

**PARTICIPATING ADDENDUM
("Participating Addendum")
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Computer Equipment
Administered by the State of Minnesota (hereinafter "Lead State")**

MASTER AGREEMENT
Master Agreement No: MNWNC-105
Cisco Systems, Inc.
(hereinafter "Contractor")
And
State of Tennessee
(hereinafter "Participating State/Entity")

(Participating State/Entity Contract #50634)

1. Scope: This addendum allows for purchase of the following Computer Equipment/Services: Band 4 - Servers led by the State of Minnesota along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State/Entity that is authorized by that state's statutes to utilize state /entity contracts, and which receives prior written approval of the state's chief procurement official.

The original solicitation contains the requirements and definitions establishing the Product Bands allowed on the Master Agreement. The Master Agreement identifies the bands awarded to the Contractor. The configuration limits and restrictions for the Master Agreement are provided with revisions identified by the Participating State in this Participating Addendum (See Attachment A and Attachment B).

2. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official. For purposes of this Participating Addendum, a participating entity under this Section 2 shall also be considered the "Participating State".

3. Order of Precedence:

1. A Participating Entity's Participating Addendum; A Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the Terms of Minnesota NASPO ValuePoint Master Agreement;
2. Minnesota NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions)
3. The Solicitation including all Addendums; and
4. Contractor's response to the Solicitation.

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 the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or referenced on the Contractor's website, in the Contractor quotation/sales order or in similar documents subsequently provided by the Contractor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

4. Participating State Modifications or Additions to Master Agreement:

The State of Tennessee Participating Addendum includes Modifications to the Master

Agreement as well as additional Terms and Conditions. See Attachments A and B.

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

Contractor

Name	Mimi Nguyen-Farr
Address	170 W. Tasman Drive, San Jose, CA 95134
Telephone	408-527-2627
Fax	408.608.1802
E-mail	mimnguye@cisco.com

Participating Entity

Name	Josh Gaddy, Category Specialist
Address	312 Rosa L. Parks Avenue Nashville, TN 37243
Telephone	615-741-1402
Fax	615-741-0684
E-mail	Josh.gaddy@tn.gov

6. Partner Utilization: Each state represented by NASPO ValuePoint participating in this Master Agreement independently has the option of utilizing partners. Only partners approved by this Participating State may be deployed. The Participating State/Entity chooses to utilize the following Contractor's partners ("Fulfillment Partners" or "Resellers") to perform under this Participating Addendum.

LPS Integration
230 Great Circle Rd, Suite 218
Nashville, TN 37228

Pomeroy IT Solutions Inc.
717 Airpark Center Dr.
Nashville, TN 37217

Presidio
12 Cadillac Drive, Suite 130
Brentwood, TN 37027

ProSys Information Systems Inc.
PO Box 536761
Atlanta, GA 30353

The Participating State will define the process to add and remove partners and may define the partner's role in their participating addendum. Upon recommendation by the Contractor the Participating State/Entity reserves the right to add and/or remove Partners, without the need for an amendment to the Participating Addendum, throughout the term of the Participating Addendum.


The Contractor's Authorized Partners' participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement and this Participating Addendum. Additionally, in accordance with the Master Agreement, the Contractor shall be fully responsible as the prime Contractor for its Partners performance under this Participating Addendum and shall be responsible for any terms and conditions with its Partners. Each Contractor's approved Partners

are shown on the Contractor's dedicated website for the Participating State and its respective eligible Purchasing Entities.

7. Terms: The Participating State is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with this Participating Addendum, Tennessee State Constitution, and State law.

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

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

Participating State:	Contractor:
By:	By: 
Name:	Name: Phil Lozano
Title:	Title: Director, Finance
Date:	Date: June 29, 2016

APPROVED BY LEGAL

State of Tennessee

2015-2020 MN NASPO ValuePoint Computer Equipment

Modifications

Master Award Summary:

Page 3, Section 4. Configuration Dollar Limits:

This section is modified by the State of Tennessee as follows:

The State of Tennessee will not have a maximum single configuration limit for either Servers or Storage.

Page 4, Section 5.a. Software:

This section is modified by the State of Tennessee as follows:

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software.
5. Any software available under any other Tennessee Statewide Contract is excluded from purchase through this Participating Addendum except when applicable to initial procurement of equipment.

