IDAHO

Idaho Division of Purchasing

Participating Addendum

Purchase Order Name: Audio Visual Equipment A

Contract Number: PADD20200446

Contract Value: 5,000,000.00 USD

Purchase Order Date: 07/21/2020

Submitted By: Maria Minicucci

Supplier

Audio Enhancement Inc.
9858 S Audio Drive (6150 W)
West Jordan
Utah, 84065

Phone: 800-383-9362 ext. 1325
Fax: 801-254-3802
Email: stacey.lignell@audioenhancement.com

Shipping Details

Ship FOB: Destination, Prepaid

Shipping Instructions: Ship to Ordering Agency

Bill To Address
Ordering Agency Address

Ship To Address
Per Ordering Agency

Payment Details
Payment Terms: Net 30

Participating Addendum

NOTICE OF STATEWIDE CONTRACT (PADD) AWARD

This Contract is for Audio Visual Equipment, awarded pursuant to State of Alaska Master Agreement, issued as a cooperative contract in conjunction with NASPO ValuePoint. This Contract is issued on behalf of State of Idaho Agencies, institutions, departments, and eligible public agencies as defined by Idaho Code Section 67-2327 and shall be for the period noted above. It may be amended, renewed, or extended upon mutual, written agreement of the parties, as detailed in the RFP.

Contract Type: Open

Public Agency Clause: Yes

Contractor Contact: Stacey Lignell

Phone: 1 800-383-9362

E-mail: stacey.lignell@audioenhancement.com

This Contract is to be drawn upon as requested by the Ordering Agency for the period noted above. **THIS NOTICE OF AWARD IS NOT AN ORDER TO SHIP**. Purchase orders against this PADD will be furnished by the Ordering Agency on whose behalf this Contract is made. Contractor must ship and bill directly to the Ordering Agency. DO NOT INVOICE DOP unless DOP is the Ordering Agency. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

QUANTITIES: The Division of Purchasing can give only an approximation of quantities; no maximum or minimum quantities can be guaranteed.

This PADD, including any attached files, constitutes the State of Idaho's acceptance of your signed Proposal (including any electronic submission), which is incorporated herein by reference. In the event of any inconsistency, precedence shall be given in the following order:

1. This Participating Addendum (PADD20200466)
2. State of Alaska's original sourcing event, RFP190000044
3. The Contractor's signed Proposal

Special Instructions:

Internal Comments:

Total USD

Signature: Maria Minicucci

Digitally signed by Maria Minicucci
Date: 2020.07.22 08:12:56 -06'00'

Signed By: Maria Minicucci

NASPO ValuePoint
PARTICIPATING ADDENDUM

NASPO ValuePoint

AUDIO VIDEO EQUIPMENT and SUPPLIES
Led by the State of Alaska

Master Agreement #: 200000035 A

Participating Addendum #: PADDAE0035

Contractor: **AUDIO ENHANCEMENT**

Participating Entity: **STATE OF IDAHO**

The following product categories are included in this contract portfolio:

- ☐ CATEGORY 1 – AUDIO EQUIPMENT
- ☒ **CATEGORY 2 – VIDEO EQUIPMENT**
- ☐ CATEGORY 3 – PROJECTING EQUIPMENT
- ☐ CATEGORY 4 – PHOTOGRAPHIC EQUIPMENT
- ☐ CATEGORY 5 – SCREENS/DISPLAYS
- ☐ CATEGORY 6 – PERIPHERALS/ACCESSORIES

VALUE-ADD SERVICE OPTIONS	% DISCOUNT
Field Service	10% off
Technical Installation	10% off
Non-Technical Installation	10% off
Programming	40% off
Design	40% off
Basic Setup	10% off
Entry Level Training	10% off

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the Audio Video Equipment and Supplies contract led by the State of Alaska for use by state agencies and other entities located in the Participating State Idaho authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

2. Participation: All state of Idaho agencies and public agencies (as defined by Idaho Code, Section 67-2327) (both referred to as "Purchasing Entities" within this PA) are authorized to purchase products and services under the terms and conditions of the NASPO ValuePoint Master Agreement and those within this PA. Public agencies include any city or political subdivision of the state of Idaho, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties, cities, or any political subdivision created under the laws of the state of Idaho; and public schools and institutions of higher education. It will be the responsibility of the public agency to independently contract (i.e., issue purchase orders) with the Contractor and/or comply with any other applicable provisions of Idaho Code governing public contracts. Issues of interpretation and eligibility for participation are solely within the authority of the State's Chief Procurement Official.

