 Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall 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.

**14.5 Independent Contractor.** Contractor is an independent contractor. Contractor has 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 shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

**14.6 Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation



upon thirty (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 will 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.

**14.7 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 acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

#### **14.8 Defaults and Remedies**

**14.8.1** The occurrence of any of the following events will be an event of default under this Master Agreement:

**14.8.1.1** Nonperformance of contractual requirements;

**14.8.1.2** A material breach of any term or condition of this Master Agreement;

**14.8.1.3** 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;

**14.8.1.4** 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

**14.8.1.5** Any default specified in another section of this Master Agreement.

**14.8.2** 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 fifteen (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 will not diminish or eliminate Contractor's liability for damages, ~~including liquidated damages to the extent provided for under this Master Agreement.~~



- 14.8.3** 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:
- 14.8.3.1** Any remedy provided by law;
  - 14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof;
  - 14.8.3.3** ~~Assessment of liquidated damages as provided in this Master Agreement~~
  - 14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations;
  - 14.8.3.5** Suspension of Contractor's performance; and
  - 14.8.3.6** Withholding of payment until the default is remedied.
- 14.8.4** 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 an 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 will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.
- 14.9 Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. 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 will 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, any Participating Addendum, or any Purchase Order.
- 14.10 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 public procurement or contracting 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.

#### **14.11 No Waiver of Sovereign Immunity**

- 14.11.1** In no event will 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.
- 14.11.2** 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.

#### **14.12 Governing Law and Venue**

- 14.12.1** The procurement, evaluation, and award of the Master Agreement will 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 will 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 will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.
- 14.12.2** 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 state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will 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 will be in the Purchasing Entity's state.
- 14.12.3** 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.

- 14.13 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.
- 14.14 Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall, subject to Term of Purchase terms in Section 7.5. of this Master Agreement, continue to apply to all Participating Addenda and Orders until the expiration thereof.
- 14.15 Discrimination.** Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:
- 14.15.1** The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- 14.15.2** 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,



religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

- 14.15.3** The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative 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. 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.
- 14.15.4** The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 14.15.5** The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his 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.
- 14.15.6** 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 cancelled, 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 No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
- 14.15.7** The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 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 No. 11246 of September 24, 1965, as amended, 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 agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**14.16 Accessibility.** Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 504 of the



Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

## **XV. Protest**

Pursuant to KRS 45A.285, the Secretary of the Finance and Administration Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective offerors in connection with the solicitations or selection for award of a contract.

Any actual or prospective offeror or contractor, who is aggrieved in connection with solicitation or selection for award of a contract, may file a protest with the Secretary of the Finance and Administration Cabinet. A protest or notice of other controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing and shall be addressed and mailed to:

**Holly M. Johnson, Secretary  
COMMONWEALTH OF KENTUCKY  
FINANCE AND ADMINISTRATION CABINET  
200 MERO STREET, 5TH FLOOR  
FRANKFORT, KY 40622**

The Secretary of Finance and Administration Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Finance and Administration Cabinet shall be final and conclusive.



**Exhibit 1**  
**Description of Goods and/or Services, Prices, and Discount Percentages**

**SERVICES AND GOODS AVAILABLE UNDER THIS MASTER AGREEMENT**

Contractor has been awarded all products and services in the awarded categories below. Participating Entities/Purchasers can access the awarded items via the Contractors catalog link:

Products and Services are available to Authorized Purchasers \_\_\_\_\_.

Addition or Deletion of Items or Services. The Lead State reserves the right to add new and similar items, by issuing a contract modification, to this contract with the consent of the Contractor. Until such time as the Contractor receives a modification, the Contractor shall not accept delivery orders from any Participating Entity referencing such items or services.

**PERCENTAGE OFF PER CATEGORY AWARDED**

**Category:**                      **Percentage off all items in Category:**

**VALUE ADDED SERVICES (IF APPLICABLE)**

**RETURN POLICY**



## Exhibit 2 Environmentally Preferred Products

### 1.1 Description of Goods and/or Services, Prices and Discount Percentages or Environmentally Preferred Products (if applicable).

### 1.2 Terms and Conditions for Environmentally Preferred Products

#### Accurate Labeling of Environmentally Preferable Products (EPPs)

Offeror must certify in writing that all claims made about the environmental attributes of the products they are offering are consistent with the Federal Trade Commission's (FTC's) *Guidelines for the Use of Environmental Marketing Terms*. In addition, Offerors may be required to provide documentation, at the request of the Purchasing Entity that the products they are offering meet the Environmental Specifications for this contract.

Over the life of the Master Agreement if awarded, the Offeror must label the environmental attributes of all environmentally preferable products (EPPs) per the Environmental Specifications below in any catalogs, marketing materials, price lists, and online ordering portal associated with this contract. Upon request of the Purchasing Entity, the Offeror if awarded, must provide documentation that each EPP has the required third-party certification(s), minimum amount of recycled content, or other environmental attributes listed in the Environmental Specifications.

The Purchasing Entity reserves the right to require the Offeror if awarded, to remove any environmental claims that are false, vague, misleading or unsubstantiated in catalogs, price sheets, websites or other marketing materials that are provided to the Purchasing Entity under a Master Agreement or Participating Addendum, if awarded.

#### 1.2.2 EPP Sales Reports

The Purchasing Entity reserves the right to request from the Vendor quarterly sales data over the life of this contract. This information must include details about the environmental attributes of the EPPs sold on this contract consistent with the Environmental Specifications. To facilitate consistent reporting on this contract, the Vendor may be required to submit its sales report using the Purchasing Entity's Green Sales Report Template.

**Training.** Over the life of the contract, the Vendor at a minimum must offer educational/marketing materials and at least one training that can be accessed by contract users explaining its EPP labeling and reporting practices.

**Enforcement.** The Purchasing Entity may consider failure to comply with the Environmental Specifications for this contract as well as the EPP labeling, reporting, and training requirements described above to be grounds for termination of this contract.



### Exhibit 3 NASPO ValuePoint Detailed Sales Data Report Form

Field Name	Field Description
VENDOR	The awarded Contractor's name
VENDOR CONTRACT NUMBER	Lead State assigned contract number (using Lead State's numbering protocol)
STATE	State postal abbreviation code (Alaska = AK, Missouri = MO, etc.)
CUSTOMER TYPE (SEGMENT)	State Gov't, Education-K12, Education-HED, Local Gov't, Medical, Other - are acceptable segments. [determined by industrial practice for each contract - uniform for each contract]
BILL TO NAME	Customer (agency) Bill to name
BILL TO ADDRESS	Customer (agency) Bill to address
BILL TO CITY	Customer (agency) Bill to city
BILL TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
SHIP TO NAME	Customer (agency) Ship to name
SHIP TO ADDRESS	Customer (agency) Ship to address
SHIP TO CITY	Customer (agency) Ship to city
SHIP TO ZIPCODE	Zip code in standard 5-4 format [standard 5 digits is acceptable, formatted as a zip code]
ORDER NUMBER	Vendor assigned order number
CUSTOMER PO NUMBER	Customer provided Purchase Order Number
CUSTOMER NUMBER	Vendor assigned account number for the purchasing entity
ORDER TYPE	Sales order, Credit/Return, Upgrade/Downgrade, etc. [determined by industrial practice for each contract - uniform for each contract]
PO DATE (ORDER DATE)	(mm/dd/ccyy)
SHIP DATE	(mm/dd/ccyy)
INVOICE DATE	(mm/dd/ccyy)
INVOICE NUMBER	Vendor assigned Invoice Number
PRODUCT NUMBER	Product number of purchased product
PRODUCT DESCRIPTION	Product description of purchased product
UNSPSC	Commodity-level code based on UNSPSC code rules (8 Digits)
CATEGORY	Product Category
LIST PRICE/MSRP/CATALOG PRICE	List Price - US Currency (\$99999.999) [determined by industrial practice for each contract - uniform for each contract]
QUANTITY	Quantity Invoiced (99999.999)
TOTAL PRICE	Extended Price (unit price multiplied by the quantity invoiced) - US Currency (\$999999999.99)
VAR/Reseller/Distributor	If a VAR/Reseller/Distributor, name of VAR/Reseller/Distributor and state where located
Energy Star Compliant	Yes = 1 No = 2 Energy Star Does not Apply = 0
Optional	More information

**Request for Proposals for  
Facilities MRO and Industrial Supplies**



**Issued by the Commonwealth of Kentucky  
Solicitation Number RFP 758 2400000228**

VENDOR	CONTRACT NUMBER	VENDOR STATE	CUSTOMER TYPE	BILL TO NAME	BILL TO ADDRESS	BILL TO CITY	BILL TO ZIP/PCODE	SHIP TO NAME	SHIP TO ADDRESS	SHIP TO CITY	SHIP TO ZIP/PCODE	ORDER NUMBER	PO NUMBER	CUSTOMER NUMBER	ORDER TYPE	PO DATE (ORDER DATE)	SHIP DATE	INVOICE DATE	INVOICE NUMBER	PRODUCT NUMBER	PRODUCT DESCRIPTION	UNSPSC CATEGORY	LIST PRICE (NRP)	CATALOG PRICE	QUANTITY	TOTAL PRICE	VAN Reseller Distributor	Energy Star Compliant	Optional	





## Attachment 09 PROPOSED DEVIATIONS TO SAMPLE MASTER AGREEMENT

The Lead State may, but is not obligated to, consider proposed deviations to Attachment 04, Sample Master Agreement.

Provisions of the Sample Master Agreement that are generally inapplicable to, incompatible with, or unsuitable for the subject of this RFP should be brought to the attention of the Lead State using the process described in this RFP for asking questions and will be addressed only at the sole discretion of the Lead State.

Offeror-specific deviations to the Sample Master Agreement may be proposed as part of Offeror's proposal in this attachment but are strongly discouraged. The quantity, breadth, and nature of deviations proposed by Offeror may be considered in the Lead State's evaluation of Offeror's proposal and of its risks, costs, and benefits to the Lead State and potential Participating Entities and Purchasing Entities. Proposing excessive or overly restrictive deviations, or proposing deviations upon which Offeror's proposal is conditioned, may result in Offeror's proposal being deemed non-responsive.

### **Offeror's Proposed Deviations.** (Check one of the below.)

- Offeror has no proposed deviations to Attachment 04, Sample Master Agreement.
- Offeror proposes the deviations set forth in the table below and will submit with Offeror's proposal a redlined copy of Attachment 04, Sample Master Agreement incorporating each proposed deviation. Offeror understands, acknowledges, and agrees to comply with the following:
  - The Lead State will not consider any proposed deviation that:
    - Is not submitted in this attachment;
    - Is not accompanied by an explanation as required in this attachment;
    - Is not reflected in redlined edits to the Sample Master Agreement and submitted with Offeror's proposal;
    - Merely references another document or a URL; or
    - Modifies the NASPO ValuePoint administrative fee.
  - Offerors may propose additional terms but must include them in this attachment and must clearly identify where any terms conflict with the Sample Master Agreement.
  - If Offeror is awarded a Master Agreement resulting from this RFP, a comparison of Attachment 04, Sample Master Agreement and Offeror's accepted deviations thereto may be posted on the NASPO ValuePoint website for examination by potential Participating Entities and Purchasing Entities.



- Each of the following fields **must** be completed for each proposed deviation to the Sample Master Agreement:
  - **Sample Master Agreement Section Reference:** The page, section, or paragraph in the Sample Master Agreement that is the subject of Offeror’s proposed deviation.
  - **Sample Master Agreement Language:** The language in the Sample Master Agreement that the Offeror is proposing to modify.
  - **Proposed Changes and Alternate Language:** The Offeror’s proposed changes to the Sample Master Agreement language including, if applicable, Offeror’s proposed alternate language.
  - **Justification for Proposed Change:** Offeror’s justification for the proposed change.
  - **Risk and Benefits of Acceptance:** Offeror’s analysis of the risk and benefits to the Lead State, Participating Entities, or Purchasing Entities—including quantifiable costs or cost savings—if Offeror’s proposed change is accepted by the Lead State.

Sample Master Agreement Section Reference	Sample Master Agreement Language	Proposed Changes and Alternate Language	Justification for Proposed Change	Risk and Benefits of Acceptance
5.2.1., NASPO ValuePoint Fee	“The NASPO ValuePoint Administrative Fee must 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 must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less <u>returns, credits,</u> any charges for taxes or shipping).”	Changes incorporate Master Agreement #8496 current Admin Fee calculation and payment practices.	Risk: None, as there is no impact to the Admin Fee percentage paid.  Benefits: Clarifies and standardizes Contractor Admin Fee calculation with current contract payment practices without impacting substantive Admin Fee terms.
5.3.1., Sales Data Reporting	“NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise	“NASPO ValuePoint, <u>subject to Section 14.2.2, Non-Disclosure terms and conditions,</u> shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty	Changes clarify NASPO ValuePoint’s commitment to comply with terms presented in Section 14.2.2.	Risk: None.  Benefits: Changes balance application of Non-Disclosure requirements and confidential information mandate to the benefit of all parties.

