



**NASPO ValuePoint Master Agreement Terms and Conditions
Temporary Employment Services
50-000-15-00058 AE
ROSE INTERNATIONAL, INC.**

Awarded Categories

Administrative Support (including Office and Clerical)
Professional

1. Master Agreement Order of Precedence

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

- (1) A Participating Entity's Participating Addendum ("PA");
- (2) NASPO ValuePoint Master Agreement Terms & Conditions;
- (3) A Purchase Order issued against the Master Agreement;
- (4) The 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.

2. Definitions

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

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

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

computing device.

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

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

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.

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

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

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

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

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

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

Purchasing Entity means a state (as well as the District of Columbia and U.S territories), city,

county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, who issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

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

4. Amendments

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

5. Participants and Scope

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

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

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing

Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

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

e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarketCenter; 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 approval of participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

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

6. Administrative Fees

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

b. Additionally, some states may require an additional fee be paid directly to the state only on

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

7. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following NASPO ValuePoint reports.

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

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (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 Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in **Attachment F**.

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

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative

Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

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

8. NASPO ValuePoint Cooperative Program Marketing 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 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.

9. NASPO ValuePoint eMarket Center

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

The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provided customers information regarding the Contractors website and ordering information.

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

10. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing

plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

11. Price and Rate Guarantee Period

All prices and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for price or rate adjustment must be for an equal guarantee period, and must be made at least 180 days prior to the effective date. Requests for price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

12. Individual Customers

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

Administration of Orders

13. Ordering

- a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
- b. Purchasing Entities may define project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

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

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

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

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

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

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

14. Shipping and Delivery.

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

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

Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

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

15. Laws and Regulations

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

16. Inspection and Acceptance.

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

b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

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

d. The warranty period shall begin upon Acceptance.

e. Acceptance Testing may be explicitly set out in a Master Agreement to ensure conformance to an explicit standard of performance. Acceptance Testing means the process set forth in the Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the

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

17. Payment

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

18. Warranty

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

19. Title of Product

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to

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

20. License of Pre-Existing Intellectual Property

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

General Provisions

21. Insurance

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section.

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

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

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

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

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

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence

acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides for 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.

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

22. Records Administration and Audit.

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

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

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

23. Confidentiality, Non-Disclosure, and Injunctive Relief

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.

24. Public Information.

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

25. Assignment/Subcontracts

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

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

26. Changes in Contractor Representation

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

27. Independent Contractor

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

28. Cancellation

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

29. Force Majeure

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

30. Defaults and Remedies

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

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

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

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

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

d. Unless other 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 have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under

this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

31. Waiver of Breach

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

32. Debarment

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

33. Indemnification

a. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, and Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable, 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, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

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

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

- (b) specified by the Contractor to work with the Product; or
- (c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
- (d) It would be reasonably expected to use the Product in combination with such product, system or method.

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

34. No Waiver of Sovereign Immunity

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

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

35. Governing Law and Venue

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

construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

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

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

36. Assignment of Antitrust Rights

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

37. Contract Provisions for Orders Utilizing Federal Funds.

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

38. Liability

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property at any time, in any way, if and to the extent that the injury or damage was caused by or due to the fault or negligence of the Contractor or a defect of any equipment provided or installed, provided in whole or in part by the Contractor pursuant to the Agreement. Contractor shall not be liable for damages arising out of, or caused by, alterations made by the Procuring Agency to any equipment or its installation or for losses caused by the Procuring Agency's fault or negligence. Nothing in this Agreement shall limit the Contractor's liability, if any, to third parties and/or employees of the Procuring Agency or the Lead State or Participating Entity, or any remedy that may exist under law or equity in the event a defect in the manufacture

or installation of the equipment, or the negligent act or omission of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

Solicitation Definitions

“Administrative Support (Including Office and Clerical)” Occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Business Hours” means 8:00 AM thru 5:00 PM, Monday – Friday.

“Candidate” means any individual who is a full-time, part-time, or an independently contracted individual with the Awarded Offeror’s company and not employees of the State of New Mexico or Participating Entities. Candidates will not be provided employee benefits from any Participating Entity.

“Close of Business” means 5:00 PM.

“Commercial/Industrial Workers” Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or the upkeep and care of buildings, facilities or grounds of public property. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers.

“Fully Loaded Labor Rate” This rate contains every possible cost associated with a candidate, divided by the total number of hours worked by the candidate. For example, the cost may include the company's contribution to the candidate’s pension plan; all benefit costs, payroll taxes, overtime, shift differential, and the base level of compensation. This rate is typically aggregated for entire classifications of candidates, so that (for example) the fully loaded labor rate for an average machine operator may be commonly available.