3. Term: The initial term of this PA will be effective upon the last signature and continue through September 30, 2022. The PA may be extended or renewed as detailed in the Master Agreement or Section 5.D. of this PA; and may be terminated as detailed in the Master Agreement or Section 5.H.- 5.I. of this PA.

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

Contractor

Name:	Stacey Lignell
Address:	9858 South Audio Drive West Jordan UT, 84081
Telephone:	800-383-9362
Fax:	801-254-3802
Email:	Stacey.Lignell@AudioEnhancement.com

Participating Entity

Name:	Maria Minicucci
Address:	304 N. 8th St., Room 403
Telephone:	208-332-1610
Fax:	208-327-7320
Email:	Maria.minicucci@adm.idaho.gov

5. Participating Entity Modifications or Additions to The Master Agreement: Modifications or additions apply only to actions and relationships within the Participating Entity.

   Participating Entity must check one of the boxes below.

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

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

A. Reporting and Administrative Fee.

i. Idaho Administrative Fee. A 1.25% Administrative Fee will apply to all purchases made under this PADD by any Purchasing Entity. On a quarterly basis, the Contractor shall remit to the Division of Purchasing an amount equal to one and one-quarter percent (1.25%) of the Contractor's net (sales minus credits) quarterly sales made under the PADD. Pricing has been adjusted to incorporate the Administrative Fee so that the price to Purchasing Entities will reflect the adjustment. Notwithstanding the adjustment, all pricing updates and other terms and conditions of pricing shall be as set forth in the state of Alaska Master Agreement (Master Agreement Number 200000035A). Administrative Fee Payment checks must be made out and mailed to:

Division of Purchasing, State of Idaho
P.O. Box 83720
Boise, ID 83720-0075

ii. Reporting Timeline. Administrative Fee payments and reports to DOP are due no later than thirty (30) calendar days after the end of each calendar quarter detailed below:

1st Quarter: July 1 – September 30
2nd Quarter: October 1 – December 31
3rd Quarter: January 1 – March 31
4th Quarter: April 1 – June 30

iii. Required Reports.
Two (2) quarterly reports must accompany each Administrative Fee payment and be furnished electronically in Microsoft Excel format. The required reports are: 1) PADD Summary Usage Report; and 2) Detailed Usage Report. The PADD Summary Usage Report can be found on the "Information for Vendors" page of DOP's website: https://purchasing.idaho.gov/information-for-vendors/. The Detailed Usage Report template is attached to this PADD as **Attachment 1**.

The report must be emailed to: purchasing@adm.Idaho.gov.

B. Governing Law. This PA and all orders issued thereunder by Purchasing Entities shall be construed in accordance with, and governed by the laws of the state of Idaho, and the parties hereto consent to the jurisdiction and exclusive venue of the state courts of Ada county in the state of Idaho in the event of any dispute with respect to the PA.

C. Assignment. The Contractor shall not assign this PA, or its rights, obligations, or any other interest arising from this PA, or delegate any of its performance obligations, without the

express written consent of the Administrator of the Division of Purchasing. Transfer without such approval shall cause the annulment of the PA, at the option of the Participating Entity. All rights of action, however, for any breach of the PA are reserved to the Participating Entity. (I.C. § 67-5726(1)).

Notwithstanding the foregoing, to the extent required by applicable law (including I.C. § 28-9-406), Contractor may assign its right to payment on an account provided that the Participating Entity shall have no obligation to make payment to an assignee until thirty (30) calendar days after Contractor (not the assignee) has provided the responsible procurement officer with (a) proof of the assignment, (b) the identity of the specific state contract to which the assignment applies, and (c) the name of the assignee and the exact address to which assigned payments should be made. The Participating Entity may treat violation of the clause as an event of default.