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	use reports, data, and information provided under this section.”	free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.”		
5.3.4., Sales Data Crosswalks (last two sentence)	“... Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor’s customer lists and product catalog change.”	“... Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor’s customer lists and product catalog <u>and aligned product category(ies)</u> change. <u>In all such instances, catalog product and product category alignment rests solely with Contractor.</u> ”	Changes clarify roles and responsibilities for Contractor catalog product management (adding new product, removing product no longer available) and product category alignment with Contractor’s catalog offering.	Risk: None.  Benefit: Removes potential ambiguity regarding additions and deletions of product to Contractor’s catalog offering and discloses Contractor’s ability to adjust product category alignment, often to improve online customer experience.
6.1., Pricing.	“Pricing. The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.”	“Pricing. The <u>pricesdiscount percentages</u> contained in this Master Agreement or offered under this Master Agreement represent the <u>not-to-exceed priceminimum discount</u> to any Purchasing Entity.”	The State’s response to Q&A in Amendment 1, provided the language used to modify this section.	Risk: None.  Benefit: Benefit: Clarifies guidance specific to dynamic contract pricing and static (fixed/firm) discounts applied.
6.1.1., Pricing.	“All prices and rates must be guaranteed for the term of the Master Agreement.”	“All <u>prices-and-rates discount percentages</u> must be guaranteed for the term of the Master Agreement.”	The State’s response to Q&A in Amendment 1, provided the language used to modify this section.	Risk: None.  Benefit: Clarifies guidance specific to dynamic contract pricing and static (fixed/firm) discounts applied.
6.1.3., Pricing.	“Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement	“ <u>Requests for a price or rate adjustment must include sufficient documentation supporting the request.</u> Any adjustment or amendment to the Master Agreement	The State’s response to Q&A provided the following clarifying guidance specific to price and/or discount term adjustments.  “List Price may change throughout	Risk: None.  Benefit: Clarifies guidance specific to the dynamic nature of contract pricing and fixed/firm application of contract discounts.

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	will not be effective unless approved in writing by the Lead State.”	<u>that impacts contract pricing or discount terms</u> will not be effective unless approved in writing by the Lead State <u>and Contractor.</u> ”	the contract term but the discount percentage is firm for the contract period.” And, “The discount percentage is firm for the contract term, no other pricing is expected to be held firm.”	
7.8. 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.”	“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. <u>In all instances where additional federal requirements apply, Contractor will be provided advanced notice and the opportunity to assess whether Contractor can comply</u> ”	Contractor requests advanced notice if additional federal requirements are applied to any contract purchase to ensure Contractor can comply.	Risk: None.  Benefit: By providing notice of additional requirement and by obtaining Contractor’s affirmation of compliance, both Purchasing Entities and Contractor benefit.
8.1., Shipping Terms	“All deliveries, except as noted below, will be F.O.B. destination, freight	“All deliveries, except as noted below <u>or as otherwise agreed to</u>	Modifications retain current sample contract terms while providing Contractor	

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	pre-paid, with all transportation and handling charges paid by the Contractor.”	<u>in writing by the parties, will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Standard ground freight shipments are paid by Contractor on all Catalog Products orders to Participating Entity's place of business within the contiguous United States.</u>	and Participating Entities the option to adjust shipping and delivery terms, should the facts specific to an opportunity require.	
8.1.1., Shipping Terms	“Additional shipping charges for oversized or overweight items that require special shipping are allowed but must be identified as part of the ordering process.”	“Additional shipping charges <u>imposed by the freight carrier related to the shipment shall be paid by Participating Entity, unless otherwise agreed to in writing by Contractor for oversized or overweight items that require special shipping. Additional shipping charges</u> are allowed but must be identified as part of the ordering process <u>prior to purchase.</u> ”	Changes made to terms ensure transparency with respect to additional freight charges and refines terms based on current carrier business practices. Additional freight charges assessed by the carrier for HAZMAT, Oversized or Special Handling, will be provided to the Participating Entity buyer prior to purchase.	Risk: None.  Benefit: Clarifies for all parties what type of shipping charges apply to what type of product shipped and requirement to inform Purchasing Entities of charges prior to purchase.
10.2., Warranty	No change to Sample Master Agreement language.	Proposed additional language.  <u>Guarantee and Product Warranty.</u>  <u>If Purchasing Entity is not satisfied with a product for any reason, Contractor will promptly provide an exchange or refund if the product is returned within 30 days of date of invoice, with proof of purchase from Contractor.</u>	Additional language added to existing Warranty terms clarify roles and responsibilities associated with warranty matters.	Risk: None.  Benefit: Additional information provided complements existing warranty terms while providing Purchasing Entities additional insight in warranty specific roles and responsibilities as well as process to employ should a warranty related matter arise.

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LIMITED WARRANTY ALL PRODUCTS SOLD ARE WARRANTED BY CONTRACTOR FOR USE IN GOVERNMENT. CONTRACTOR WARRANTS PRODUCTS AGAINST DEFECTS IN MATERIALS AND WORKMANSHIP UNDER NORMAL USE FOR A PERIOD OF ONE (1) YEAR AFTER THE DATE OF INVOICE FROM CONTRACTOR, UNLESS OTHERWISE STATED. CONTRACTOR MAY, AT ITS OPTION:  
(i) REPAIR;  
(ii) REPLACE; OR  
(iii) REFUND THE AMOUNT PAID BY THE PURCHASING ENTITY. PURCHASING ENTITY MUST RETURN THE PRODUCT TO THE APPROPRIATE CONTRACTOR BRANCH OR AUTHORIZED SERVICE LOCATION, AS DESIGNATED BY CONTRACTOR, SHIPPING COSTS PREPAID. CONTRACTOR'S REPAIR, REPLACEMENT, OR REFUND OF AMOUNTS PAID BY CUSTOMER FOR

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THE PRODUCT, SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY. WARRANTY DISCLAIMER AND LIMITATIONS OF LIABILITY. EXCEPT AS SET FORTH HEREIN AND WHERE APPLICABLE, CONTRACTOR DISCLAIMS ANY LIABILITY FOR CLAIMS ARISING OUT OF PRODUCT MISUSE, IMPROPER PRODUCT SELECTION, IMPROPER INSTALLATION, PRODUCT MODIFICATION, MISREPAIR OR MISAPPLICATION. CONTRACTOR EXPRESSLY DISCLAIMS ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES TO THE EXTENT PERMISSIBLE. CONTRACTOR'S LIABILITY IN ALL EVENTS IS LIMITED TO THE PURCHASE PRICE PAID FOR THE PRODUCT THAT GIVES RISE TO ANY LIABILITY.

Warranty Product Return. Before returning any

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		<p><u>product, Purchasing Entity may contact Contractor either by logging on to <a href="http://grainger.com/returns">grainger.com/returns</a> or calling Contractor's Customer Care at 1-800-GRAINGER (472-4643). Proof of purchase is required in all cases.</u></p>		
11.3., License of Pre-Existing Intellectual Property	<p>“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.”</p>	<p>“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. <u>In all such instances, Contractor's ability to convey this license is limited by the terms of the license accompany the product purchased</u>”</p>	<p>Changes to terms reflect limitations associated with purchasing pre-existing intellectual property captioned as commercial off the shelf product. Contractor is not positioned to expand the scope of license included in standalone and/or imbedded product.</p>	<p>Risk: None.</p> <p>Benefit: Clarifies scope of license to pre-existing intellectual property Contractor can convey to Purchasing Entities.</p>
12.1., General Indemnification	<p>“The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead</p>	<p>“The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead</p>	<p>Grainger acknowledges and accepts its indemnity responsibilities to the extent third party</p>	<p>Risk: None.</p> <p>Benefit: Clarifies indemnity roles and responsibilities</p>



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	<p>State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement."</p>	<p>State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property <u>to the extent</u> arising from any <u>negligent</u> act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement."</p>	<p>claims are the result of Grainger, its employees, etc., negligence.</p>	<p>applicable to Grainger and Grainger aligned employees, vendors, etc.</p>
<p>14.3.3., Assignments / Subcontracts</p>	<p>"The contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire contract whether or not subcontractors are used. The Lead State shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor. All references to the contractor shall be construed to</p>	<p>"The <u>e</u>Contractor is permitted to make subcontract(s) with any other parties <u>including suppliers, vendors, and service providers ("Other Party or Parties")</u>, for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire contract whether or not <u>subcontractors-Other Parties</u> are used. The Lead State shall not be involved in the relationship between the <u>prime e</u>Contractor and the <u>subcontractorOther Parties</u>. Any issues that arise as a result of this relationship shall be resolved by</p>	<p>Changes clarify Contractor responsibilities when entering subcontracts with suppliers, vendors, service providers, etc. for performance of work or services under the terms of this Master Agreement.</p>	<p>Risk: None.  Benefits: All parties to this agreement will benefit from clarifications and additional specificity made to this section when the Master Agreement is operationalized.</p>

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	encompass both the contractor and any subcontractors of the contractor.”	the <del>prime contractor.</del> -All references to the contractor shall be construed to encompass both the contractor and any subcontractors of the contractor.”		
14.8.2., Defaults and Remedies	“...Time allowed for cure will not diminish or eliminate Contractor’s liability for damages, including liquidated damages to the extent provided for under this Master Agreement.”	“...Time allowed for cure will not diminish or eliminate Contractor’s liability for damages, <del>including liquidated damages to the extent provided for under this Master Agreement.</del> ”	Reference to liquidated damages removed as liquidated damages and the extent applicable are not defined in the Master Agreement.	Risk: None.  Benefit: All parties will benefit from the removal of a terms not applicable to the scope of this contract.
14.8.3.3., Defaults and Remedies	“Assessment of liquidated damages as provided in this Master Agreement;”	“ <del>Assessment of liquidated damages as provided in this Master Agreement;</del> ”	Reference to liquidated damages removed as liquidated damages and the extent applicable are not defined in the Master Agreement.	Risk: None.  Benefit: All parties will benefit from the removal of a terms not applicable to the scope of this contract.
14.14., Survivability	“Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.”	“Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall, <u>subject to Term of Purchase terms in Section 7.5. of this Master Agreement,</u> continue to apply to all	Changes clarify Survivability terms and align these terms with Term of Purchase terms in Section 7.5 of this Master Agreement.	Risk: None.  Benefit: Alignment of terms specific to post termination activity under these Master Agreement terms adds value and clarity to Purchasing Entity contract activity and Contractor contract performance.

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		Participating Addenda and Orders until the expiration thereof."		
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[Add additional rows as needed.]



## Attachment 10 CLAIM OF BUSINESS CONFIDENTIALITY

**Offeror's Claims of Business Confidentiality.** (Check one of the below.)

- Offeror is not claiming any information within Offeror's proposal as confidential, proprietary, or protected. (Check box and skip to **Signature** section below.)
- Offeror claims the information set forth in the table below as confidential, proprietary, or protected and **will submit with Offeror's proposal a redacted copy of Offeror's proposal**, which must be clearly marked as such. Offeror understands, acknowledges, and agrees to comply with the following:
- Each of the following fields **must** be completed for each claim asserted by Offeror:
    - **Proposal Section Reference:** The page, section, or paragraph in Offeror's proposal containing the information claimed to be confidential, proprietary, or protected.
    - **Confidential Information:** A description of the information claimed to be confidential, proprietary, or protected.
    - **Basis for Claim:** The basis for Offeror's claim shall reference the [Kentucky Open Records Act, KRS 61.878](#)
    - **Explanation:** Explanation of how the information claimed to be confidential, proprietary, or protected meets the definition of one of the bases above.
  - **Offeror may not mark pricing or Offeror's entire proposal as confidential, proprietary, or protected.**

Proposal Section Reference	Confidential Information	Basis for Claim	Explanation
Attachment 07  Executive Summary	Pages 2-4.  P.2. Unnumbered Sections 2-4. All Sub Sections.  P.3. All Narrative  P.4. Unnumbered Section 1-2., as Redacted.	Kentucky Open Records Act, KRS 61.878(1)(c)1.  Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	KRS 61.878(1)(c)1.  Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.  KRS 365.880(4).