Page 4, Section 5.b. Services:

This section is modified by adding as a new subpart 5.b.6. the following language:

6. The State of Tennessee will only allow manufacturer based services. No reseller professional services will be accepted under this Participating Addendum. The State is agreeing to utilize only the sku's that are listed on the published NASPO price list. Notwithstanding the foregoing, the parties hereto agree that Contractor's services as published on the NASPO price list will only be available for purchase after the Participating State and Contractor negotiate in good faith the terms and conditions regarding Contractor's services. Final agreement by the parties on the terms and conditions for Contractor's additional services offerings will be incorporated into this Participating Addendum via written amendment.

Page 8, Section 7. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF, NEGOTIATED.

This term in the Master Agreement is modified by deleting it in its entirety, and substituting in its place Special Term and Condition #29. Confidentiality of Records in the Participating Addendum.

Page 13 Section 28. Acceptance and Acceptance Testing subpart a.:

This section is modified by adding/deleting the following in subpart a:

- a. Acceptance. Participating State (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) shall determine whether all Products and Services delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Participating State has accepted the Products or Services. The Participating State will make every effort to notify the Contractor/Partner within thirty

(30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor/Partner has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.

Page 13, Section 29. System Failure or Damage.

This section is modified by adding the following language as the last sentence in this paragraph:

“Operational Capacity” shall mean that capacity, capability and/or performance available to the State immediately prior to the system failure or damage.

Page 10, Section 10

Delivery. Section 10 (Delivery) of Exhibit A, Part B of the Master Agreement and Section 14 (Delivery) of Exhibit B of the Master Agreement shall be replaced with the following:

1. After receipt and acceptance by Contractor of Participating State’s Order(s), Contractor will use commercially reasonable efforts to ship all direct orders designated for shipment to U.S. locations within thirty (30) days for all products.
 - 1.1. All sales are final. Except as provided in Contractor’s Limited Warranty, Contractor only permits the return of un-opened products due to Contractor’s shipping or order processing error, or damage in transit. No other returns are authorized under this Master Agreement. Warranty returns will not be subject to any restocking charges.

Page, 23, Section 25

Payment Card Industry Data Security Standard and Cardholder Information Security. Contractor shall not receive any direct payments via a State or political subdivision “Purchasing Card” from Purchasing Entities. Therefore, Section C.25 of Exhibit A of the Master Agreement shall not apply to Contractor. Any purchase via Purchasing Card and any processing of Cardholder Data must be through a Fulfillment Partner and Cisco will flow down the obligations of Section 23 of Exhibit C of the Master to all Fulfillment Partners.

Other Changes:

1. Orders.
 - 1.1. Any Order placed by a Participating State for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.
 - 1.2. Contractor reserves the right to require that purchases be made through Fulfillment Partners.
 - 1.3. All Purchase Orders are subject to Contractor’s reasonable acceptance (including performing any related credit checks). Contractor shall use commercially reasonable efforts to accept or reject

orders in writing within ten (10) days from receipt, or within three (3) business days, if orders are placed electronically.

- 1.4. Purchaser may defer product shipment up to thirty (30) days from the originally scheduled shipping date, provided written notice is received by Contractor at least ten (10) days before the originally scheduled shipping date. Cancelled orders, rescheduled deliveries, or product configuration changes made by Purchaser less than ten (10) days before the original shipping date are subject to Contractor's acceptance. Contractor reserves the right to reschedule delivery due to configuration changes made within ten (10) days of scheduled shipment. No cancellation shall be accepted by Contractor where products are purchased with implementation services, including but not limited to design, customization, or installation services, except as may be set forth in the Participating Addendum or Statement of Work under which the services are to be rendered. Notwithstanding anything to the contrary, if Contractor is delayed in shipping the product for thirty (30) days or more from the original shipping date, the Participating State may cancel the order without charge.
 - 1.5. Notwithstanding anything contained in the Master Agreement to the contrary, modifications which Contractor deems necessary to comply with specifications, changed safety standards or governmental regulations, to make the product non-infringing with respect to any patent, copyright, or other proprietary interest, or to otherwise improve the product may be made at any time by Contractor without prior notice to or consent of Purchaser, and such altered product shall be deemed fully conforming. Contractor shall employ commercially reasonable efforts to announce, including by electronic posting, product discontinuance or changes other than those set forth in the previous sentence in accordance with Contractor's End-of-Life Policy, which is found at the following URL: <http://www.cisco.com/c/en/us/products/eos-eol-policy.html>. Purchaser may make a last-time purchase of such products as set forth in such policy.
2. E-Rate. Products and Services under this Participating Addendum may be E-Rate eligible. Orders for E-Rate eligible products and Services will be processed by Fulfillment Partners under such partner's Service Provider Identification Number ("SPIN").
 3. Rights Upon Termination or Expiration.
 - 3.1. Upon termination or expiration of the Master Agreement or this Participating Addendum, (a) Contractor reserves the right to cease all further delivery of product or Services, and (b) all outstanding invoices become due and payable within thirty (30) days of termination. If Contractor agrees to complete delivery of any further products or services due against any existing accepted Purchase Orders, then Participating State shall pay for such products or services in advance within thirty (30) days.
 - 3.2. Except for a termination of the Master Agreement or this Participating Addendum resulting from Participating State's breach of Contractor's proprietary rights and software licensing (including Export, Re-Export, Transfer and Use Controls set forth in Cisco's End User License Agreement incorporated in the Master Agreement) or Confidential Information, upon termination or expiration of this contract, Participating State may continue to use, in accordance with the terms and conditions of this Participating Addendum, products provided to it by Contractor prior to the date of termination or expiration provided (1) payment has been made in full for such products and (2) license rights allow for such continued use.
 - 3.3. In the event of any termination pursuant to this section, and unless otherwise required by law or court of competent jurisdiction, Participating State shall remain obligated to