D. Amendments. Amendments to the Master Agreement (including, but not limited to extensions, renewals, and modifications to the terms, conditions and pricing) will automatically be incorporated in this PA unless the Participating Entity elects not to incorporate an amendment by providing written notification to Contractor; which notice must be provided within ten (10) business days of the date of the amendment to the Master Agreement, in order to be effective. Failure to provide notice in accordance with this section 4.D will result in the Master Agreement amendment automatically being incorporated in this PA. In the event the Participating Entity does not elect to incorporate the Master Agreement's Pricing amendment into this PA, the Contractor reserves the right to terminate this PA upon thirty (30) calendar days' written notice to the Participating Entity.

E. Insurance. Notwithstanding section 21, Insurance, of the Contract, the Contract is supplemented with the following provisions:

REQUIREMENT TO PROVIDE PROOF OF INSURANCE: The Contractor and its subcontractors (if the Contractor has any subcontractors that will provide goods or services to the Participating Entity under the PA) shall provide certificates of insurance to the Division of Purchasing for workers compensation insurance (see the paragraph below) and for the commercial general liability required section 21, Insurance, of the Contract. These certificates must be provided within seven (7) business days after the effective date of this PA, and all required insurance must be maintained by the Contractor for the entire term of this PA, including all renewal and extension periods.

REQUIREMENTS FOR WORKERS' COMPENSATION INSURANCE: The Contractor shall provide and maintain Workers' Compensation Insurance and Employer's Liability for the entire term of this PA. The employer's liability shall have limits not less than $100,000 each accident for bodily insurance by accident, $500,000 disease policy limit, and $100,000 disease, each employee.

For Workers' Compensation Insurance, the Contractor must provide either a certificate of

Workers' Compensation insurance issued by a surety licensed to write Workers' Compensation Insurance in the state of Idaho or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission. The term "subcontractors" as used in this PADD shall specifically exclude all third-party suppliers and manufacturers of the products sold under this PADD and all third-party delivery service providers.

F. Applicable Terms. The Participating Entity agrees to the terms and conditions of the Master Agreement only to the extent that the terms and conditions are not in conflict with this PA or with the laws of the state of Idaho.

G. Records Maintenance. The Contractor shall maintain or supervise the maintenance of all financial records necessary to properly account for all payments made to the Contractor for the costs authorized by the PA. These financial records shall be retained by the Contractor for at least three (3) years after the PA terminates or expires, or until all audits initiated within the three (3) years have been completed, whichever is later.

H. Termination for Convenience. The Participating Entity may terminate this PA for its convenience, in whole or in part, with or without cause, upon thirty (30) calendar days' written notice to the Contractor specifying the date of termination if the Participating Entity determines it is in its best interest.

I. Termination for Default. The Participating Entity may terminate this PA when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or noncompliance within a reasonable time, not to exceed thirty (30) calendar days, unless such longer period of time is mutually agreed upon between the parties in writing. The Participating Entity, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.

A Purchasing Entity may terminate an order when the Contractor has been provided written notice of default or non-compliance and fails to cure such breach or non-compliance within thirty (30) calendar days of receiving written notice of said breach or non-compliance.

J. Public Records and Trade Secrets. Title 74, Chapter 1, Idaho Code (the Public Records Act) provides for the examination of public records, including records related to procurements and contracts. Section 74-107 details an exemption to examination of records deemed "trade secrets." Generally, this exemption describes trade secrets to "include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy."

Upon request, the Contractor must provide an electronic copy of any documents related to this PA, with any information it has determined to meet the Idaho Code definition of trade secret redacted within three (3) business days. The Contractor must redact only that information which meets the definition of "trade secret;" entire documents identified as "confidential" will not be accepted. The Contractor must also provide a separate document entitled "List of Redacted Trade Secret Information" which provides a succinct list of all trade secret information noted in your Document; listed in the order it appears in your submittal documents, identified by Page #, Section #/Paragraph #, Title of Section/Paragraph, specific portions of text/illustrations; or in a manner otherwise sufficient to allow the Participating Entity's procurement personnel to determine the precise text/material subject to the notation. Additionally, this list must identify with each notation the specific basis for your position that the material be treated as exempt from disclosure and how the exempting the material complies with the Public Records Law. In the event the Participating Entity or Purchasing Entity receives a request pursuant to the Public Records Act, which includes information deemed "trade secret" by the Contractor, the Contractor must agree to defend and indemnify the Participating Entity or the Purchasing Entity against any claim brought challenging the denial of the request under the trade secret exemption. Failure of the Contractor to provide an electronic copy of the redacted documents, or to defend and indemnify the Participating Entity or Purchasing Entity, will result in the full (unredacted) document being released in response to the request.