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			<p>"Trade secret" means information, including a formula, pattern, compilation, program, data, device, method, technique, or process, that:</p> <p>(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and</p> <p>(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.</p>
Attachment 07 Section III. Subsection A.	<p>Pages 6-15.</p> <p>P.6. Unnumbered Sections 2-4. All Sub Sections.</p> <p>P.7. All Narrative.</p> <p>Pages 8-14. All Graphics and Narrative.</p>	<p>Kentucky Open Records Act, KRS 61.878(1)(c)1.</p> <p>Kentucky Uniform Trade Secrets Act, KRS 365.880(4).</p>	<p>KRS 61.878(1)(c)1.</p> <p>KRS 365.880(4).</p>
Attachment 07 Section III. Subsection B.	<p>Pages 15-18.</p> <p>P.15. Section 1., Unnumbered Sub Sections 1-2, as redacted.</p> <p>P.16. Section 4., Unnumbered Sub Section 1.</p> <p>P.16-18. Section 5., All Unnumbered Sub Sections.</p>	<p>Kentucky Open Records Act, KRS 61.878(1)(c)1.</p> <p>Kentucky Uniform Trade Secrets Act, KRS 365.880(4).</p>	<p>KRS 61.878(1)(c)1.</p> <p>KRS 365.880(4).</p>
Attachment 07 Section III. Subsection C.	<p>Pages 18-26.</p> <p>P.18-22. Sections 1-5, Except for the Second Bullet Under Section 5., and All Graphics.</p> <p>P.22-26. Sections 6-8, Except for the first line in Section 8., and All Graphics.</p>	<p>Kentucky Open Records Act, KRS 61.878(1)(c)1.</p> <p>Kentucky Uniform Trade Secrets Act, KRS 365.880(4).</p>	<p>KRS 61.878(1)(c)1.</p> <p>KRS 365.880(4).</p>
Attachment 07 Section III. Subsection D.	<p>Pages 26-29.</p> <p>P.26-29. Sections 1-3.</p>	<p>Kentucky Open Records Act, KRS 61.878(1)(c)1.</p>	<p>KRS 61.878(1)(c)1.</p> <p>KRS 365.880(4).</p>

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		Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	
Attachment 07 Section III. Subsection E.	Pages 29-32. P.29-32. All Unnumbered Sections and Sub Sections, and All Graphics.	Kentucky Open Records Act, KRS 61.878(1)(c)1.  Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	KRS 61.878(1)(c)1.  KRS 365.880(4).
Attachment 07 Section III. Subsection F.	Pages 33-37. P.33-37. All Unnumbered Sections and Sub Sections, All Numbered Sections Except for the First Sub Section Under Numbered Sections 1. and 4., and All Graphics.	Kentucky Open Records Act, KRS 61.878(1)(c)1.  Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	KRS 61.878(1)(c)1.  KRS 365.880(4).
Attachment 07 Section III. Subsection G.	Pages 37-39. P.37-39. All Unnumbered Sections and All Graphics.	Kentucky Open Records Act, KRS 61.878(1)(c)1.  Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	KRS 61.878(1)(c)1.  KRS 365.880(4).
Attachment 07 Section III. Subsection H.	Pages 40-48. P.40-48. All Numbered and Unnumbered Sections and Sub Sections Except for the First Sentence Under Numbered Sections 3. and 4.	Kentucky Open Records Act, KRS 61.878(1)(c)1.  Kentucky Uniform Trade Secrets Act, KRS 365.880(4).	KRS 61.878(1)(c)1.  KRS 365.880(4).

[Add additional rows as needed.]

**Signature**

By signing below, the undersigned certifies under penalty of perjury that the representations made and the information provided herein are true and correct and may be relied upon by the Lead State for purposes of determining the validity of Offeror’s claim(s). Offeror understands that submission of a Claim of Business Confidentiality does not guarantee that information claimed by Offeror as confidential, proprietary, or protected will not be subject to disclosure in accordance with applicable public information laws, rules, and policies. Offeror further agrees that if Offeror fails to submit a redacted copy of Offeror’s proposal, or fails to claim information as confidential, proprietary, or protected in compliance with this RFP, Offeror releases the Lead State, NASPO, NASPO members, and entities represented on the Multistate Sourcing Team from any obligation to keep the information confidential and waives all claims of liability arising from disclosure of the information.

**OFFEROR:**

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*Christopher Carroll*

**Signature**

042924

**Date**

Christopher Carroll

**Printed Name**

National Government Sales Manager

**Title**

christopher.carroll@grainger.com

**Email Address**

706-424-1743

**Phone Number**

**AMENDMENT #1 DATE: April 4, 2024**

**BIDDER SHALL CONFORM TO THE FOLLOWING CHANGES AS SAME SHALL BECOME BINDING UPON THE CONTRACT TO BE ISSUED IN RESPONSE TO THIS SOLICITATION.**

**PLEASE NOTE: TO POST RESPONSE TO VENDOR'S QUESTIONS.  
THE FOLLOWING ATTACHMENTS HAVE UPDATES APPLIED (IN RED:)**

**ATTACHMENT 00- RFP OVERVIEW**

**ATTACHMENT 03- RFP EVALUATION PLAN**

**ATTACHMENT 04- SAMPLE MASTER AGREEMENT**

**ATTACHMENT 07- OFFEROR RESPONSE WORKSHEET**

**MRO\_8-1 MARKET BASKET**

*Grainger acknowledges receipt of Amendment #1.*



**ADDITIONAL STATES HAVE BEEN ADDED TO THE ITP ATTACHMENT AND THIS HAS BEEN UPDATED TO:**

**ALL ITP'S 4-4-24**

**THERE ARE NO OTHER CHANGES.**

RFP Section/ Requirement #	Document	Document Page #	Offeror Questions	Lead State Response
Attachment 03	RFP Evaluation Plan	Page 1	Will there be a scoring rubric or matrix for assessing the technical aspects of the proposals?	Attachment 3 outlines the method that will be utilized for scoring purposes.



Attachment 03	RFP Evaluation Plan	Page 1	Are there any specific qualifications or experience requirements that proposals must meet to receive favorable evaluation scores?	Attachment 7-Response worksheet outlines in Section 3B-Response to Technical Criteria-Company Information.
Attachment 03	RFP Evaluation Plan	Page 1	For each category, how will the offerors be evaluated on their ability to support the depth and breadth of products needed for MRO end users?	Attachment 7-Response worksheet outlines in Section 3A-Response Technical Criteria-Description of Products.
Attachment 08	COST PROPOSAL	Page 2	What qualifies as "Offeror's eCommerce Market? Does this need to be publicly accessible?	<ol style="list-style-type: none"> <li>1. eCommerce Market is defined as the means a method of buying and selling goods and services online.</li> <li>2. The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.</li> </ol>
Attachment 08	COST PROPOSAL	Page 2	Does this List Price need to be publicly verifiable?  For example on a public website?	The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.
Attachment 08	COST PROPOSAL	Page 2	Regarding this statement: <i>"This includes a validation of list price proposed vs the list price on the Offeror's eCommerce</i>	The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.

			<i>Market.</i> How will the evaluator know which eCommerce Market List Price is being proposed if the Offeror has multiple eCommerce Markets or Lists?	
Attachment 08	COST PROPOSAL	Page 1	Is "80% of the items" measured by number lines? Will this be rounded up or down? For example, 9.6 is 80% of 12, so Offeror is expected to complete 10 lines?	Yes, we will round up.
Attachment 08	COST PROPOSAL	Page 1	Does completing the "Or Equivalent" for an item count as a complete item response? Will the "equivalent" items be considered towards the 80% required response rate?	Yes, and Yes
Attachment 08	COST PROPOSAL		Attachment 8-1 Market Basket, the document references Discount Percentage Off from Attachment 9-1	This has been updated to reflect the correct reference Attachment 8.

Attachment 03	RFP Evaluation	2	Can the state provide additional details as to how the Market Basket will be scored? The value of the Market Basket is listed at 300 points. Are points awarded based on tab or as an overall total?	No other information is public for how the Market Basket will be scored.  Points are evaluated per each area identified in Attachment 03-Evaluation Plan-Under Stage 3 - Market Basket Cost Evaluation.
Attachment 03	RFP Evaluation	2	What impact will the category discounts have the Market Basket Point values?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	Will scores have a weighted impact based on how many exacts are bid versus alternates?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	How will the state evaluate items where the respondent provides both an exact and an alternative item?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	Does attachment 8 have any bearing on the score for the evaluation?	See attachment 03 Evaluation Plan.
Attachment 07	Offeror Response Worksheet	1	Section II.D asks that we “describe our ability to fulfill Contractor Responsibilities and Tasks identified in the	The following text has been removed from Attachment 07.  II. RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES

			<p>Description of Products and EPP, Attachment 02.”</p> <p>There does not appear to be a list of responsibilities and tasks identified in that attachment; please clarify what items should be responded to/what are the task and responsibilities required?</p>	<p><b>A.</b> Attachment 2, Categories of Products and EPP. Offeror must complete the attachment.</p> <p><del><b>B.</b> Describe Offeror's plan for providing the Products and EPP (if applicable) identified in Attachment 02.</del></p> <p><del><b>C.</b> Provide evidence of Offeror's ability to provide the Products and EPP (if applicable) identified in Attachment 02.</del></p> <p><del><b>D.</b> Describe Offeror's ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP, Attachment 02.</del></p>
MRO_8-1	Market Basket	Instructions Tab	<p>Instructions tab Line 9 as well as Columns K &amp; X reference an "Attachment 9-1" that was not provided. Is it the intent to reference Attachment 08/Section IV?</p>	Yes.
MRO_8-1	Market Basket	9-Hand Tools Tab	<p>Item #11 identifies a product from Victory Innovations Co. This company has ceased operations. Will this line be updated with a new part or removed from the RFQ?</p>	Please provide an alternate equal item.
MRO_8-1	Market Basket	10-Power Tools Tab	<p>Item #11 has been discontinued by the manufacturer and</p>	Please provide an alternate equal item.

			replaced with item 2967-20. Will this item be updated to reflect the Manufacturer recommended replacement part or removed from the market basket?	
MRO_8-1	Market Basket	1-Janitorial and 14-Safety Tabs	Item #6 on the Janitorial Tab and Item #10 on the Safety tab are both loose granular absorbents. Would the state consider removing the item from the Janitorial tab as it is not generally considered a janitorial product?	No
MRO_8-1	Market Basket	8-HVAC Tab	Items #6 & #8 are a distributor specific brand that would only be available to that one distributor. These items are also the two most expensive items within the tab. Could these items be removed and replaced with a national brand part that are more widely accessible or replaced with items that are closer in value to the rest of the	Please provide an alternate equal item.

			line items within the category?	
MRO_8-1	Market Basket	2-Fasteners Tab	Item #4 is an abrasive cutting wheel. List pricing for abrasive wheels are set differently than any fastener item. In the industrial market this item would typically fall within the category of abrasives. Would the state consider removing this item from the market basket?	No
MRO_8-1	Market Basket	2-Fasteners and 11-Electrical Tab	Item #8 on the Fastener Tab and Item #2 on the Electrical Tab are both conduit fittings. Would the state consider removing the item from the Fastener tab as it is not generally considered a fastener product and would be more aligned as an electrical product?	No
MRO_8-1	Market Basket	5-Power Sources Tab	Items #5, #6, #7 are extension cords/power strips that are commonly categorized as electrical products. Would the state consider moving these items to the 11-Electrical	No

			tab for discount alignment?	
Attachment 04 Section 5.5.6	Sample Master Agreement	8	<p>The Master Agreement, section 5.5.6, states that contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.</p> <p>Can these terms be provided to offeror, and can offerors be afforded a question and answer opportunity regarding the terms and opportunity to suggest modified master agreement language at a date later than defined in the RFP?</p>	The eMarketPlace's Terms of Use will be made available at a later date. Users will have an opportunity to review the Terms of Use at that time to confirm their ability to comply.
Attachment 04 Section 5.5.7	Sample Master Agreement	9	The master agreement, section 5.5.7, states the contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace.	"Security" refers to payment transactions, which at this time will not be supported by or completed through the eMarketPlace platform.

			How can a contractor be responsible for the security of transactions facilitated through NVP's eMarketPlace if it neither owns nor manages the platform?	
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	<p>A key challenge of the eMarketplace will be operationalizing a single punchout across all Participating Entities, each of which may have varied and separate scope and pricing.</p> <p>May a contractor elect not to participate in the NVP eMarketplace given the contractor's inability to manage pricing and substantial compliance responsibilities effectively through the single eProcurement portal?</p>	Participation in the NASPO ValuePoint eMarketPlace by Offerors awarded a Master Agreement resulting from this RFP is mandatory. Punchout setup capabilities in the eMarketPlace will provide a means to address situations such as the need to have "varied and separate scope and pricing".-
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	Will contractors selling products on the eMarketPlace who fulfill via third party vendors who have no contractual	The setup for a Contractor to sell products on the eMarketPlace will not have any restrictions on their use of "third party vendors" for fulfillment, including situations where a Contractor may utilize a third party to provide their punchout or



			relationship with NASPO ValuePoint/Participating Entities be permitted to sell their products on the eMarketPlace?	catalog. However, third party vendors will not be allowed to offer products that are not covered by the Contractors' Master Agreement. As with fulfillment of products and services, the Contractor will be responsible for the compliance of third party partners and subcontractors with the Master Agreement's eMarketPlace terms.
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	Will the eMarketPlace embrace dynamic pricing by Contractors/Awardees on the eMarketPlace? If so, how does NASPO ValuePoint define dynamic pricing and how will Participating Entities audit such transactions?	The eMarketPlace will have both catalog and punchout options to support dynamic pricing situations which will be reviewed at the time of the Contractor's enablement in the eMarketPlace.
Attachment 1 Section D	RFP Terms and Conditions	5, 6	This section defines that the Cost Proposal's structure and format as intending to allow for a fair evaluation of like costs among offerors. Attachment 8, Cost Proposal, present a similar statement that the purpose of MRO 8-1 Excel Market Basket is intended for an evaluation of like costs among offerors.  Can the Lead State clarify that its analysis of the	Attachment 8-1 is a price evaluation tool. There is no expectation of maintaining the market basket pricing.