comply for the duration of the permitted use of anything purchased under this Participating Addendum with the provisions of Contractor's Software License terms, and Confidential Information.

4. 3.4 Employee Purchase Program. Employees of Participating State are not eligible to purchase products or Services under this Participating Addendum.

State of Tennessee

2015-2020 MN NASPO ValuePoint Computer Equipment

Additional Terms and Conditions



Standard Terms and Conditions

1. Limitation of State's Liability. As set forth in principles established by the Tennessee Constitution Article II, Section 24, the Participating State shall have no liability except as specifically provided in this Participating Addendum and Master Agreement. In no event will the Participating State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Participating Addendum or otherwise. ("Incidental Damages"). Notwithstanding anything else herein, and in accordance with the Tennessee Constitution, the Participating State's total liability under this Participating Addendum (including without limitation any exhibits, schedules, amendments or other attachments to the Participating Addendum) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.

Subject to a cap in the amount of the Estimated Liability, and excluding Incidental Damages, the State shall have liability for: (i) breach of any licenses provided by Contractor and/or (ii) any claims for fraudulent conduct, personal injuries or death resulting from the negligence of the Participating State; and (iii) any amounts due to Contractor under this Agreement

2. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, and excluding Contractor Incidental Damages (defined below) the Contractor's and its Fulfillment Partner's liability to any Participating State for all claims arising under this Participating Addendum shall be limited to an amount equal to two (2) times the Estimated Liability amount detailed in Special Terms and Conditions number 10, Page 15 and as may be amended. This limitation of liability is cumulative and not per incident. PROVIDED THAT in accordance with Tenn. Code Ann. § 12-3-701(b), in no event shall this Section limit the liability of the Contractor for:

- (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights;
- (ii) any claims covered by any specific provision in the Participating Addendum providing for liquidated damages; or
- (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death resulting directly from the negligence of Contractor.

Contractor will not be liable for any special, incidental, indirect or consequential damages; loss of any of the following: profits, revenue, business, anticipated savings, use of any product or service, opportunity, goodwill or reputation or lost or damaged data ("Contractor Incidental Damages").

3. Indemnification. The second sentence of the Second paragraph of Section C.17 (Indemnification) of Exhibit A shall be struck in its entirety. Section C.17 (Indemnification) of Exhibit A is further modified to include the following additional language: "The foregoing indemnification obligations are conditioned upon the indemnified party promptly notifying the indemnifying party in writing of the claim, suit, or proceeding for which the indemnifying party is obligated under this Subsection, however, the failure of the indemnified party to give notice shall only relieve the indemnifying party of its obligations under this Section to the extent that the indemnifying party can demonstrate actual prejudice arising from the failure to give notice. The indemnified party shall cooperate with, assist, and provide information to, the indemnifying party as reasonably required. Nothing shall grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106. Any settlement or compromise of an indemnified claim shall include a release of the indemnified party for all liability arising out of such claim, suit or proceeding"

4. Taxes: Purchases of goods by the State of Tennessee are exempt from Tennessee sales and use tax pursuant to Tenn. Code Ann. 67-6-329(a) (4), and the Participating State is generally exempt from Federal excise tax. Contractors are subject to Tennessee sales and use tax on all materials and supplies used in the performance of a contract, whether such materials and supplies are purchased by the Contractor, produced by the Contractor, or provided to the Contractor by the Participating State, pursuant to Tenn. Code Ann. 67-6-209. The Contractor agrees to pay all taxes incurred in the performance of an awarded contract.