6. Lease Agreements: Leases are not permitted under this Agreement

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

8. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

AUDIO VIDEO EQUIPMENT and SUPPLIES

Led by the State of Alaska

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

Participating Entity:	Contractor:
State of Idaho	Audio Enhancement Inc.
Signature:	Signature:
Name:	Name:
Maria Minicucci	Denton Anderson
Title:	Title:
Contract Administrator	Vice President and Director of Sales
Date:	Date:
	6.18.20

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

For questions regarding NASPO ValuePoint Participating Addendums, please contact the NASPO ValuePoint Cooperative Contract Coordinator team at:

ccc@naspovlauepoint.org

Please note that fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to:

pa@naspovaluepoint.org

MASTER AGREEMENT FORM
Goods and Non-Professional Services

The parties' contract comprises this Master Agreement (MA) Form, as well as its referenced Articles and their associated Appendices

1. Agency MA Number	2. MA Title	3. Agency Fund Code	4. Agency Appropriation Code
200000035 A	Audio Video Equipment & Supplies	N/A	N/A

5. Vendor Number	6. IRIS GAE Number (if used)	7. Alaska Business License Number
VS008104	N/A	2087582

This contract is between the State of Alaska,

8. Department of	Division	
Administration	Shared Services of Alaska	hereafter the State, and

9. Contractor	
Audio Enhancement, Inc.	hereafter the Contractor

Mailing Address	Street or P.O. Box	City	State	ZIP+4
	9858 South Audio Drive	West Jordan	UT	84081

10.

ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.

ARTICLE 2. Performance of Contract:

2.1 Appendix A State of Alaska General Conditions, Items 1 through 18, and NASPO ValuePoint Master Agreement Terms and Conditions, Items 1 through 35, govern contract performance.

2.2 Appendix B sets forth the scope of work/services to be performed by the contractor.

ARTICLE 3. Period of Performance: The period of performance for this Master Agreement begins upon final signature, and ends September 30, 2022 with two one-year renewal options.

ARTICLE 4. Considerations:

4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor according to the provisions of Appendix C.

12. CONTRACTOR	13. CONTRACTING AGENCY
Name of Firm Audio Enhancement	Department/Division Administration/Shared Services of Alaska
Signature of Authorized Representative	Signature of Procurement Officer Mindy Birk
Typed or Printed Name of Authorized Representative Denton Anderson	Typed or Printed Name of Procurement Officer Mindy Birk
Title Vice President and Director of Sales	Title Contracting Officer III
Date 10.11.19	Date 11/4/19

SCF.DOC (Rev. 04/14)

APPENDIX A
STATE OF ALASKA GENERAL CONDITIONS

1. **Inspections and Reports:**
The department may inspect, in the manner and at reasonable times it considers appropriate, all of the contractor's facilities and activities under this contract. The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

2. **Suitable Materials, Etc.:**
Unless otherwise specified, all materials, supplies or equipment offered by the contractor shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

3. **Disputes:**
If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620-AS 36.30.632

4. **Default:**
In case of default by the contractor, for any reason whatsoever, the State of Alaska may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

5. **No Assignment or Delegation:**
The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Procurement Officer.

6. **No Additional Work or Material:**
No claim for additional supplies or services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Procurement Officer.

7. **Independent Contractor:**
The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

8. **Payment of Taxes:**
As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

9. **Compliance:**
In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

10. **Conflicting Provisions:**
Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it sees to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) seek to limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

11. **Officials Not to Benefit:**
Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

12. **Contract Prices:**
Contract prices for commodities must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost.

Prices for services must be in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost.

13. Contract Funding:

Contractors are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.

14. Force Majeure:

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

15. Contract Extension:

Unless otherwise provided, the State and the contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect, and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.