			Market Basket, MRO 8-1 Excel document is a price evaluation tool and how long is the period of time the market basket pricing must be maintained?	
Attachment Excel – MRO 8-1 Market Basket  Tab 1 Instructions Attachment 8 Overview	Market Basket  Cost Proposal	Tab 1  Page 1	<p>The Instructions tab states “REQUIREMENT: Tab's 1-14 Proposers shall submit pricing on all line items listed for each category”.</p> <p>Cost Proposal Attachment 8, II. Proposed Costs, states “Offerors must respond to 80% of the items in each category to be considered for that category. Offerors failing to respond to 80% of the items will be deemed non-responsive.”</p> <p>Can the Lead State clarify that an offeror must submit pricing for all items on the price worksheet, as noted in the Tab 1 of MRO 8-1 Instructions, and that the 80% threshold to</p>	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.

			be eligible for price evaluation relates to items that deviate from products noted on the price worksheet and will not be applied to the market basket calculation?	
Attachment 03 Stage 3: Market Basket Cost Evaluation	RFP Evaluation Plan	2	Will the Lead State consider market basket offers that include both an exact match and a lower cost functional alternative on the same line item? If so, which will the Lead State use for market basket cost proposal evaluation?	No
Attachment Excel - MRO_8-1 Market Basket	Market Basket	All tabs	Do offerors providing 100%, or a higher percentage of category lines than other offerors receive a higher point or evaluation score value than those that do not?	No
Attachment Excel -	Market Basket	All tabs	Will offerors quoting exact matches receive a higher	No

MRO_8-1 Market Basket			point or evaluation score value than those that do not?	
Attachment Excel - MRO_8-1 Market Basket  Attachment 03 Stage 3: Market Basket Cost Evaluation	Market Basket  RFP Evaluation Plan	All tabs  2	Will the Lead State verify the credibility of an offeror's proposed item by examining its website or catalog to determine whether the product can be searched by manufacturer part number to confirm it is the product requested or a functional equivalent, that it is available for purchase, presents a current price, that delivery is provided and can be placed in the order cart so a purchase can be transacted?	No other information is available.
Attachment Excel - MRO_8-1 Market Basket	Market Basket	All tabs	Will the Green EPP items referenced in Excel MRO Attachment 8-1 Market Basket be evaluated separately or differently than non-EPP items in the market basket?	Green EPP will be evaluated separately. See Attachment 08-Overview for updates.

Attachment 03 Stage 3: Market Basket Cost Evaluation	RFP Evaluation Plan	2	How will an offeror's product availability, inventory and delivery competence be factored into the market basket evaluation?	Please refer and review Attachment 03 Evaluation plan for scoring criteria.
Attachment 3	RFP Evaluation Plan	2	Is it correct that the Lead State will make a separate award for each of the 15 Categories enumerated on Excel MRO 8-1 Market Basket?	Yes, the Lead State will be awarding by category. See Attachment 00 for updates.
Attachment 3	RFP Evaluation Plan	2	Is there a minimum number of points required for a Category award?	The technical score can not be less than 50% per Attachment 03-Evaluation Plan
Attachment 3	RFP Evaluation Plan	2	What is the criteria to determine how each offeror's Cost Proposal for each Category be ranked among all proposals?	See Attachment 3-Evaluation Plan and no other information is available at this time.
Attachment 3	RFP Evaluation Plan	1, 2	What is the criteria to determine the combined overall ranking of each offeror, Technical Criteria and Market Basket across all Categories?	See Attachment 3-Evaluation Plan and no other information is available at this time.
Attachment 8 Section IV	Cost Proposal	2,3	On Attachment 08 Cost Proposal, IV, Percentage Off List Per Category,	Confirmed. The correct reference is Attachment 07, III, H. This has been updated.

			<p>offerors are to provide a minimum percentage off List Price of Offeror's eCommerce Market. The Value Add Services table references providing a rate for a particular service and references Attachment 07, III, F, yet that section references the Implementation Plan. It appears that the correct section to be referenced is Attachment 07, III, H.</p> <p>Can the Lead State clarify that the correct reference in Attachment 08, Cost Proposal, Percentage Off List Price, Value Add Services is Attachment 07, III, H?</p>	
Attachment 4 Section IV Subsection 4.1	Sample Master Agreement	3	<p>States that Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.</p> <p>Can the Lead State clarify that Contractors may</p>	<p>Part 1. That is correct</p> <p>Part 2 All Participating Entities must execute a Participating Addendum with a Contractor prior to ordering products or services from that Contractor. While a model Participating Addendum is made available by NASPO as an example, the format and content of each Participating Addendum establishing a contractual relationship between the Participating Entity and Contractor will be</p>

			require all NASPO ValuePoint Participating Entities to complete a Contractor specific registration form with information needed to establish a contract business relationship specific to NASPO affiliation?	determined by the Participating Entity and Contractor.
Attachment 00 Section I Introduction	RFP Overview	1	<p>About NASPO ValuePoint, states that participants in NASPO ValuePoint Master Agreement are informed that no membership or registration is required.</p> <p>Can the Lead State clarify that Contractors may require all NASPO ValuePoint Participating Entities to complete a Contractor specific registration form with information needed to establish a contract business relationship specific to NASPO affiliation?</p>	All Participating Entities must execute a Participating Addendum with a Contractor prior to ordering products or services from that Contractor. While a model Participating Addendum is made available by NASPO as an example, the format and content of each Participating Addendum establishing a contractual relationship between the Participating Entity and Contractor will be determined by the Participating Entity and Contractor.
Attachment 4 Section V	Sample Master Agreement	6	Attachment 04 – Sample Master Agreement, Section V., NASPO	NASPO will protect Contractor information identified by the Lead State as confidential, proprietary, and/or trade secret in the same

Subsection 5.3.1			<p>ValuePoint Provisions, Subsection 5.3.1, Sales Data Reporting, Contractors are required to convey to NASPO ValuePoint, a non-government entity, exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.</p> <p>Can the Lead State please clarify how NASPO ValuePoint will protect Contractor information marked by Contractor as confidential, proprietary and/or trade secret protected from release to third party requestors?</p>	manner as it protects its own confidential information.
Attachment	Market Basket	Instruction tab	Attachment 8-1 Market Basket allows offerors to present varied UOMs for an exact match product.	Submit equivalent alternate item for review.



MRO 8-1 Market Basket			<p>In certain instances, a particular product has various unit of measures "UOM", but is otherwise an exact match in manufacturer, specification and part number.</p> <p>In these scenarios can the Lead State clarify if these items will be considered an exact match or functional equivalent product?</p>	
Attachment 08	Cost Proposal	Page 2, Item IV	<p>The language in Attachment 08, Page 2, Item IV. does not quite align to the definition of List Price in Attachment 01, Item J.</p> <p>Attachment 08, Page 2, Item IV reads:</p> <p>Offerors shall provide their minimum percentage off List Price of Offeror's eCommerce Market.</p>	No changes are required.

			<p>Attachment 01, Item J. reads:</p> <p>List Price means the basic price of an item as published in an eCommerce Market, price list, or advertisement before any discounts are taken.</p> <p>Should Attachment 08 be updated to reflect the same options as defined for List Price in Attachment 01?</p>	
Section 6.1.1	Sample MPA	11	Are Prices and Rates both expected to be held firm for the term of the Master Agreement? Or just Rates?	The discount percentage is firm for the contract term.
Section 6.1.1	Sample MPA	11	In the scenario of a bidder responding with a discount from list price on a defined price list - we understand that discount rates cannot change, but when and how often can the bidder update list price to in turn update net sale price?	List Price may change throughout the contract term but the discount percentage is firm for the contract period.

Section 6.1.1	Sample MPA	11	In the scenario of a bidder responding with a discount off of their eCommerce Market website's regular price, which can change frequently, will the net sell price be allowed to update at the same time as the regular price to stay in compliance with any proposed discount?	The discount percentage is firm for the contract term, no other pricing is expected to be held firm.
Section 6.1.1	Sample MPA	11	How long is the State expecting bidders to hold their net sell pricing firm?	The discount percentage is firm for the contract term, no other pricing is expected to be held firm.
	MRO_8-1 Market Basket.xlsx	All tabs – columns K & X	Attachment MRO_8-1 Market Basket.xlsx ,Columns K and X, refer to Attachment 9-1. Can you please clarify as this bid package does not include an Attachment 9-1?	The correct reference is 8-1. There is no 9-1.
	MRO_8-1 Market Basket.xlsx		File MRO_8-1 Market Basket.xlsx references suppliers' SKU numbers as the manufacturer part number in several areas throughout the price file. In those situations, how should a respondent	Submit equivalent alternate item for review.

			indicate it has the exact match when the manufacturer part number is not being referenced in the file? *See attached example screenshot 1 and 2 below. (MRO_8-1 Market Basket.xlsx; Tab 13-Security, Item 8, column E).	
	General		Does NASPO plan to validate our market basket offering on our website? If yes, which column(s) within the market basket file will be used to search our website?	The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.
	General		Considering many MRO vendors have shifted to dynamic pricing, how will evaluators score a vendor if the list price rises/falls during the review period?	This information is not publicly available at this time. The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.
	Final_RFP_758_2400000228_1_SO_FORM.pdf & Final_RFP_758_2400000228_2_SO_FORM.pdf	p. 4	The section on page 4 refers to Attachment A. Can you please clarify as this bid package does not include an Attachment A?	Please disregard this reference to Attachment A. This has been updated on this modification.
	All ITP's 3.15.24.pdf		Please confirm that the terms and conditions attached by Interested States are for	Confirmed.

			informational purposes only and are subject to negotiation between the applicable state and the Offeror.	
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Attachment 8	Cost Proposal	1	If an Offeror fills out a category with pricing and the appropriate information on more than 80% of the items, but less than 100%, does it negatively impact their Market Basket Cost Evaluation?	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.
Attachment 8	Cost Proposal	1	Can you explain further what is intended by the text 'the Lead State will accept slight deviations from the product on the price worksheet but reserves the right not to apply it to the market basket calculation'? Does the Lead State intend that if a substitute product is accepted it will be included in calculating 80% completion? Or is there another intention?	No additional information is available for this area.

Attachment 4	Sample Master Agreement	11	6.1.1, This section states: "all prices and rates must be guaranteed for the term of the agreement." Is the Market basket pricing expected to be held at the specific prices quoted for the entire term of the agreement, or just the % off list pricing?	Percentage based pricing is required to be firm.
Attachment 4	Sample Master Agreement	8	5.5, This section states that we are to participate in NASPO ValuePoint's eMarketPlace. On NASPO ValuePoint's website, there is a message that the eMarketPlace has been retired as of July 29, 2021. Shall we disregard this requirement?	NASPO intends to implement a new eMarketPlace. All language in the master agreement is applicable.
Attachment 3	RFP Evaluation Plan	2	Stage 3, What formula will be used to determine cost points awarded to each proposal?	See revised Attachment 3.
Attachment 3	RFP Evaluation Plan	2	Document states that the 'Lead State and Multistate Sourcing Team will determine which proposals are most advantageous to the Lead	This is based on the Evaluation criteria set forth in Attachment 03-Evaluation Plan.