“Healthcare Staffing Services” Medical and Healthcare related service jobs include, but is not limited to, all classes of positions, the duties of which are to advise on, administer, supervise, or perform research or other professional and scientific work, subordinate technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.

“HIPPA” requires compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. 160, 162, and 164, as amended. In the event that the functions or activities include the involvement of Protected Health Information, the awarded vendor agrees to enter into a Business Associate Agreement with the individual using agency which is under the HIPPA regulations as required by 45 C.F.R. 164.504 (e).

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for Contractor personnel, as well as Subcontractor personnel if appropriate.

“Information Technology Professional Services” Includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, conversion and implementation support, network services project management, data/records management.

“Master Agreement” means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor, as now or hereafter amended.

“NASPO ValuePoint” the cooperative purchasing program of the National Association of State Procurement Officials (NASPO).

“NASPO ValuePoint Admin Fee” means one-quarter of one percent (0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee is based on sales of products (less any charges for taxes and shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

“Offeror” means the company or firm who submits a proposal in response to this Request for Proposal.

“Offeror’s Administrative Service Fee (based on a percentage)” means the amount that the Awarded Offeror charges the Procuring Agency for the provision of the services in a percentage.

“On-going Training” means training for upgrades, enhancements, or changes to devices and software and equipment that include device features, applications, how to use, benefits, FAQs, on line and help desk information, supply requirements and installation, problem solving easy to correct errors.

“Participating Entity” means a state, or other legal Entity, properly authorized to enter into a

Participating Addendum.

“Producer Price Index (PPI)” means a program measures the average change over time in the selling prices received by domestic producers for their output. The prices included in the PPI are from the first commercial transaction for many products and some services.

“Professional” Occupations are those which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

“Project” means a temporary process undertaken to solve a well-defined scope or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project is complete the project scope is achieved and project acceptance is given by the project executive sponsor, Procuring Agency or designee.

“Quality Assurance Checks” checks to a program for the systematic monitoring and evaluation of the various aspects of service to ensure that standards of quality are being met.

“Staff” means any individual who is a full-time, part-time, or an independently contracted individual with the Awarded Offeror’s company and not an employee of the State of New Mexico or Participating Entities. Staff will not be provided employee benefits from the State agencies or political subdivisions.

“Temporary employment services” (often referred to as temporary employment agencies or firms) offer client companies the services of temporary candidates who possess specific skills. This arrangement can provide a client company with needed help during peak demand periods, staffing shortages, or the vacations of regular employees, without requiring the time, expense, and long-term commitment of hiring a new employee.

“Travel” will be paid at each participating entity state’s per diem rates. Use of state vehicles will be determined by each participating state’s laws.

Solicitation Requirements

1. Temporary Employment Services

- 1.1. Awarded Offeror will notify the Procuring Agency on availability within four (4) hours after a request is made for services that will commence within five (5) working days following the request;
- 1.2. Awarded Offeror will notify the Procuring Agency on availability within two (2) days after a request is made for services that will commence later than five (5) working days following the request;
- 1.3. Awarded Offeror will confirm with the Procuring Agency the arrival of its Candidate by

telephone within one-half (1/2) hour after scheduled arrival time.

- 1.4. Awarded Offeror is responsible to communicate with its Candidate the Procuring Agency's requirements regarding hours of work, duration, location, expectations, dress code and other information concerning the assignment.
- 1.5. All temporarily assigned individuals will be appropriately dressed for the assignment and shall maintain a professional demeanor. Dress code policy is established by the individual agencies. Temporary Candidate must dress according to the requirements of the Procuring Agency requesting the assignment.
- 1.6. Temporarily assigned individuals should be available for the entire length of the assignment; however, if a replacement is required, a qualified replacement must be provided within twenty-four (24) hours of notification, including weekends and holidays.
- 1.7. The Procuring Agency reserves the right to reduce the length of the temporary assignment and will provide the Awarded Offeror with as much notification as possible.

2. Work Hours

- 2.1. The exact work hours for temporarily assigned personnel will be determined by the Procuring Agency. Generally, work hours begin at 8:00 a.m. and end at 5:00 p.m. Monday through Friday excluding officially observed holidays by the Procuring Agency. Temporarily assigned personnel will work no more than eight (8) hours per day, excluding one (1) hour for lunch; or a total of forty (40) hours per week.
- 2.2. Temporarily assigned individuals will not be paid for their lunch hour.
- 2.3. Agencies have the right to request temporarily assigned individuals for holiday, evening/night, weekend or shift work.
- 2.4. Hours may vary per Procuring Agency.
- 2.5. The Procuring Agency reserves the right to request a replacement of any individual. If for any reason a replacement is required within the first eight (8) hours of service, there will be no charge to the Procuring Agency. Any time beyond the initial eight (8) hours of service, the temporarily assigned individual is determined to be unsatisfactory; the Awarded Offeror agrees to issue a credit invoice to the Procuring Agency for the total charges from the point the Procuring Agency notifies the Awarded Offeror to request a replacement.
- 2.6. The Awarded Offeror agrees to replace an unsatisfactory individual within one (1) business day; however, the Procuring Agency has the option to contact a different Awarded Offeror for the service.
- 2.7. The Procuring Agency shall be the sole judge as to whether a temporarily assigned individual is satisfactory and is fulfilling the Procuring Agency's requirements.