5. Unless otherwise stated, all goods called for by a purchase order must be tendered, with commercially reasonable effort, in a single delivery in reasonable compliance with the delivery time specified and payment is due only on such tender. Partial shipments and/or back orders will only be accepted with receiving agency's prior written authorization, not to be unreasonably withheld, conditioned or delayed.

6. All products, materials, supplies and equipment offered and furnished must be new, of current manufacturer production unless Contractor's Certified Refresh Program is utilized and agreed to by the Participating State.

7. Governing Law. This Participating Addendum shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of Tennessee in actions that may arise under this contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Section 9-8-101 through 9-8-407.

8. State and Federal Compliance: The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Participating Addendum.

9. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Participating Addendum, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Participating Addendum.

- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Participating Addendum and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the

performance of this Participating Addendum. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment C, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

- b. Pursuant to the requirements of Tenn. Code Ann. § 12-3-309, prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation, a form of which has previously been provided to Contractor, that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Participating Addendum and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Participating Addendum. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Participating Addendum. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State solely for the purpose of confirming compliance with applicable requirements of Tenn. Code Ann. § 12-3-309.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
- e. For purposes of this Participating Addendum, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Participating Addendum.

10. Modifications and Amendments: This Participating Addendum may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Chief Procurement Officer, the Commissioner of Human Resources, and the Comptroller of the Treasury).

11. Records: The Contractor shall maintain documentation for all charges solely related to this Participating Addendum. The books, records, and documents of the Contractor solely for work performed or money received under this Participating Addendum, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit not more than once per year, unless the Participating State makes a reasonable written request for additional audits based solely on the grounds that (i) Contractor is not in compliance with applicable law; and/or (ii) Participating State has a good faith belief that Contractor is in breach of this Participating Addendum., through the fifth full year from the date of final payment, at any reasonable time during regular business hours as agreed upon by the parties hereto. The Participating State, the Comptroller of the Treasury, or their duly appointed representatives shall provide written notice to Contractor of a request for an audit and the parties shall cooperate in good faith to schedule an audit date and time not less than thirty (30) days after Contractor's receipt of the written audit request. All audits shall be at the sole expense of the Participating State, the Comptroller of the Treasury, or their duly appointed representatives, as

applicable. The financial statements solely related to this Participating Addendum shall be prepared in accordance with generally accepted accounting principles.

12. Monitoring: The Contractor's activities conducted and records maintained pursuant to this Participating Addendum shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

13. HIPAA Compliance: The State and Contractor shall comply with applicable obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules").

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Participating Addendum.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Participating Addendum so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Participating Addendum is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver such information without entering into a business associate agreement or signing another such document.
- d. Subject to the Limitation of Liability set forth in Exhibit A, Part C, Section 18 of the Master Agreement, as amended by Attachment B (Additional Terms and Conditions), Sections 1 and 2 of this Participating Addendum, the Contractor will indemnify the Participating State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. To the extent the costs were directly caused by the Contractor or subcontractor, this includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

Special Terms and Conditions

1. F.O.B. Destination (Statewide Contract)

All state agencies, local government agencies and authorized non-profit enterprises located within the State of Tennessee.

2. Term of Participating Addendum

This Participating Addendum shall be effective on July 1, 2016 ("Effective Date") and shall continue until March 31, 2020, which is co-terminous with the term of the Master Agreement, unless terminated earlier as set forth in this Participating Addendum. ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

3. Renewal Options

This Participating Addendum may be renewed upon satisfactory completion of the Term. If the Master Agreement is renewed by the Lead State, the State reserves the right to execute up to the same number of renewals under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

4. Debarment and Suspension

The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors/partners and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Participating Addendum been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Participating Addendum, to its knowledge, had one or more public transactions (federal, state, or local) reportable to a state or federal agency, terminated for cause.

The Contractor shall provide immediate written notice to the Participating State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors/partners are excluded or disqualified.

Furthermore, the parties agree that the second paragraph of Section B.8 of Exhibit A of the Master Agreement shall be replaced with the following: "In any order against this Master Agreement for a requirement established by a Participating State that discloses the use of federal funding, to the extent another form of certification is not required by a Participating Addendum or the order of the Participating State, the Fulfillment Partner's quote represents a certification by the Fulfillment Partner consistent with the terms of paragraph 8, Section a(2), Minnesota Terms and Conditions."