			State and potential Participating Entities and Purchasing Entities'. How will this be determined? Will it be a minimum total points requirement? Some other combination of points and content?	
Attachment 07 Section II. B	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	<p>Subsection A of Section II requires completion of Attachment 02 – Subsection B requires offerors to Describe Offeror's plan for providing the Products and EPP</p> <p>Question: Is the response required for subsection B a separate narrative exclusive of information provided in Attachment 02 and separate from the responses required under Section III -RESPONSE TO TECHNICAL CRITERIA?</p>	See revised Attachment 7
Attachment 07 Section II. C	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	Subsection C of Section II requires offerors to Provide evidence of	See revised Attachment 7

			<p>Offeror's ability to provide the Products and EPP</p> <p>Question: What constitutes "evidence of"? And how should that information be provided (with Attachment 02, separate narrative)?</p>	
Attachment 07 Section II. D	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	<p>Subsection D of Section II requires offerors to Describe Offeror's ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP</p> <p>Question: Is the response required for subsection D a separate narrative exclusive of information provided in Attachment 02 and separate from the responses required under Section III -RESPONSE TO TECHNICAL CRITERIA?</p>	See revised Attachment 7
			Will the Offeror be able to submit an exact item and an alternate item for the same proposed item, if	no



MRO_8-1	Market Basket	All	so, would the Proposer use the lesser price	
MRO_8-1	Market Basket	All	Will the Offeror be able to do simple math to derive to the proposed UOM. For example: proposed item UOM is 20oz, Offeror's UOM is 17oz; Offeror would determine the ounce price and multiply by 20 ounces	Offer may include a footnote to explain their math.
MRO_8-1	Market Basket	TAB 1 – Janitorial and Sanitation	On item #3 in Janitorial Category.  Description: Hand Sanitizer Wipes, Canister, 270 wipes, case of 6 –  Does the Offeror submit the price of one wipe, 270 wipes (canister), or 1,620 wipes (case of 6)	Offer may include a footnote to explain their math.
MRO_8-1	Market Basket	All	Does the Offeror follow the UOM in the Proposer's description or does the Offeror UOM reduce to the smallest UOM possible.	Offer may include a footnote to explain their math.

MRO_8-1	Market Basket	All	What would be the standard normalized between Offerors, if one provided 80% of the specific category and another Offeror provided 100% of that same category.	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.
Attachment 08	Cost Proposal	2	Will the award be awarded by individual category or the entire 15 categories as a whole.	Yes, the Lead State will be awarding by category. See revised Attachment 00
MRO_8-1	Market Basket	All	Will the Offeror get penalized for any item left blank but still meet the required 80%. If yes, what is the penalty.	No
MRO_8-1	Market Basket	All	If the Offeror submits the required 80% and some items are disqualified through the vetting process, will the Offeror lose that category if it falls under 80%.	Yes
MRO_8-1 Market Basket	MRO_8-1 Market Basket	Instructions worksheet Cell B10  Worksheets 1-14	There are several references to Attachment 9-1; however, Attachment 9-1 was not provided with the RFP attachments. Will the State provide Attachment 9-1 or update	See revised Attachment 8-1.

		Columns K and X	the file MRO_8-1 Market Basket to remove the references to Attachment 9-1?	
IV Proposals D. Cost Proposal. Paragraph 4	Attachment 01 – RFP Terms and Conditions	Page 5 of 12	Please confirm that prices proposed by offerors in MRO_8-1 Market Basket are for evaluation purposes only and will not be incorporated into the Master Agreement. If prices will not be incorporated into the Master Agreement, please update Attachment 01 Section IV Proposals, D. Cost Proposal Paragraph 4 to remove the reference to “not-to-exceed pricing.”	Correct. See revised attachment 4 Section 6.  6.1 Pricing. The <del>prices</del> <b>discount percentages</b> contained in this Master Agreement or offered under this Master Agreement represent the <del>not-to-exceed price</del> <b>minimum discount</b> to any Purchasing Entity.  6.1.1 All <del>prices and rates</del> <b>discount percentages</b> must be guaranteed for the term of the Master Agreement.
IV Proposals D. Cost Proposal. Paragraph 7	Attachment 01 – RFP Terms and Conditions	Page 6 of 12	The referenced section indicates the State may normalize and scale points awarded in the cost proposal evaluation. Please define the methodology the State will use if it chooses to do this.	This information is not available.
Stage 3: Market Basket Cost Evaluation	Attachment 03 – RFP Evaluation Plan	Page 2 of 2	The Evaluation Plan indicates 300 points are possible for the Market	This is not publicly available.

			<p>Basket Cost Evaluation, but does not indicate how those points will be awarded to offerors. Please update this section to define how the State will evaluate offerors' proposed Market Basket responses and the methodology the State will use to determine how many points an offeror receives of the possible 300.</p>	
Stages 2 and 3 and Award Selection	Attachment 03 – RFP Evaluation Plan	Pages 1 to 2	How will the State determine which offerors are eligible for a contract award?	Based on Attachment 03-Evaluation Plan
Stages 2 and 3 and Award Selection	Attachment 03 – RFP Evaluation Plan	Pages 1 to 2	How many points does an offeror need to receive to be eligible for a contract award?	Information is not available
			<p>Is the eMarketPlace for NASPO ValuePoint active anymore? On your site it says its retired as of 7/29/2021...But I see it as a requirement on a solicitation</p>	<p>NASPO is implementing a new eMarketPlace. The requirements remain as listed in the RFP.</p>

Attachment 03	RFP Evaluation Plan	2	What is the formula or system that will be used to award points for the market basket cost evaluation?	See revised Attachment 03
Attachment 03	RFP Evaluation Plan	2	Can you provide an example of the formula or award evaluation system?	See revised Attachment 03

**AMENDMENT #3 DATE: April 22, 2024**

**BIDDER SHALL CONFORM TO THE FOLLOWING CHANGES AS SAME SHALL BECOME BINDING UPON THE CONTRACT TO BE ISSUED IN RESPONSE TO THIS SOLICITATION.**

*Grainger acknowledges receipt of Amendment #3.*



**PLEASE NOTE: A LINE FOR BIDDERS THAT RESPOND TO INDIVIDUAL STATE(S) HAS BEEN UPDATED TO INSERT TO RESPOND ACCORDINGLY (SEE ATTACHMENT 2-CATEGORIES OF PRODUCTS AND EPP)**

**THE REFERENCE IN QUESTION 6 HAS BEEN CHANGED FROM RETURNS TO SUBSTITUTIONS  
(SEE ATTACHMENT 7- OFFEROR RESPONSE WORKSHEET)**

**THE MARKET BASKET EVALUATION METHOD DESCRIPTION HAS BEEN CHANGED  
(SEE ATTACHMENT 3-RFP EVALUATION PLAN)**

<b>RFP Section/ Requirement #</b>	<b>Document</b>	<b>Document Page #</b>	<b>Offeror Questions</b>	<b>Lead State Response</b>
Attachment 01	Section I – Definitions	Page 2	There is a definition for “Product Support” which is not mentioned in any other bid documents. Please confirm this is an error and, as such, this definition is not applicable.	The term for “Product Support” has been added to Attachment 7 “Value Added.” This would be applicable to companies proposing these services in the technical response and may be negotiated into the participating addendum.
Attachment 04 Section 5.5.6	Sample Master Agreement	Page 8	In the State’s response to a question regarding Contractor access to	NASPO will make the eMarketPlace Terms of Use available for review prior to execution of Master Agreements resulting from this RFP and will work

			<p>eMarketPlace terms of use, the State says that these terms will be made available “at a later date” and that Contractor will be afforded time to review and confirm their ability to comply. At Sample Master Agreement Section 5.5 NASPO ValuePoint eMarketPlace, Subsection 5.5.6, Contractors are told that their use of the eMarketPlace shall comply with the eMarketPlace’s Terms of Use.</p> <p>If Contractor cannot review eMarketPlace terms of use prior to bid submission, how is the Contractor supposed to comply with the RFP requirement that mandates compliance with eMarketPlace Terms of Use?</p>	<p>in good faith to address any concerns with the Terms of Use at that time. Upon execution of a Master Agreement, all contractors must participate in the eMarketPlace and must comply with the Terms of Use in order to access the site.</p>
Attachment 03	RFP Evaluation Plan	Page 2	At Stage 3: Market Basket Cost Evaluation, in the provided formula calculates bidder price /highest discount offered	The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum

			<p>and multiplies that by 15. Can the State confirm per the formula there is a maximum of 15 points for each category evaluated? Will the "other" category be evaluated independently and allocated 15 points as well?</p> <p>Based on this category discount calculation for the 15 categories, with a maximum of 15 points per category resulting in allocation of 225 points, how will the evaluation team evaluate and allocate the remaining 75 of the 300 available points for market basket cost evaluation?</p>	<p>points will not be divided. Categories will be scored individually.</p>
Attachment 03	RFP Evaluation Plan, Stage 3	Page 2	<p>Market Basket Cost Evaluation states that the Market Basket will be evaluated with a Total Cost Points Possible of 300. Are the 300 Market Basket evaluation points spread across all 14 categories in Attachment 8-1, or is each category</p>	<p>Categories will be scored individually.</p>



			responded to worth 300 points?	
Column L and Y  Attachment 03	MRO 8-1 Market Basket  RFP Evaluation Plan	Page 2	In Attachment 8-1 Market Basket, Columns L and Y are labeled “Net Price of Unit of Measure (Column Scored).” Given the Total Points Possible of 300 for the Market Basket Cost Evaluation in Attachment 03 RFP EVALUATION PLAN, how does the State intend to score Columns L and Y and allocate the available 300 points? In addition, are there 300 points achievable for each Category in the Market Basket, or are there 300 points allocated for all Categories?	The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.  1. Further information on cost proposal scoring will not be provided at this time.
Attachment 03 Stage 3, Market Basket Cost Evaluation	RFP Evaluation Plan  Amendment 1	Page 2	In Amendment 1, the State revised its evaluation methodology in stage 3 by presenting a formula which calculates a vendor’s category discount against the largest discount presented to allocate that vendor’s points score. How does this scoring	The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.

			<p>component impact a vendor's Market Basket evaluation of 300 points if there are only 1000 total points available between the Technical Response and the Market Basket evaluation?</p>	
Attachment 08	Cost Proposal	Page 1	<p>The State's guidance in Attachment 08, I. Overview states "Offerors must respond to 80% of the items in each category to be considered for that category." How will the State evaluate vendors' responses to Attachment 8-1 Market Basket when some vendors will have a 100% response rate and others will only have an 80% response rate.</p> <p>For example:</p> <p>Vendor A: 100% responsive to items in Market Basket</p> <p>Vendor B: 80% responsive to items in</p>	<p>Vendors are encouraged to submit 100% of the items requested. The 80% response rate is required to move forward in the evaluation process. The Commonwealth intends to utilize an "apples to apples" comparison between responding bidders.</p>

			<p>Market Basket (Less lines 1 and 2)</p> <p>Vendor C: 80% responsive to items in Market Basket (Less lines 3 and 4)</p> <p>Vendor D: 80% responsive to items in Market Basket (Less lines 5 and 6)</p> <p>Vendor E: 80% responsive to items in Market Basket (Less lines 7 and 8)</p> <p>Vendor F: 80% responsive to items in Market Basket (Less lines 9 and 10)</p> <p>With no commonality amongst their responses in the example provided, how will the State evaluate the individual vendors when they all bid different items?</p>	
Attachment 07	Offeror Response Worksheet	3	Is it acceptable to attach sample agreements for vendor managed	It is acceptable to submit the documentation as part of the bidders response. The Commonwealth does not guarantee that these documents will be

			inventory services (vending / bin stock / onsite) with our response to Section H. Additional Services that Add Value if Awarded, for reference when executing a PA with each state?	part of the awarded master agreements. Individual state participating addendums may negotiate additional documentation for inclusion.
Attachment 03	RFP Evaluation Plan	2	Is there a benefit to quoting 100% of the line items in the market basket versus 80%?	Vendors are encouraged to submit 100% of the items requested. The 80% response rate is required to move forward in the evaluation process. The Commonwealth intends to utilize an “apples to apples” comparison between responding bidders.
Attachment 03	RFP Evaluation Plan	2	Will any points be deducted for completing less than 100% of the market basket?	Vendors are encouraged to submit 100% of the items requested. The 80% response rate is required to move forward in the evaluation process. The Commonwealth intends to utilize an “apples to apples” comparison between responding bidders.
Attachment 03	RFP Evaluation Plan	1-2	In the example, the total points available, per category, for the highest discount percentage is sta15. Given there are 15 categories, this would indicate the maximum Cost Points available for the Market Basket is 225 points. Could you please provide clarification on the stated 300 Cost Points Possible and the 225 points per the example?	The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.