3. Listing of Position Classifications & Pay Rate

Each Procuring Agency will provide a listing of position classifications to the Awarded Offeror; however, the listing is not meant to be all-inclusive. Individual states or agencies may request other temporary positions by way of providing the Awarded Offeror(s) with the employee pay rate, position classification/title and description of duties. Describe how your company captures and provides additional positions requested by the Procuring Agencies.

4. Placement

Offeror shall describe how their company will provide assistance for Procuring Agencies with the placement of any candidate(s). At a minimum, include problem (conflict) and resolutions and the following items below:

- 4.1. Agencies may refer a candidate to be hired to the Awarded Offeror to sign up to perform specific services needed or may request the Awarded Offeror to recruit and provide the temporary Candidate. The Procuring Agency will not pay a placement or conversion fee for individuals who are a direct referral from the Procuring Agency.
- 4.2. Upon a request for service from the Procuring Agency, the Awarded Offeror will provide expedient temporary employment services. An e-mail, facsimile, or telephone call from the Procuring Agency will constitute a request for service.
- 4.3. The Procuring Agency reserves the right to interview the candidate to determine their qualifications for the required position (but this does not negate the Awarded Offeror's responsibility of qualifying candidate(s)).
- 4.4. The Procuring Agency may reject and/or remove any candidate who does not meet the requested experience or is deficient in the performance of the assignment.
- 4.5. Procuring Agencies may select Awarded Offeror(s) within their geographic region based on the preference of the Procuring Agency.
- 4.6. Multiple Awarded Offerors may be contacted to fill the same position.

5. Contractor's Responsibilities

- 5.1. The Awarded Offeror is responsible to obtain the information as described in the Scope of Work and any other information necessary to determine what job category satisfies the service request.
- 5.2. The Awarded Offeror will inform the Procuring Agency point of contact of the proposed job classification and applicable rate to obtain authorization to proceed with the service request.
- 5.3. Placing candidates out of applicable job classification is considered an abuse of the contract. Periodic checks of requests and assignments will be performed by the Procuring Agency to ensure this does not occur.
- 5.4. The Awarded Offeror is responsible for conducting appropriate background and reference checks on potential candidates prior to any assignments and should be prepared to conduct more extensive background investigations when required by the Procuring Agency. Awarded Offeror must send notification to the Procuring Agencies of the compliance of the background and reference checks. Failure to provide notification of compliance will be considered a violation of the contract and may result in rejection of the candidate and possibly jeopardize future placements by offending Awarded Offeror.
- 5.5. These services are as needed and upon request from State agencies and political subdivisions. Awarded Offeror will be responsible for liability insurance, federal and state payroll requirements including but not limited to insurance coverage for any candidate sent to the Procuring Agency, payroll taxes, payroll reports, workers' compensation, benefits, hiring and firing etc., for the candidates .
- 5.6. The Awarded Offeror is responsible for conducting periodic quality assurance checks with the Procuring Agency's point of contact to verify that the Procuring Agency's requirements are being fulfilled by the candidate. At a minimum, these checks should be

completed at the end of the first week of any assignment. Procuring Agencies may request quality assurance checks at any interval during the term of the candidate's placement.

- 5.7. Candidates may be hired as a permanent employee of the State or Procuring Agency if, the Procuring Agencies and hiring processes have been complied with and if the candidate elects to accept employment with the State or Procuring Agency. Such occurrence will create no further obligation (financial or otherwise) on the part of the Procuring Agency.
- 5.8. The Procuring Agency will not be responsible for the Awarded Offeror's candidate who voluntarily leaves the Awarded Offeror's employment or engages in employment with another company.
- 5.9. The Awarded Offeror agrees to ensure candidates agree to be bound by the Participating State's security regulations, policies, and standards as required by the Procuring Agency (e.g., Department of Corrections). This will vary based on the individual Procuring Agency's requirements.
- 5.10. Awarded Offeror shall ensure adequate backup documentation (such as Candidate timesheets) are attached to invoice or billing requests. The timesheet should include the following:
 - a. Name of the Procuring Agency;
 - b. Name of the temporarily assigned individual;
 - c. Dates worked;
 - d. Beginning and ending time;
 - e. Number of regular hours worked each day; and
 - f. If applicable, number of overtime hours worked each day
- 5.11. The Awarded Offeror is responsible and may be held financially liable for the negligent acts of its Candidates.