5. Delivery Time (Days) All items must be delivered within approximately 30 days after receipt of a purchase order.

6. Vendor Reporting

Usage Report

Upon request, or at a minimum quarterly, the Contractor shall furnish a usage report delineating the acquisition activity under the Participating Addendum. The format of the report shall be approved by the State and shall disclose, at a minimum, the following for State and non-State governmental entities and all others authorized to use this Participating Addendum:

- Purchase Order (PO) Number
- PO Date
- Participating State Name (State Agency/Municipality/Other)
- Participating State number
- Billing Address & Shipping Address
- Product Type (Server, Storage)
- Total Price per PO
- For Hardware
 - Manufacturer catalog part number
 - Manufacturer name
 - Product Description
 - Catalog Name and Effective Dates for Items Purchased, as applicable
 - Invoiced amounts
 - Reporting period by State fiscal year - annual/quarter
 - Invoice number
 - Invoice Date
 - List Price
 - State unit price (as stated on invoice)
 - Quantity

Reporting formats must be submitted to the State for approval within 10 business days after this Participating Addendum start date. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the Participating Addendum.

7. Department of Revenue Registration

The contractor/partners shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Participating Addendum.

8. Insurance Required

The Contractor shall procure and maintain for the duration of the contract, at their own cost and expense the insurance described in this Section 8.

The insurance carrier(s) must be licensed to conduct business in the State of Tennessee. The insurance will be evidenced by an original or .pdf format document certificate of insurance. The certificate shall list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave, 3rd Floor CPO, Nashville, TN 37243, as the certificate holder and must list the company name and address on file with the State. Should any of the policy coverage(s) provided have a major change, expire, or be canceled before the expiration date the Contractor shall fax or email vendor.insurance@tn.gov, a copy of their insurer's cancellation notice within two (2) business days of receipt.

Certificates for liability coverages shall name the State of Tennessee as an additional insured under the Commercial General Liability and Automobile Liability Insurance as required in this Section 8. The following Insurance Coverages are required:

Workers' Compensation Insurance: a certificate shall be provided which indicates the contractor provides workers' compensation coverage in compliance with the state laws of Tennessee., and Employer's Liability with the following limits:

E.L. Each Accident	\$1,000,000
E.L. Disease- Each Employee	\$1,000,000
E.L. Disease - Policy Limit	\$1,000,000

General Liability and Property Damage Insurance: Commercial General Liability Insurance, including but not limited to, bodily injury, property damage, contractual liability, products liability, with combined single limits of \$1,000,000 per occurrence with a minimum aggregate of \$2,000,000. The State of Tennessee shall be included as an additional insured, but only for liabilities arising from Contractors acts or omissions under the Master Agreement.

Automobile Liability Insurance: Commercial Automobile Liability Insurance, including coverage for all owned, non-owned and hired automobiles, with limits of \$1,000,000 per accident and \$2,000,000 in the aggregate. The State of Tennessee shall be included as an additional insured.

The Contractor shall provide the State of Tennessee Central Procurement Office with an original certificate of insurance or .pdf format document as proof of insurance coverage, as stated above, naming the State of Tennessee as additional insured under the Commercial General Liability and Automobile Liability insurance as required by this Section 8, within ten (10) business days after request.

Failure to maintain insurance coverage for the duration of the contract period may result in cancellation of the contract.

9. Purchase Order Release (Statewide)Orders for products or services that are included on statewide contracts shall be prepared by agencies on departmental purchase orders and forwarded directly to the vendor/contractor or the contractor's authorized partner. These purchase orders, when received by the vendor/contractor or the contractor's authorized partner, serve as authorization for shipment of product(s) or start of service.

Products from different contracts issued for the same statewide may be combined on a single purchase order to the same vendor/ contractor to meet minimum order requirements. Local government agencies or authorized corporations, where applicable, will issue their purchase order releases directly to the vendor/contractor.

Billing Instructions:

The vendor/contractor or the contractor's authorized partner shall invoice the state only after product has been received by the user agency or upon completion of the service described in the purchase order/contract, unless otherwise authorized in writing by the user agency and as required below prior to any payment.

The contractor or the contractor's authorized partner shall submit an invoice, with all necessary supporting documentation, to the state agency billing address. Such invoice shall clearly and accurately detail the following required information:

1. Invoice/reference number; (assigned by the contractor or the contractor's authorized partner);
2. Invoice date;
3. Contract and/or purchase order number; (assigned by the state);
4. Account name;
5. Procuring state agency and division name;

6. Account/customer number (uniquely assigned by the vendor/contractor or the contractor's authorized partner);
7. To the above-referenced account name;
8. Contractor/Partner name;
9. Contractor/Partner Identification Number; (as referenced in the contract);
10. Contractor/Partner contact (name, phone, and/or fax for the person to contact with billing questions);
11. Contractor/Partner remittance address;
12. Description of delivered product(s) or service;
13. List Price; and
14. Total amount due for delivered product(s) or service.