Attachment 03	RFP Evaluation Plan	1-2	<p>The explanation stated that the bidder offering the highest percentage of discount would receive the maximum score. Since each bidder's "List Price" is different, the percentage of discount would not be an accurate methodology to allow a fair evaluation of like costs among Offerors. This would be inconsistent with RFP Terms and Conditions Page 5 Section D. Cost Proposal which indicates, "the format and structure of the Cost Proposal is intended to allow for a fair evaluation of like costs among offerors"</p> <p>Did you intend to say the offeror with lowest net price of category based on their stated discount % applied to their unique "List Price" receives the maximum score.</p> <p>For example: In Janitorial Category, Bidder X</p>	<p>The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.</p>

			<p>offered an item with their list price of \$100 with a 50% discount, resulting in a net price of \$50; and Bidder Y offers the same item with their list price of \$60 with a discount of 20% resulting a net price of \$48. Bidder Y should win the maximum points as it netted the lesser dollar amount, despite Bidder X having a higher discount percentage?</p>	
Attachment 03	RFP Evaluation Plan	1-2	<p>As a request, if there is a material change or update related to the evaluation and award of Cost Points referenced in Attachment 03 – Stage 3, please extend the due date of the RFP a minimum of 7 calendar days to ensure all pricing submissions are advantageous to the Lead State and potential Participating Entities and Purchasing Entities.</p>	<p>The solicitation response date has been extended to April 29<sup>th</sup> at 3:30 PM ET</p>
Attachment 03	RFP Evaluation Plan	1-2	<p>Based on the language in the solicitation and to achieve the State’s goal</p>	<p>Vendors are encouraged to submit 100% of the items requested. The 80% response rate is required to move forward in the evaluation process.</p>

			<p>of a fair evaluation of costs among offerors, we believe the State will use the aggregate net price (Bidders List Price less Bidder's discount) for all items in a given category market basket to compare bidders Cost offer. If a bidder submits less than 100% of items for a given category, but meets the 80% requirement, what calculation will be used to normalize the offer to achieve a fair evaluation? If the state does not intend to use the aggregate net price of items to evaluate bidders Cost offer, what calculation will be used.</p>	<p>The Commonwealth intends to utilize an "apples to apples" comparison between responding bidders.</p>
Attachment 03	RFP Evaluation Plan	1-2	<p>Will the State consider offers that include 100% of items to have a higher value than those that do not and if so, what calculation will used to differentiate offers which contain a lower percentage of items in a category?</p>	<p>Vendors are encouraged to submit 100% of the items requested. The 80% response rate is required to move forward in the evaluation process. The Commonwealth intends to utilize an "apples to apples" comparison between responding bidders.</p>
Attachment 03	RFP Evaluation Plan	1-2	<p>There is one discount % for all janitorial to include paper, liners, and</p>	<p>Offerors may elect to provide deeper discounts in each category during the contract period, if they choose, but for the evaluation of the RFP the same</p>

			equipment. If you have one discount % for both paper and equipment, you will either not receive competitive pricing on the paper products or equipment needs to be excluded. The catalog pricing/MSRP for paper and equipment is vastly different and can't fall under the same discount structure.	discount shall be applied to the entire category. The deeper discounts may be discussed and agreed upon with the Lead State during the Master Agreement process and/or with Participating Entities during the PA process.
			I noticed on the form there isn't a place to write in which states we want to bid on. Should we just hand-write in the state next to box 3 for "The following specific states"	Attachment 2 has been updated to insert a line for bidders that respond to individual state(s) to respond accordingly. If more area is needed for the response please provide a separate sheet with the state(s) listed.
Attachment 07	Offeror Response Worksheet	Page 2	Questions #6 and #8 appear to be duplicates. Both are asking about the offerors return policy.	The reference in question 6 has been changed to "substitution"
Attachment 8-1	Market Basket		How will market basket alternates be verified as equivalent product? Without a clear verification process, it appears to be very easy to substitute inferior or simply non-equivalent products that are less	The evaluation team will review each substitution and come to a consensus on acceptance or rejection.



			expensive in order to make the market basket costs look lower.	
Attachment 08	COST PROPOSAL	Page 1-2	<p>The provided formula for evaluating cost allows any supplier to greatly inflate a fictitious list price so that company can offer the highest discount and win 100% of the cost points available. This formula does not include any verification process to validate that the net costs offered (ie. Market Basket) are viable market prices.</p> <p>Is this the intention of the lead state?</p>	The formula provided has been corrected to remove the references to discount percentages and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.
Attachment 08	COST PROPOSAL	Page 1-2	The Market Basket cost and a publicly available specified eCommerce Market List Price location (ie an offeror specified website with pricing) are referenced as potential ways for the Lead State to verify market pricing for the discount off Offeror's List. However, these elements are not included in the formula for cost	No other information is available.

			<p>evaluation, nor detailed in the evaluation points award process.</p> <ol style="list-style-type: none"> <li>1. What is the process that will be used to verify that the discount provided offers a legitimate net market price?</li> <li>2. How will the market basket be used to award points?</li> </ol> <p>How will the Lead State evaluate the offeror's list price without requesting a specified website with publicly available pricing?</p>	
Attachment 08	COST PROPOSAL	Page 1-2	<p>The cost proposal forms do not request nor require the offeror to specify the website link or "eCommerce Marketplace" where list pricing can be found and verified by the NASPO evaluators. How will the list price be verified without a specified eCommerce Market website link?</p>	No other information is available.
Attachment 03	RFP Evaluation	2	<p>How will the market basket costs be used to</p>	The formula provided has been corrected to remove the references to discount percentages

			award points for the cost section? In the evaluation it shows all 300 points to be awarded for the market basket. However, the updated document with the formula does not use the market basket for awarding points at all. Can you clarify how the points will be awarded for the cost proposal?	and include cumulative dollar totals. Maximum points will not be divided. Categories will be scored individually.
Attachment 03	RFP Evaluation	Page 1-2	Will there be points awarded for national offerors?  Will be there be points deducted for regional or less than national offerors?	Scoring of evaluations will be based on Attachment 03-Evaluation Plan
Attachment 03	RFP Evaluation	Page 2	This section appears to give preference to national offerors: "An Offeror providing less than national coverage (a "state-by-state Offeror") may still be considered for award of a Master Agreement on a state-by-state basis. State-by-state Offerors must provide service to, and costs for, a minimum of one state and must service the	Scoring of evaluations will be based on Attachment 03-Evaluation Plan

			<p>entire state for each state proposed. The costs proposed by each state-by-state Offeror for each state will be evaluated against both nationwide Offerors and all other state-by-state Offerors providing coverage in that state. State-by-state Offerors awarded a Master Agreement may execute Participating Addenda only with Participating Entities in the state(s) the state-by-state Offeror is awarded.”</p> <p>Will preference be given to national offerors?</p>	
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**AMENDMENT #2    DATE: April 17, 2024**

**BIDDER SHALL CONFORM TO THE FOLLOWING CHANGES AS SAME SHALL BECOME BINDING UPON THE CONTRACT TO BE ISSUED IN RESPONSE TO THIS SOLICITATION.**

**PLEASE NOTE: SECOND SET OF VENDOR QUESTIONS HAVE BEEN ADDED.  
(SEE ATTACHMENT 00 -RFP OVERVIEW SECTION II D)**

**ALL QUESTIONS SHALL BE SUBMITTED BY APRIL 19, 2024 8:00 AM ET.**

**THE SOLICITATION CLOSING DATE HAS BEEN EXTENDED TO APRIL 29, 2024 AT 3:30 PM ET.**

**AMENDMENT #1 DATE: April 4, 2024**

**BIDDER SHALL CONFORM TO THE FOLLOWING CHANGES AS SAME SHALL BECOME BINDING UPON THE CONTRACT TO BE ISSUED IN RESPONSE TO THIS SOLICITATION.**

**PLEASE NOTE: TO POST RESPONSE TO VENDOR'S QUESTIONS.**

**THE FOLLOWING ATTACHMENTS HAVE UPDATES APPLIED:**

**ATTACHMENT 00- RFP OVERVIEW**

**ATTACHMENT 03- RFP EVALUATION PLAN**

**ATTACHMENT 04- SAMPLE MASTER AGREEMENT**

**ATTACHMENT 07- OFFEROR RESPONSE WORKSHEET**

**MRO\_8-1 MARKET BASKET**

**ADDITIONAL STATES HAVE BEEN ADDED TO THE ITP ATTACHMENT AND THIS HAS BEEN UPDATED TO:**

**ALL ITP'S 4-4-24**

**THERE ARE NO OTHER CHANGES.**

Attachment 03	RFP Evaluation	2	Can the state provide additional details as to how the Market Basket	No other information is public for how the Market Basket will be scored.
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			will be scored? The value of the Market Basket is listed at 300 points. Are points awarded based on tab or as an overall total?	Points are evaluated per each area identified in Attachment 03-Evaluation Plan-Under Stage 3 - Market Basket Cost Evaluation.
Attachment 03	RFP Evaluation	2	What impact will the category discounts have the Market Basket Point values?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	Will scores have a weighted impact based on how many exacts are bid versus alternates?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	How will the state evaluate items where the respondent provides both an exact and an alternative item?	No other information is public for how the Market Basket will be scored.
Attachment 03	RFP Evaluation	2	Does attachment 8 have any bearing on the score for the evaluation?	See attachment 03 Evaluation Plan.
Attachment 07	Offeror Response Worksheet	1	Section II.D asks that we “describe our ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP, Attachment 02.”  There does not appear to be a list of responsibilities	The following text has been removed from Attachment 07.  <p style="margin-left: 40px;">II.       RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES</p> <p style="margin-left: 80px;">A.       Attachment 2, Categories of Products and EPP. Offeror must complete the attachment.</p>

			and tasks identified in that attachment; please clarify what items should be responded to/what are the task and responsibilities required?	<p><del>B. Describe Offeror's plan for providing the Products and EPP (if applicable) identified in Attachment 02.</del></p> <p><del>C. Provide evidence of Offeror's ability to provide the Products and EPP (if applicable) identified in Attachment 02.</del></p> <p><del>D. Describe Offeror's ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP, Attachment 02.</del></p>
MRO_8-1	Market Basket	Instructions Tab	Instructions tab Line 9 as well as Columns K & X reference an "Attachment 9-1" that was not provided. Is it the intent to reference Attachment 08/Section IV?	Yes.
MRO_8-1	Market Basket	9-Hand Tools Tab	Item #11 identifies a product from Victory Innovations Co. This company has ceased operations. Will this line be updated with a new part or removed from the RFQ?	Please provide an alternate equal item.
MRO_8-1	Market Basket	10-Power Tools Tab	Item #11 has been discontinued by the manufacturer and replaced with item 2967-20. Will this item be updated to reflect the	Please provide an alternate equal item.

			Manufacturer recommended replacement part or removed from the market basket?	
MRO_8-1	Market Basket	1-Janitorial and 14-Safety Tabs	Item #6 on the Janitorial Tab and Item #10 on the Safety tab are both loose granular absorbents. Would the state consider removing the item from the Janitorial tab as it is not generally considered a janitorial product?	No
MRO_8-1	Market Basket	8-HVAC Tab	Items #6 & #8 are a distributor specific brand that would only be available to that one distributor. These items are also the two most expensive items within the tab. Could these items be removed and replaced with a national brand part that are more widely accessible or replaced with items that are closer in value to the rest of the line items within the category?	Please provide an alternate equal item.
MRO_8-1	Market Basket	2-Fasteners Tab	Item #4 is an abrasive cutting wheel. List pricing	No



			for abrasive wheels are set differently than any fastener item. In the industrial market this item would typically fall within the category of abrasives. Would the state consider removing this item from the market basket?	
MRO_8-1	Market Basket	2-Fasteners and 11-Electrical Tab	Item #8 on the Fastener Tab and Item #2 on the Electrical Tab are both conduit fittings. Would the state consider removing the item from the Fastener tab as it is not generally considered a fastener product and would be more aligned as an electrical product?	No
MRO_8-1	Market Basket	5-Power Sources Tab	Items #5, #6, #7 are extension cords/power strips that are commonly categorized as electrical products. Would the state consider moving these items to the 11-Electrical tab for discount alignment?	No

