



SMALL PACKAGE DELIVERY SERVICES
Lead by the State of Utah

Master Agreement #: MA 065

Contractor: **UPS**

Participating Entity: **STATE OF KANSAS**

TERM OF PARTICIPATING ADDENDUM:
NOVEMBER 28, 2016 THROUGH NOVEMBER 27, 2021

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

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

The following products or services are not included in this agreement:

- Product modifications.
- Installation services.

Type of Rate: Multi Money Back Guarantee

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the *Small Package Delivery Services* led by the State of *Utah* for use by state agencies and other entities located in the Participating State Kansas authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Kansas. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):



SMALL PACKAGE DELIVERY SERVICES
Lead by the State of Utah

Contractor

Name:	Erik Rowley
Address:	3312 Broadway St NE Minneapolis MN 55413
Telephone:	612-655-6228
Fax:	612-379-6530
Email:	Erowley@ups.com

Participating Entity

Name:	Bonnie Edwards
Address:	900 SW Jackson St., Suite 451S
Telephone:	785-296-3125
Fax:	785-296-7240
Email:	Bonnie.edwards@ks.gov

4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

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

Participating Entity must check one of the boxes below.

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

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

- a. The additional terms and conditions contained on attachment A State of Kansas, Department of Administration, Office of Procurement and Contracts Provisions (form DA-146a), are hereby made a part of this contract and incorporated by reference. In the event of a conflict between the terms contained within Kansas procurement statutes and WSCA Master Price Agreement, Kansas terms and conditions shall apply. In the event any Provision of this Participating Addendum or the Master Price Agreement is contrary to Kansas law, such provision shall be null and void. This Participating Addendum shall be governed by Kansas Law.



SMALL PACKAGE DELIVERY SERVICES
Lead by the State of Utah

b. Order of Precedence:

1. State of Kansas Contract Provisions Attachment DA-146a is incorporated into this agreement as Attachment A.
2. This participating Addendum
3. WSCA Master Price Agreement and its Exhibits

c. UPS shall be required to file a quarterly report by each state agency or political subdivision making purchases under this contract. Reports are due no later than 30 days after the end of each calendar quarter and shall correlate with figures submitted as Administrative Fees (see below). Above Reports are to be filed with the Division of Purchases Open Records Officer or his/her designee located at 900 SW Jackson, Room 451S, Topeka, KS 66612-1286. Reports may also be required to be submitted to the specific using agency.

Electronic files shall be e-mailed to the following e-mail address: reports@ks.gov, in Microsoft® Excel or Microsoft® Access Database format.

d. UPS must pay a 1% Administrative Fee to the State of Kansas on all contract purchases. The Administrative Fee will be based upon the total dollar figure invoiced under this contract. The Administrative Fee shall be made in check form, payable to the "State of Kansas" delivered to the Division of Purchases and must be paid within 30 days following the end of each quarter.

e. Report Types - Reports shall be available reflecting the following information. Agencies and the Division of Purchases reserve the right to request additional information.

1. Sales Summary -- Report shall include a list of agencies and political subdivisions who have used the contract, a subtotal of sales to each agency or political subdivision, as well as a grand total of all sales.
2. Items Sold -- Report shall include a list of items sold to agencies and political subdivisions, indicating the contract price and using agency, a subtotal of sales to each agency or political subdivision, as well as a grand total of all sales.
3. Items Sold, by Agency - Same as above, except sorted by agency.

f. UPS shall be required to schedule quarterly meetings with the designated Procurement Officer for the State of Kansas. This meeting will be used to discuss the progress of the contract and to implement any changes as required.

g. During the term of the contract UPS shall provide a help desk facilitator to assist the State



SMALL PACKAGE DELIVERY SERVICES
Lead by the State of Utah

of Kansas and other entities located in the State of Kansas, with issues and questions regarding this contract. Such assistance may be, but not limited to, pricing and auditing services/ assistance as well as providing general information regarding the contract.

h. No additional charge will be assessed for using the State of Kansas Procurement Card, currently Visa, or any other card that may be used during the term of the contract, to pay for purchases.

i. In the event of a dispute regarding the terms and conditions of this Contract or

payments alleged to be due and owing, Contractor's sole remedy shall be with the agency that placed the order.

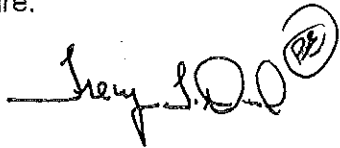
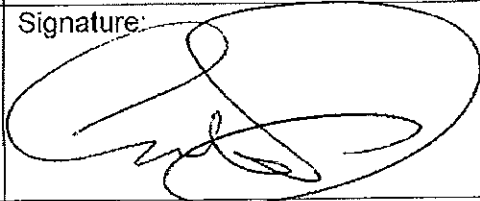
5. Subcontractors: All contactors, dealers, and resellers authorized in the State of Kansas, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation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

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



SMALL PACKAGE DELIVERY SERVICES
 Lead by the State of Utah

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

Participating Entity: State of Kansas	Contractor: UPS
Signature: 	Signature: 
Name: Tracy Diel	Name: Erik Rowley
Title: Director of Purchases	Title: Director of Enterprise Accounts
Date: October 31, 2016	Date: 11-21-2016

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

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

SMALL PACKAGE DELIVERY SERVICES

Lead by the State of Utah

Exhibit A

State of Kansas
Department of Administration
DA-146a (Rev. 06-12)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 22nd day of November, 2016 .

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute



SMALL PACKAGE DELIVERY SERVICES

Lead by the State of Utah

a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutory required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-5101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.