16. Severability:

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

17. Continuing Obligation of Contractor:

Notwithstanding the expiration date of this contract, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired.

18. Governing Law; Forum Selection

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

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

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

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

NASPO ValuePoint Program Provisions

2. Term of the Master Agreement

a. The initial term of this Master Agreement is for three (3) years. This Master Agreement may be extended beyond the original contract period for two (2) additional one-year terms at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

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

3. Amendments

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

4. Participants and Scope

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

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

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addendums. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities, who are states, incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

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

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

f. Participating Entities, who are not states, may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is

located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

5. Administrative Fees

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

b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee. The NASPO ValuePoint Administrative Fee in subsection 6a shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

6. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation or in Participating Addendums (PA's), the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at http://calculator.naspovaluepoint.org. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

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

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

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

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

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

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

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

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

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

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

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to section 25, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to section 25 or to terminate for default pursuant to section 27.

g. Contractor agrees, within 30 days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-part contracts or agreements that may affect the promotion of this Master 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.

8. Right to Publish

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

9. Price and Rate Guarantee Period

All prices and rates must be guaranteed for the initial term of the master agreement. Following the initial Master Agreement period, any request for price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date. Requests for price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

10. Individual Customers

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their

purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

Administration of Orders

11. Ordering

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

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated, or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addendums and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

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

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

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

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

(1) The supplies being delivered;
(2) The place and requested time of delivery;
(3) A billing address;
(4) The name, phone number, and address of the Purchasing Entity representative;
(5) The price consistent with this Master Agreement and the contractor's proposal; and,
(6) The Master Agreement identifier.

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

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

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

12. Laws and Regulations

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

13. Inspection and Acceptance

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

b. All Products are subject to inspection at reasonable times and places before Acceptance and acceptance or rejection shall occur no later than five (5) business days after delivery of product. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are used. Acceptance of such goods may be revoked in accordance with the provisions of the user State's procurement code, or 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.

d. The warranty period will begin upon shipment of product.

e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in this Master Agreement or the Participating Addendum, starting from the day after the Product is delivered. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met.

14. Payment

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail, electronic fund transfer, or Purchasing Card (Pcard). Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

15. Warranty

Warranty provisions govern where specified elsewhere in the documents that constitute the Master Agreement; otherwise this section governs. The Contractor warrants for a period of 30-days from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

16. Title of Product

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

17. License of Pre-Existing Intellectual Property

Upon payment in full, the 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").

General Provisions

18. Insurance

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

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

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

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

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

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

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

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

19. Records Administration and Audit

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

by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

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

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

20. Confidentiality, Non-Disclosure, and Injunctive Relief

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

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

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

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

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addendums, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item

descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 22. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

21. Public Information

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

22. Assignment/Subcontracts

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

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

23. Changes in Contractor Representation

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

24. Independent Contractor

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

25. Cancellation

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

26. Force Majeure

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

27. Defaults and Remedies

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

(1) Nonperformance of contractual requirements; or

(2) A material breach of any term or condition of this Master Agreement; or

(3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or

(4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

(5) Any default specified in another section of this Master Agreement.

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

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

(1) Exercise any remedy provided by law; and

(2) Terminate this Master Agreement and any related Contracts or portions thereof; and

(3) Impose liquidated damages as provided in this Master Agreement; and

(4) Suspend Contractor from being able to respond to future bid solicitations; and

(5) Suspend Contractor's performance; and

(6) Withhold payment until the default is remedied.

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

28. Waiver of Breach

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

29. Debarment

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

30. Indemnification

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

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

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

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

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

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

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

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

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

31. No Waiver of Sovereign Immunity

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

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Addendum to the Constitution of the United States.

32. Governing Law and Venue

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

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

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

33. 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.

34. 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 Addendums and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

35. 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.

APPENDIX B
SCOPE OF WORK

The primary purpose of this Master Agreement (MA) is for "box sales" (online or catalog sales) and delivery. Services such as installation services or repair services outside of the warranty, setup services, or basic training services, etc. although not the primary purpose, will be included in this MA as Value-add Services to be used on an as-needed basis. Only Value-add Services listed on the Contractor's proposal will be included on this MA. Value-add Services not listed on the Contractor's proposal will not be allowed under this MA without prior written approval from the Lead State Procurement Officer. If Value-add Service options are requested, the Purchasing Entity may choose to request a quote only or require the Contractor to create a Statement of Work (SOW) detailing the exact scoping and pricing of the services to be provided.