<p>Attachment 04 Section 5.5.6</p>	<p>Sample Master Agreement</p>	<p>8</p>	<p>The Master Agreement, section 5.5.6, states that contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.</p> <p>Can these terms be provided to offeror, and can offerors be afforded a question and answer opportunity regarding the terms and opportunity to suggest modified master agreement language at a date later than defined in the RFP?</p>	<p>The eMarketPlace's Terms of Use will be made available at a later date. Users will have an opportunity to review the Terms of Use at that time to confirm their ability to comply.</p>
<p>Attachment 04 Section 5.5.7</p>	<p>Sample Master Agreement</p>	<p>9</p>	<p>The master agreement, section 5.5.7, states the contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace.</p> <p>How can a contractor be responsible for the security of transactions facilitated through NVP's eMarketPlace if it neither</p>	<p>Security" refers to payment transactions, which at this time will not be supported by or completed through the eMarketPlace platform.</p>

			owns nor manages the platform?	
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	<p>A key challenge of the eMarketplace will be operationalizing a single punchout across all Participating Entities, each of which may have varied and separate scope and pricing.</p> <p>May a contractor elect not to participate in the NVP eMarketplace given the contractor's inability to manage pricing and substantial compliance responsibilities effectively through the single eProcurement portal?</p>	Participation in the NASPO ValuePoint eMarketPlace by Offerors awarded a Master Agreement resulting from this RFP is mandatory. Punchout setup capabilities in the eMarketPlace will provide a means to address situations such as the need to have "varied and separate scope and pricing".-
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	Will contractors selling products on the eMarketPlace who fulfill via third party vendors who have no contractual relationship with NASPO ValuePoint/Participating Entities be permitted to	The setup for a Contractor to sell products on the eMarketPlace will not have any restrictions on their use of "third party vendors" for fulfillment, including situations where a Contractor may utilize a third party to provide their punchout or catalog. However, third party vendors will not be allowed to offer products that are not covered by the Contractors' Master Agreement. As with fulfillment of products and services, the Contractor will be responsible for the compliance of third party

			sell their products on the eMarketPlace?	partners and subcontractors with the Master Agreement's eMarketPlace terms.
Attachment 04 Section 5.5	Sample Master Agreement	9, 10	Will the eMarketPlace embrace dynamic pricing by Contractors/Awardees on the eMarketPlace? If so, how does NASPO ValuePoint define dynamic pricing and how will Participating Entities audit such transactions?	The eMarketPlace will have both catalog and punchout options to support dynamic pricing situations which will be reviewed at the time of the Contractor's enablement in the eMarketPlace.
Attachment 1 Section D	RFP Terms and Conditions	5, 6	<p>This section defines that the Cost Proposal's structure and format as intending to allow for a fair evaluation of like costs among offerors.</p> <p>Attachment 8, Cost Proposal, present a similar statement that the purpose of MRO 8-1 Excel Market Basket is intended for an evaluation of like costs among offerors.</p> <p>Can the Lead State clarify that its analysis of the Market Basket, MRO 8-1 Excel document is a price evaluation tool and how long is the period of time</p>	Attachment 8-1 is a price evaluation tool. There is no expectation of maintaining the market basket pricing.

			the market basket pricing must be maintained?	
Attachment Excel – MRO 8-1 Market Basket  Tab 1 Instructions Attachment 8 Overview	Market Basket  Cost Proposal	Tab 1  Page 1	<p>The Instructions tab states “REQUIREMENT: Tab's 1-14 Proposers shall submit pricing on all line items listed for each category”.</p> <p>Cost Proposal Attachment 8, II. Proposed Costs, states “Offerors must respond to 80% of the items in each category to be considered for that category. Offerors failing to respond to 80% of the items will be deemed non-responsive.”</p> <p>Can the Lead State clarify that an offeror must submit pricing for all items on the price worksheet, as noted in the Tab 1 of MRO 8-1 Instructions, and that the 80% threshold to be eligible for price evaluation relates to items that deviate from products noted on the price</p>	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.

			worksheet and will not be applied to the market basket calculation?	
Attachment 03 Stage 3: Market Basket Cost Evaluation	RFP Evaluation Plan	2	Will the Lead State consider market basket offers that include both an exact match and a lower cost functional alternative on the same line item? If so, which will the Lead State use for market basket cost proposal evaluation?	No
Attachment Excel - MRO_8-1 Market Basket	Market Basket	All tabs	Do offerors providing 100%, or a higher percentage of category lines than other offerors receive a higher point or evaluation score value than those that do not?	No
Attachment Excel - MRO_8-1 Market Basket	Market Basket	All tabs	Will offerors quoting exact matches receive a higher point or evaluation score value than those that do not?	No

<p>Attachment Excel - MRO_8-1 Market Basket</p> <p>Attachment 03 Stage 3: Market Basket Cost Evaluation</p>	<p>Market Basket</p> <p>RFP Evaluation Plan</p>	<p>All tabs</p> <p>2</p>	<p>Will the Lead State verify the credibility of an offeror's proposed item by examining its website or catalog to determine whether the product can be searched by manufacturer part number to confirm it is the product requested or a functional equivalent, that it is available for purchase, presents a current price, that delivery is provided and can be placed in the order cart so a purchase can be transacted?</p>	<p>No other information is available.</p>
<p>Attachment Excel - MRO_8-1 Market Basket</p>	<p>Market Basket</p>	<p>All tabs</p>	<p>Will the Green EPP items referenced in Excel MRO Attachment 8-1 Market Basket be evaluated separately or differently than non-EPP items in the market basket?</p>	<p>Green EPP will be evaluated separately. See Attachment 08-Overview for updates.</p>
<p>Attachment 03 Stage 3: Market Basket Cost Evaluation</p>	<p>RFP Evaluation Plan</p>	<p>2</p>	<p>How will an offeror's product availability, inventory and delivery competence be factored</p>	<p>Please refer and review Attachment 03 Evaluation plan for scoring criteria.</p>

			into the market basket evaluation?	
Attachment 3	RFP Evaluation Plan	2	Is it correct that the Lead State will make a separate award for each of the 15 Categories enumerated on Excel MRO 8-1 Market Basket?	Yes, the Lead State will be awarding by category. See Attachment 00 for updates.
Attachment 3	RFP Evaluation Plan	2	Is there a minimum number of points required for a Category award?	The technical score can not be less than 50% per Attachment 03-Evaluation Plan
Attachment 3	RFP Evaluation Plan	2	What is the criteria to determine how each offeror's Cost Proposal for each Category be ranked among all proposals?	See Attachment 3-Evaluation Plan and no other information is available at this time.
Attachment 3	RFP Evaluation Plan	1, 2	What is the criteria to determine the combined overall ranking of each offeror, Technical Criteria and Market Basket across all Categories?	See Attachment 3-Evaluation Plan and no other information is available at this time.
Attachment 8 Section IV	Cost Proposal	2,3	On Attachment 08 Cost Proposal, IV, Percentage Off List Per Category, offerors are to provide a minimum percentage off List Price of Offeror's eCommerce Market. The	Confirmed. The correct reference is Attachment 07, III, H. This has been updated.



			<p>Value Add Services table references providing a rate for a particular service and references Attachment 07, III, F, yet that section references the Implementation Plan. It appears that the correct section to be referenced is Attachment 07, III, H.</p> <p>Can the Lead State clarify that the correct reference in Attachment 08, Cost Proposal, Percentage Off List Price, Value Add Services is Attachment 07, III, H?</p>	
Attachment 4 Section IV Subsection 4.1	Sample Master Agreement	3	<p>States that Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.</p> <p>Can the Lead State clarify that Contractors may require all NASPO ValuePoint Participating Entities to complete a Contractor specific</p>	<p>Part 1. That is correct</p> <p>Part 2 All Participating Entities must execute a Participating Addendum with a Contractor prior to ordering products or services from that Contractor. While a model Participating Addendum is made available by NASPO as an example, the format and content of each Participating Addendum establishing a contractual relationship between the Participating Entity and Contractor will be determined by the Participating Entity and Contractor.</p>

			registration form with information needed to establish a contract business relationship specific to NASPO affiliation?	
Attachment 00 Section I Introduction	RFP Overview	1	<p>About NASPO ValuePoint, states that participants in NASPO ValuePoint Master Agreement are informed that no membership or registration is required.</p> <p>Can the Lead State clarify that Contractors may require all NASPO ValuePoint Participating Entities to complete a Contractor specific registration form with information needed to establish a contract business relationship specific to NASPO affiliation?</p>	All Participating Entities must execute a Participating Addendum with a Contractor prior to ordering products or services from that Contractor. While a model Participating Addendum is made available by NASPO as an example, the format and content of each Participating Addendum establishing a contractual relationship between the Participating Entity and Contractor will be determined by the Participating Entity and Contractor.
Attachment 4 Section V Subsection 5.3.1	Sample Master Agreement	6	Attachment 04 – Sample Master Agreement, Section V., NASPO ValuePoint Provisions, Subsection 5.3.1, Sales Data Reporting, Contractors are required	NASPO will protect Contractor information identified by the Lead State as confidential, proprietary, and/or trade secret in the same manner as it protects its own confidential information.

			<p>to convey to NASPO ValuePoint, a non-government entity, exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.</p> <p>Can the Lead State please clarify how NASPO ValuePoint will protect Contractor information marked by Contractor as confidential, proprietary and/or trade secret protected from release to third party requestors?</p>	
Attachment MRO 8-1 Market Basket	Market Basket	Instruction tab	Attachment 8-1 Market Basket allows offerors to present varied UOMs for an exact match product. In certain instances, a particular product has various unit of measures "UOM", but is otherwise	Submit equivalent alternate item for review.

			<p>an exact match in manufacturer, specification and part number.</p> <p>In these scenarios can the Lead State clarify if these items will be considered an exact match or functional equivalent product?</p>	
Attachment 08	Cost Proposal	Page 2, Item IV	<p>The language in Attachment 08, Page 2, Item IV. does not quite align to the definition of List Price in Attachment 01, Item J.</p> <p>Attachment 08, Page 2, Item IV reads:</p> <p>Offerors shall provide their minimum percentage off List Price of Offeror's eCommerce Market.</p> <p>Attachment 01, Item J. reads:</p> <p>List Price means the basic price of an item as published in an</p>	No changes are required.

			<p>eCommerce Market, price list, or advertisement before any discounts are taken.</p> <p>Should Attachment 08 be updated to reflect the same options as defined for List Price in Attachment 01?</p>	
Section 6.1.1	Sample MPA	11	Are Prices and Rates both expected to be held firm for the term of the Master Agreement? Or just Rates?	The discount percentage is firm for the contract term.
Section 6.1.1	Sample MPA	11	In the scenario of a bidder responding with a discount from list price on a defined price list - we understand that discount rates cannot change, but when and how often can the bidder update list price to in turn update net sale price?	List Price may change throughout the contract term but the discount percentage is firm for the contract period.
Section 6.1.1	Sample MPA	11	In the scenario of a bidder responding with a discount off of their eCommerce Market website's regular price, which can change frequently, will the net sell price be allowed to update	The discount percentage is firm for the contract term, no other pricing is expected to be held firm.

			at the same time as the regular price to stay in compliance with any proposed discount?	
Section 6.1.1	Sample MPA	11	How long is the State expecting bidders to hold their net sell pricing firm?	The discount percentage is firm for the contract term, no other pricing is expected to be held firm.
	MRO_8-1 Market Basket.xlsx	All tabs – columns K & X	Attachment MRO_8-1 Market Basket.xlsx ,Columns K and X, refer to Attachment 9-1. Can you please clarify as this bid package does not include an Attachment 9-1?	The correct reference is 8-1. There is no 9-1.
	MRO_8-1 Market Basket.xlsx		File MRO_8-1 Market Basket.xlsx references suppliers' SKU numbers as the manufacturer part number in several areas throughout the price file. In those situations, how should a respondent indicate it has the exact match when the manufacturer part number is not being referenced in the file? *See attached example screenshot 1 and 2 below. (MRO_8-1 Market Basket.xlsx; Tab	Submit equivalent alternate item for review.

			13-Security, Item 8, column E).	
	General		Does NASPO plan to validate our market basket offering on our website? If yes, which column(s) within the market basket file will be used to search our website?	The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.
	General		Considering many MRO vendors have shifted to dynamic pricing, how will evaluators score a vendor if the list price rises/falls during the review period?	This information is not publicly available at this time. The evaluation committee reserves the right to review to ensure the pricing is in line with the current market value, it is advisable that the list pricing is publicly accessible for the purposes of RFP evaluation.
	Final_RFP_758_2400000228_1_SO_FORM.pdf & Final_RFP_758_2400000228_2_SO_FORM.pdf	p. 4	The section on page 4 refers to Attachment A. Can you please clarify as this bid package does not include an Attachment A?	Please disregard this reference to Attachment A. This has been updated on this modification.
	All ITP's 3.15.24.pdf		Please confirm that the terms and conditions attached by Interested States are for informational purposes only and are subject to negotiation between the applicable state and the Offeror.	Confirmed.

Attachment 8	Cost Proposal	1	If an Offeror fills out a category with pricing and the appropriate information on more than 80% of the items, but less than 100%, does it negatively impact their Market Basket Cost Evaluation?	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.
Attachment 8	Cost Proposal	1	Can you explain further what is intended by the text 'the Lead State will accept slight deviations from the product on the price worksheet but reserves the right not to apply it to the market basket calculation'? Does the Lead State intend that if a substitute product is accepted it will be included in calculating 80% completion? Or is there another intention?	No additional information is available for this area.
Attachment 4	Sample Master Agreement	11	6.1.1, This section states: "all prices and rates must be guaranteed for the term of the agreement." Is the Market basket pricing expected to be held at the specific prices quoted for the entire term	Percentage based pricing is required to be firm.



			of the agreement, or just the % off list pricing?	
Attachment 4	Sample Master Agreement	8	5.5, This section states that we are to participate in NASPO ValuePoint's eMarketPlace. On NASPO ValuePoint's website, there is a message that the eMarketPlace has been retired as of July 29, 2021. Shall we disregard this requirement?	NASPO intends to implement a new eMarketPlace. All language in the master agreement is applicable.
Attachment 3	RFP Evaluation Plan	2	Stage 3, What formula will be used to determine cost points awarded to each proposal?	See revised Attachment 3.
Attachment 3	RFP Evaluation Plan	2	Document states that the 'Lead State and Multistate Sourcing Team will determine which proposals are most advantageous to the Lead State and potential Participating Entities and Purchasing Entities'. How will this be determined? Will it be a minimum total points requirement?	This is based on the Evaluation criteria set forth in Attachment 03-Evaluation Plan.

			Some other combination of points and content?	
Attachment 07 Section II. B	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	<p>Subsection A of Section II requires completion of Attachment 02 – Subsection B requires offerors to Describe Offeror’s plan for providing the Products and EPP</p> <p>Question: Is the response required for subsection B a separate narrative exclusive of information provided in Attachment 02 and separate from the responses required under Section III -RESPONSE TO TECHNICAL CRITERIA?</p>	See revised Attachment 7
Attachment 07 Section II. C	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	<p>Subsection C of Section II requires offerors to Provide evidence of Offeror’s ability to provide the Products and EPP</p> <p>Question: What constitutes “evidence of”? And how should that information be provided</p>	See revised Attachment 7

			(with Attachment 02, separate narrative)?	
Attachment 07 Section II. D	RESPONSE TO DESCRIPTION OF PRODUCTS AND SERVICES	1	Subsection D of Section II requires offerors to Describe Offeror's ability to fulfill Contractor Responsibilities and Tasks identified in the Description of Products and EPP  Question: Is the response required for subsection D a separate narrative exclusive of information provided in Attachment 02 and separate from the responses required under Section III -RESPONSE TO TECHNICAL CRITERIA?	See revised Attachment 7
MRO_8-1	Market Basket	All	Will the Offeror be able to submit an exact item and an alternate item for the same proposed item, if so, would the Proposer use the lesser price	no
			Will the Offeror be able to do simple math to derive to the proposed UOM. For example: proposed item	Offer may include a footnote to explain their math.

MRO_8-1	Market Basket	All	UOM is 20oz, Offeror's UOM is 17oz; Offeror would determine the ounce price and multiply by 20 ounces	
MRO_8-1	Market Basket	TAB 1 – Janitorial and Sanitation	On item #3 in Janitorial Category.  Description: Hand Sanitizer Wipes, Canister, 270 wipes, case of 6 –  Does the Offeror submit the price of one wipe, 270 wipes (canister), or 1,620 wipes (case of 6)	Offer may include a footnote to explain their math.
MRO_8-1	Market Basket	All	Does the Offeror follow the UOM in the Proposer's description or does the Offeror UOM reduce to the smallest UOM possible.	Offer may include a footnote to explain their math.
MRO_8-1	Market Basket	All	What would be the standard normalized between Offerors, if one provided 80% of the specific category and another Offeror provided	Offers that submit 80% of products in a category will be eligible for price evaluation and will not be penalized. Alternate items are encouraged to be provided when possible.

			100% of that same category.	
Attachment 08	Cost Proposal	2	Will the award be awarded by individual category or the entire 15 categories as a whole.	Yes, the Lead State will be awarding by category. See revised Attachment 00
MRO_8-1	Market Basket	All	Will the Offeror get penalized for any item left blank but still meet the required 80%. If yes, what is the penalty.	No
MRO_8-1	Market Basket	All	If the Offeror submits the required 80% and some items are disqualified through the vetting process, will the Offeror lose that category if it falls under 80%.	Yes
MRO_8-1 Market Basket	MRO_8-1 Market Basket	Instructions worksheet Cell B10 Worksheets 1-14 Columns K and X	There are several references to Attachment 9-1; however, Attachment 9-1 was not provided with the RFP attachments. Will the State provide Attachment 9-1 or update the file MRO_8-1 Market Basket to remove the references to Attachment 9-1?	See revised Attachment 8-1.

<p>IV Proposals</p> <p>D. Cost Proposal.</p> <p>Paragraph 4</p>	<p>Attachment 01 – RFP Terms and Conditions</p>	<p>Page 5 of 12</p>	<p>Please confirm that prices proposed by offerors in MRO_8-1 Market Basket are for evaluation purposes only and will not be incorporated into the Master Agreement. If prices will not be incorporated into the Master Agreement, please update Attachment 01 Section IV Proposals, D. Cost Proposal Paragraph 4 to remove the reference to “not-to-exceed pricing.”</p>	<p>Correct. See revised attachment 4 Section 6.</p> <p>6.1 Pricing. The prices <b>discount percentages</b> contained in this Master Agreement or offered under this Master Agreement represent the <del>not-to-exceed price</del> <b>minimum discount</b> to any Purchasing Entity.</p> <p>6.1.1 All <del>prices and rates</del> <b>discount percentages</b> must be guaranteed for the term of the Master Agreement.</p>
<p>IV Proposals</p> <p>D. Cost Proposal.</p> <p>Paragraph 7</p>	<p>Attachment 01 – RFP Terms and Conditions</p>	<p>Page 6 of 12</p>	<p>The referenced section indicates the State may normalize and scale points awarded in the cost proposal evaluation. Please define the methodology the State will use if it chooses to do this.</p>	<p>This information is not available.</p>
<p>Stage 3: Market Basket Cost Evaluation</p>	<p>Attachment 03 – RFP Evaluation Plan</p>	<p>Page 2 of 2</p>	<p>The Evaluation Plan indicates 300 points are possible for the Market Basket Cost Evaluation, but does not indicate how those points will be awarded to offerors. Please update this section</p>	<p>This is not publicly available.</p>

			to define how the State will evaluate offerors' proposed Market Basket responses and the methodology the State will use to determine how many points an offeror receives of the possible 300.	
Stages 2 and 3 and Award Selection	Attachment 03 – RFP Evaluation Plan	Pages 1 to 2	How will the State determine which offerors are eligible for a contract award?	Based on Attachment 03-Evaluation Plan
Stages 2 and 3 and Award Selection	Attachment 03 – RFP Evaluation Plan	Pages 1 to 2	How many points does an offeror need to receive to be eligible for a contract award?	Information is not available
			Is the eMarketPlace for NASPO ValuePoint active anymore? On your site it says its retired as of 7/29/2021...But I see it as a requirement on a solicitation	NASPO is implementing a new eMarketPlace. The requirements remain as listed in the RFP.

Attachment 03	RFP Evaluation Plan	2	What is the formula or system that will be used to award points for the	See revised Attachment 03
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			market basket cost evaluation?	
Attachment 03	RFP Evaluation Plan	2	Can you provide an example of the formula or award evaluation system?	See revised Attachment 03









# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes

Version #: 2

## Submission Checklist

*The following items will be required to be submitted with bid:*

### Item

	<b>Document Description</b>	<b>Page 4</b>
<b>2400000228</b>	<b>Facilities MRO and Industrial Supplies (NASPO)</b>	

See "Attachment A" for Terms and Conditions. The terms and conditions set out in "Attachment A", and any subsequent addenda, are incorporated into and are a part of the Solicitation. By signing the face of the Solicitation document, the vendor affirms that they have read and understood the Solicitation and the terms and conditions (Attachment A) and any subsequent addenda. Should the vendor fail to comply with the provisions of the Solicitation and the terms and conditions (Attachment A) and any subsequent addenda, then the Finance and Administration Cabinet reserves the right and retains the ability to deem the vendor ineligible from further participation in the Solicitation in question.





# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes      Version #: 3

### Line Items

Commodity Group: Default

Line	CL Description	Quantity	UOM	Unit Cost	Line Total or Contract Amnt
1	Facilities MRO and Industrial Supplies	0.00000	EA		

Comm Code	Comm Description	Manufacturer	Model #	Manuf Part #
578	MISCELLANEOUS PRODUCTS (NOT OTHERWISE CLASSIFIED)			

### Extended Description

This Request for Proposals (RFP) is being issued by the State of Kentucky ("Lead State") in collaboration with the NASPO ValuePoint cooperative purchasing program. The purpose of this RFP is to establish one or more Master Agreements with qualified Offeror's to provide Facilities Maintenance, Repair, and Operations and Industrial Supplies (MRO).

The following attachments should be downloaded:

- Attachment 00, RFP Overview with Dates
- Attachment 01, RFP Terms and Conditions
- Attachment 02, Categories of Products and Environmentally Preferred Products (EPP)
- Attachment 03, RFP Evaluation Plan
- Attachment 04, Sample Master Agreement
- Attachment 05, Participation Information
- Attachment 06, Offeror Information, Acknowledgements, and Certifications
- Attachment 07, Offeror Response Worksheet
- Attachment 08, Cost Proposal
- Attachment 08-1, Cost Proposal Market Basket
- Attachment 09, Proposed Deviations to Sample Master Agreement
- Attachment 10, Claim of Business Confidentiality
- Attachment 11, Offeror Question Form
- MRO\_8-1 Market Basket
- Amendment 1 MRO Questions and Answers
- All ITP's 4-4-24

Shipping Information		Billing Information	
Various Shipping		Various Billing	
See Extended Description		See Extended Description	
Various	KY	Various	KY



# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes

Version #: 3

## Submission Checklist

*The following items will be required to be submitted with bid:*

### Item

	<b>Document Description</b>	<b>Page 4</b>
<b>2400000228</b>	<b>Facilities MRO and Industrial Supplies (NASPO)</b>	

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**\*\*\*For Addendum Information Please Download\*\*\***

**“Amendment 1 MRO Questions and Answers”**







# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes      Version #: 4

**Line Items**

Commodity Group: Default

Line	CL Description	Quantity	UOM	Unit Cost	Line Total or Contract Amnt
1	Facilities MRO and Industrial Supplies	0.00000	EA		

Comm Code	Comm Description	Manufacturer	Model #	Manuf Part #
578	MISCELLANEOUS PRODUCTS (NOT OTHERWISE CLASSIFIED)			

**Extended Description**

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  - Attachment 04, Sample Master Agreement
  - Attachment 05, Participation Information
  - Attachment 06, Offeror Information, Acknowledgements, and Certifications
  - Attachment 07, Offeror Response Worksheet
  - Attachment 08, Cost Proposal
  - Attachment 08-1, Cost Proposal Market Basket
  - Attachment 09, Proposed Deviations to Sample Master Agreement
  - Attachment 10, Claim of Business Confidentiality
  - Attachment 11, Offeror Question Form
  - MRO\_8-1 Market Basket
  - Amendment 2 MRO Questions and Answers
  - All ITP's 4-4-24

Shipping Information		Billing Information	
Various Shipping		Various Billing	
See Extended Description		See Extended Description	
Various	KY	Various	KY



# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes

Version #: 4

## Submission Checklist

*The following items will be required to be submitted with bid:*

### Item

	Document Phase	Document Description	Page 4
2400000228	Final	Facilities MRO and Industrial Supplies (NASPO)	Total Pages: 4

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**\*\*\*For Addendum Information Please Download\*\*\***

**“Amendment 2 MRO Questions and Answers”**





# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes

Version #: 5

**Line Items**

Commodity Group: Default

Line	CL Description	Quantity	UOM	Unit Cost	Line Total or Contract Amnt
1	Facilities MRO and Industrial Supplies	0.00000	EA		

Comm Code	Comm Description	Manufacturer	Model #	Manuf Part #
578	MISCELLANEOUS PRODUCTS (NOT OTHERWISE CLASSIFIED)			

**Extended Description**

This Request for Proposals (RFP) is being issued by the State of Kentucky ("Lead State") in collaboration with the NASPO ValuePoint cooperative purchasing program. The purpose of this RFP is to establish one or more Master Agreements with qualified Offeror's to provide Facilities Maintenance, Repair, and Operations and Industrial Supplies (MRO).

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- Attachment 08, Cost Proposal
- Attachment 08-1, Cost Proposal Market Basket
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- Attachment 10, Claim of Business Confidentiality
- Attachment 11, Offeror Question Form
- MRO\_8-1 Market Basket
- Amendment 3 MRO Questions and Answers
- All ITP's 4-4-24

Shipping Information		Billing Information	
Various Shipping		Various Billing	
See Extended Description		See Extended Description	
Various	KY	Various	KY



# Commonwealth of Kentucky SOLICITATION MODIFICATION

Modification: Yes

Version #: 5

## Submission Checklist

*The following items will be required to be submitted with bid:*

### Item

	Document Phase	Document Description	Page 4
2400000228	Final	Facilities MRO and Industrial Supplies (NASPO)	Total Pages: 4

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**\*\*\*For Addendum Information Please Download\*\*\***

**“Amendment 3 MRO Questions and Answers”**