The vendor/contractor understands and agrees that the invoice shall;

- Include only charges for service described in contract or Purchase Order and in accordance with payment terms and conditions set forth in the contract or purchase order;
- Not include any future work but will only be submitted for completed service, unless otherwise authorized in writing by the user agency; and
- Not include sales tax or shipping charges (unless otherwise stipulated in the contract or purchase order).

Payment: The Contractor/Fulfillment Partner agrees that timeframe for payment (and any discounts) begins when the state is in receipt of a correct invoice meeting the minimum requirements above. It shall be the responsibility of the "bill to" agency to make payment in accordance with the Prompt Pay Act of 1985, Tenn. Code Ann. § 12-4-701, et seq. The Prompt Pay Act of 1985 states that the Participating State shall pay for each complete delivered item of property or service within forty-five(45) days after receipt of the invoice covering the delivered items or services. The Prompt Pay Act of 1985 further states that interest shall accrue and be charged on payments overdue at one and one-half percent (1 ½ %) per month beginning on the day after payment is due. Any questions concerning payment should be addressed to the "bill to" agency and not to the Central Procurement Office.

Where permitted by the law of the Participating State, operating leases are an allowable payment option under the resulting contract. The terms and conditions of the operating lease arrangement with Contractor, or its designated and/or approved Fulfillment Partner, will be set forth between the Participating State and Contractor or its designated and/or approved Fulfillment Partner.

10. Estimated Liability

The total purchases of any goods or services under this Participating Addendum are not known. The Participating State estimates the purchases during the Term shall be Seven Million Five Hundred Thousand dollars per year (\$7,500,000) ("Estimated Liability"). This Participating Addendum does not grant the Contractor any exclusive rights. The Participating State does not guarantee that it will buy any minimum quantity of goods or services under this Participating Addendum. Subject to the terms and conditions of this Participating Addendum, the Contractor/Partner will only be paid for goods or services provided under this Participating Addendum after a purchase order is issued to Contractor/Partner by the State or as otherwise specified by this Participating Addendum.

11. Prerequisite Documentation

The Contractor shall not invoice the Participating State under this Participating Addendum until the State has received the following, properly completed documentation. At the State's option, it may make payments to Contractor by automated clearing house ("ACH") or the State Purchasing Card ("P-Card").

- a. The Reseller shall complete, sign, and present to the Participating State:

- (1) An "Authorization Agreement for Automatic Deposit Form" provided by the Participating State. By doing so, the Reseller acknowledges and agrees that, once this form is received by the Participating State, payments to the Reseller, under this or any other contract the Reseller has with the State of Tennessee, may be made by ACH; and
- (2) An "Authorization to Receive Payments by Purchasing Card Form" provided by the Participating State. By doing so, the Reseller agrees that payments to the Reseller under this Participating Addendum may be made using the State P-Card and Reseller will provide level III data reporting information.

b. The Contractor and/or Reseller, as applicable shall complete, sign, and return to the Participating State the Participating State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's and/or Reseller's, as applicable Federal Employer Identification Number or Social Security Number referenced in the Contractor's and/or Reseller's, as applicable, Edison registration information.

12. Termination for Cause.

Subsection B.9.d. of Exhibit A of the Master Agreement is replaced and superseded by the following language:

"If either party to this Participating Addendum ("Breaching Party") materially violates any terms of this Participating Addendum ("Breach Condition"), the other party ("Non-breaching Party") may provide written notice to the Breaching Party specifying the Breach Condition. If within thirty (30) days of notice, the Breaching Party has not cured the Breach Condition (unless the parties mutually agree to extend the cure period), the Non-breaching Party may terminate the Participating Addendum. In the event the Non-breaching Party is the Participating State, the Participating State may withhold payments until the default is remedied. The Breaching Party shall not be relieved of liability to the Non-breaching Party for damages sustained by virtue of any breach of this Participating Addendum, and the Non-breaching Party may seek other remedies allowed at law or in equity for breach of this Participating Addendum.