Categories:

There are six categories of equipment that were awarded for this MA. Those six categories are:

1. Audio Equipment
2. Video Equipment
3. Projection Equipment
4. Photographic Equipment
5. Screens/Display
6. Peripherals/Accessories

Audio Enhancement has won the award for Category 2: Video Equipment, only. The products they offer for Category 2 will be priced below Manufacturer's list price as listed below and in their Cost Proposal, Attachment C, Submittal Form F of RFP 190000044.

Manufacturer	Discount %
Audio Enhancement	40%
Vaddio	10%

The discount as awarded is the minimum discount. Additional discounts may be negotiated between the ordering Participating Entity and the Contractor for large volume purchases or for purchases where additional discounts may be appropriate, however, the discount may not ever drop below the discount offered in the Contractor's proposal.

The Lead State is exempt from federal excise taxes and no payment will be made for any taxes levied on the Offeror's or any subcontractor's employee's wages. The Lead State will pay for any applicable Lead State or local sales or use taxes on the products provided. If required by Lead State, taxes shall be included as a separate line item on an Offeror's invoice. The tax rules with respect to other Participating Entities may vary and are expected to be addressed in the Participating Addendums.

Performance Requirements:

1. The Contractor(s) must deliver goods within fifteen (15) calendar days from receipt of an order, unless otherwise mutually agreed upon by the Ordering Entity, with exceptions being made for holidays, special orders and backorders. Contractor must contact the Ordering Entity to notify them of any deliveries that will not be made within fifteen (15) calendar days, along with an explanation with the actual delivery date and the reason for the delay.

2. The Contractor(s) shall be required to assign a contract manager to act as a liaison and contact person between the ordering entities and the Contractor for the purpose of resolving issues or problems related to any part of this contract.

3. Upon request by and at no charge to the Participating Entity, the Contractor(s) must provide hard copy catalogs and price lists for all awarded items offered under this contract.

Shipping and Delivery:

1. All deliveries will be F.O.B. destination (including Alaska and Hawaii), freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.

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

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

4. Products returned because of quality problems, duplicated shipments, etc., will be sent back to the contractor within 10 calendar days at the contractor's expense, with no restocking charge and shall be replaced with specified products or the Ordering Entity will be credited/refunded for the full purchase price.

Ordering/Invoicing:

1. There are no guaranteed minimum or maximum amount of orders. Each Ordering Entity will order products on an as needed basis.

2. The Contractor(s) must be capable of:

   a. Accepting verbal orders via telephone with use of State(s) P-card;

   b. Accepting P-card and Purchase Orders via the internet, and facsimile;

   c. Providing the Ordering Entity using a Purchase Order with a printable order confirmation after the order is placed, and a printable receipt if a State P-card is used; and,

   d. Accepting payments by check, electronic fund transfer, or with State(s) P-card. The Contractor will be solely responsible for the credit card user-handling fee associated with credit card purchases.

Other Documents:

1. Contractor(s) must provide to ordering entities written warranties for all items covered by warranty.

2. With delivery of the equipment, Contractor shall furnish to the Ordering Entity, a complete instruction manual for the equipment with full instructions on operation of the equipment and preventative and corrective maintenance procedures.

Guarantee of Equipment:

Contractors shall guarantee that the equipment offered is standard new equipment and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice. Products furnished under the terms of this contract will be guaranteed against any defect due to faulty material and/or workmanship. Products must meet all federal, state and local standards for quality and safety requirements and must be UL approved. All equipment delivered under this contract will be first quality manufacture, workmanship and finish. No remanufactured or refurbished equipment will be provided under this contract.

Value-add Services:

Audio Enhancement is offering the following value-add services for the discount off normal rate as listed below:

Value-add Service Options	% Discount
Field Service	10% off
Technical Installation	10% off
Non-technical Installation	10% off
Programming	40% off
Design	40% off
Basic Setup	10% off
Entry Level Training	10% off