6. Bonding

- 6.1. The Awarded Offeror may be required to bond candidates as directed by the Agency.
- 6.2. The fee for this service will be borne by the Procuring Agency.
- 6.3. Selection of the bonding insurer is at the Awarded Offeror's discretion; however, each insurance policy shall be:
 - 6.3.1. Issued by insurance companies authorized to do business in the Participating State or eligible surplus lines insurers acceptable to and having agents in the State in which the services are provided.

7. Travel

- 7.1. In the event a candidate's duties require travel, the reimbursable travel costs shall follow the Procuring Agencies travel reimbursement policies. Travel authorizations must be given before travel occurs per Procuring Agency's internal policies.
- 7.2. Travel expenses submitted for reimbursement must follow Procuring Agency's internal policies.
- 7.3. Valid travel reimbursements will be reimbursed at the Procuring Agencies current travel rate.
- 7.4. The candidate and the Procuring Agency's contact person must sign the travel expense

form.

- 7.5. The form must be submitted with the Awarded Offeror's invoice for services with the travel expense as a separate line item on the invoice in order to be reimbursed by the Procuring Agency.
- 7.6. The type of position requiring travel will vary based on the individual Procuring Agency's requirements.

8. Equipment, Property and Damages

- 8.1. The Awarded Offeror shall be responsible for the proper maintenance and custody of any personal tangible property owned and real property furnished by the Procuring Agency for the use in connection with the performance of the contract.
- 8.2. The Awarded Offeror will reimburse the Procuring Agency for such property's loss or damage caused by the Awarded Offeror's assigned individual, with the exception of normal wear and tear.
- 8.3. The equipment used may include computers, copy machines, phones, printers, etc. Equipment may vary depending on the Candidate assignments.

9. Procuring Agency's Responsibilities

- 9.1. Prior to contacting the Awarded Offeror (s), the Procuring Agency is responsible to define details of the request to include, but not be limited to:
 - 9.1.1. Number of individuals needed;
 - 9.1.2. Job duties;
 - 9.1.3. Equipment to be used;
 - 9.1.4. Knowledge, skills and education and/or experience;
 - 9.1.5. Computer software to be used;
 - 9.1.6. Hours of work;
 - 9.1.7. Expected length of assignment;
 - 9.1.8. Job related attire;
 - 9.1.9. Position location;
 - 9.1.10. Procuring Agency contact person; and
 - 9.1.11. Other pertinent job-related information.
- 9.2. Depending on the amount of detail required, it is recommended the Procuring Agency submit this information in writing via e-mail or facsimile to reduce the possibility of an inappropriate temporary assignment.

10. Background checks

- 10.1. The Procuring Agency is responsible for requesting additional background investigations beyond normal references prior to the temporary assignment.
- 10.2. Should an additional background check be required due to the nature of the assignment, the Procuring Agency may be responsible for the cost of the additional checks.
- 10.3. It is reasonable to expect employment eligibility and references will be required for all candidates; background checks for referrals by the Procuring Agency will be at the discretion of the Procuring Agency.

- 10.4. Standard checks which would include employment eligibility and reference checks shall be at the cost of the Awarded Offeror (s).
- 10.5. Other background checks will be at the discretion of each requesting Procuring Agency.
- 10.6. Procuring Agencies reserve the right to request and conduct pre-employment background checks and drug testing prior to the potential candidates starting date.
- 10.7. Procuring Agencies will limit their background checks and drug testing requirements to the same as required of their own permanent full-time employees holding the same or similar positions to be filled by the candidate.

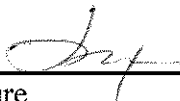
Master Agreement Administrator

Anna Silva
Bureau Chief
General Services Department
State Purchasing Division
1100 St. Francis Drive, Room 2016
Santa Fe, NM 87505
(505) 827-0468

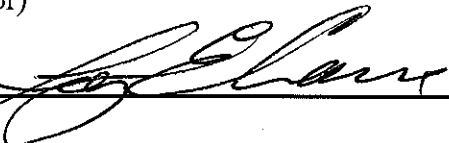
IN WITNESS WHEREOF, the parties have executed this Master Agreement as of the date of the signature by the required approval authorities below.

STATE OF NEW MEXICO

ROSE INTERNATIONAL, INC.
(Contractor)



Signature



Signature

BY: Lawrence Maxwell

BY: Larry Crane

TITLE: State Purchasing Agent

TITLE: CFO

The records of the New Mexico Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes:

Taxation and Revenue is only verifying the registration and will not confirm or deny any taxability statements contained in this contract.

TAXATION & REVENUE DEPARTMENT

CRS ID Number: 02-418027-00-0

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