13. Intellectual Property

As required by the Participating State, the Contractor/Fulfillment Partner agrees to indemnify and hold harmless the Participating State as well as its officers, agents, and employees from and against any and all third party claims or suits ("Claims") which may be brought against the Participating State that anything provided by Contractor under this Participating Addendum infringes third party patents, copyright, trade secret or other intellectual property infringement. In any such Claim brought against the Participating State, the Contractor/Partner shall satisfy and indemnify the State for the amount of any settlement or final judgment by a court of competent jurisdiction, and the Contractor/Fulfillment Partner shall be responsible for all reasonable legal fees incurred by the State arising from any such Claim. The Participating State shall promptly give the Contractor/Fulfillment Partner notice of any such Claim, however, the failure of the State to give such notice shall only relieve Contractor/Fulfillment Partner of its obligations under this Section to the extent Contractor/Fulfillment Partner can demonstrate actual prejudice arising from the State's failure to give notice. In addition, such failure to provide prompt notification shall relieve Contractor/Fulfillment Partner of any obligation to reimburse for Participating State's attorney's fees incurred prior to notification. This Section shall not grant the Contractor/Fulfillment Partner, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

If a Claim is made or appears likely, Participating State agrees to permit Contractor/Fulfillment Partner, in its sole discretion, to procure for Participating State the right to continue using the Contractor branded product, or to replace or modify the Contractor branded product with one that is at least functionally

equivalent. If Contractor/Fulfilment Partner determines that none of those alternatives is reasonably available, then Contractor/Fulfilment Partner will refund to Participating State a pro rata portion of the price originally paid by Participating State to Contractor/Fulfilment Partner for such Contractor branded product for the remainder of the unexpired term.

Contractor/Fulfilment Partner has no obligation for any Claim to the extent based on:

- (a) compliance with any designs, specifications, requirements or instructions provided by Participating State or a third party on Participating State's behalf;
- (b) modification of a Contractor branded product by Participating State or a third party;
- (c) the amount or duration of use made of the Contractor branded product, revenue earned by Participating State, or services offered by Participating State to external or internal customers; or
- (d) combination, operation, or use of a Contractor branded products with non-Contractor products, software or business processes.

This Section 12 states Contractor's/Fulfilment Partner's entire obligation and Participating State's exclusive remedy regarding any claims for intellectual property infringement.

14. Damages

As required by Participating State, if Participating State property is damaged, stolen or lost as a direct result of vendor/contractor or the contractor's authorized partner employees' negligence, as demonstrated to Contractor with reasonable written evidence, and that property has to be repaired or replaced by the Participating State, the expense for such work or replacement, as approved in advance in writing by Contractor, with such approval not to be unreasonably withheld, will be deducted from the monies due the Contractor/Partner. In addition to the foregoing, the Participating State reserves the right to pursue claims for damages through any and all legal remedies available to the Participating State.

15. Travel Compensation

The Contractor/Partner shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

16. Subcontracting

The Contractor shall not assign this Participating Addendum or enter into a subcontract for any of the goods or services provided under this Participating Addendum without obtaining the prior written approval of the Central Procurement Office, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding any use of approved subcontractors/resellers/partners, the Contractor shall be the prime contractor and shall be responsible for all work provided and the Contractor shall be responsible for any agreements with the partners, resellers or subcontractors. The State of Tennessee shall not agree to and shall not be responsible for any terms and conditions with a subcontractor/reseller/partner.

17. Purchases by Local Government and Authorized Non-Profit Agencies (SWC)

Authorized Users: Local Governments, Private Non-Profit Institutions of Higher Education and Eligible Non-Profit Agencies

The purpose of this Participation Addendum is to establish a source or sources of supply for all state agencies, local governmental units within the geographic limits of the State of Tennessee, any private nonprofit institution of higher education chartered in Tennessee, and any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3) as amended and which contracts with the Department of Mental Health and Mental Retardation to provide services to the public (T.C.A. 33-2-401et seq.).

Purchases by local governmental units, private institutions of higher education, and authorized corporations are encouraged but are optional with those agencies, private institutions of higher education, and corporations.

18. Bill of Materials

Establishing a Bill of Materials (BOM) shall be developed by Finance and Administration (F&A), Strategic Technology Solutions (STS) and the Contractor. No Partner can take part in this process.

The BOM must list the NASPO ValuePoint current manufacturer catalog part number.

19. Hardware, Software, Updates, Etc.

Hardware and/or software maintenance/upgrade maintenance and maintenance renewals thereof must include all new version updates, hardware and/or software corrections, or enhancement (including patches/fixes) to the state agency's embedded hardware and/or software at no additional cost to the State over and beyond the payment for annual maintenance. All new updates, hardware and/or software corrections, or enhancements (including patches/fixes), support releases and/or documentation deemed necessary by the State of Tennessee and/or recommended by hardware and/or software manufacturer must be received within a commercially reasonable timeframe from the manufacturer's date of release.

20. Disaster Recovery Language

The Contractor/Partner is required to make the State aware of the manufacturer's security alert notifications communications methods, i.e. RSS, Email notifications, etc. in order that the state is immediately notified of any security issue as defined below:

Risk	Definition of Impact
Low (L)	Loss of confidentiality, integrity, availability is likely to have a limited adverse effect on the state agency or individuals associated with the state agency (employees, customers).
Medium (M)	Loss of confidentiality, integrity, availability is likely to have a serious adverse effect on the state agency or individuals associated with the state agency (employees, customers).
High (H)	Loss of confidentiality, integrity, availability is likely to have a catastrophic adverse effect on the state agency or individuals associated with the state agency (employees, customers).

Contractor's Security Alerts are delivered as associated with products and can be found at:

<https://tools.cisco.com/security/center/home.x#~defaultTab>

Contractor's/Partner's account team may also provide alert information, in accordance with account team services or within the parameters of the services.

The Contractor/Partner shall provide assurance that the hardware and/or software manufacturer's established hardware and/or software product development is protected against any intentional behaviors or product features which are designed to allow unauthorized device or network access, exposure of

sensitive device information, or a bypass of security features or restrictions. This assurance can be found at <http://www.cisco.com/c/en/us/about/trust-transparency-center/built-in-security.html>.

These include, but are not limited to:

- Undisclosed device access methods, trap-door, Trojan horse, time-bomb or "backdoors"
- Any virus or other harmful code or instrumentality that will cause the software to cease to operate or fail to conform to its specifications
- Hardcoded or undocumented account credentials
- Covert communication channels
- Undocumented traffic diversion

21. Software License Warranty.

Contractor grants a license to the State to use all software provided under this Participating Addendum for internal State business purposes only.

22. Software Support and Maintenance Warranty.

Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

23. Extraneous Terms and Conditions

No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Participating Addendum shall contain any terms or conditions other than as set forth in this Participating Addendum. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State

24. Conflicts of Interest

The Contractor/Partner warrants that no part of the Contractor's/Partner's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor/Partner in connection with any work contemplated or performed under this Participating Addendum.

The Contractor/Partner acknowledges, understands, and agrees that this Participating Addendum shall be null and void if the Contractor/Partner is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor/Partner is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

25. Trade-In of equipment

The Contractor/Partner agrees that the State, at its sole discretion, can trade-in its existing equipment toward the purchase of new equipment and receive a reduction in the price of new equipment to be negotiated between Contractor and the State.

26. Administrative Fee

The Contractor shall pay the State an Administrative Fee of one (1) and one half (0.5) percent (1.5% or 0.015) in accordance with the Terms and Conditions of the Master Agreement no later than 60 days following the end of each calendar quarter. The State's Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping).

Period End
March 31

Admin Fee Due
May 31

June 30	August 31
September 30	November 30
December 31	February 28

The administrative fee **shall** be submitted to the following address:

Ron Plumb, Director of Financial Management
Department of General Services
W.R. Snodgrass TN. Tower 24th Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

27. Prohibited Advertising or Marketing

The Contractor/Partner shall not suggest or imply in advertising or marketing materials that Contractor's/Partner's goods or services are endorsed by the State. The restrictions on Contractor/Partner advertising or marketing materials under this Section shall survive the termination of this Participating Addendum.

28. Quarterly Reviews – In Person

The Contractor/Partner shall meet with State representatives at the office of the Department of General Services, Central Procurement Office in Nashville, Tennessee. Contractor/Partner agrees that the in-person meetings will be held no less frequently than quarterly, throughout the life of this Participating Addendum. Contractor/Partner agrees that the first in-person meeting will be held within thirty (30) days of the date that the Participating Addendum is fully executed. The in-person meetings will be used to answer questions, review contractor's/partner's performance, and discuss current and future projects.

29. Confidentiality of Records

Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided by a party to the other party that is regarded as confidential under state or federal law, or that by its nature would be reasonably considered as proprietary or confidential in nature, shall be regarded as "Confidential Information." Nothing in this Section shall permit a party to disclose any Confidential Information, regardless of whether it has been disclosed or made available due to intentional or negligent actions or inactions of a party or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law, including the Tennessee Public Records Act. Each party shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law. The obligations set forth in this Section shall survive the termination of this Participating Addendum.

ATTACHMENT C

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

If the attestation applies to more than one contract, modify this row accordingly. SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

If the attestation applies to more than one contract, modify the following paragraph accordingly.

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION