

OKLAHOMA NASPO VALUEPOINT MASTER AGREEMENT AWARD
FOR PUBLIC SAFETY VIDEO EQUIPMENT
(Body Worn Video, In Car Video, and Related Storage Solutions)

Office of Management and Enterprise Services

Central Purchasing Division

5005 North Lincoln Boulevard

Oklahoma City, OK 73105

And

Applied Concepts, Inc.



2609 Technology Drive

Plano, TX 75074

Master Agreement Number: OK-MA-145-020

You are hereby notified that your response to Solicitation OK-MA-145, which opened April 20, 2016, is accepted. The following documents, are incorporated herein by reference and constitute the entire Contract between you and the State: 1) A Participating Entity's Participating Addendum ("PA"); 2) This NASPO ValuePoint Master Agreement Award which includes Exhibit A Terms, Conditions and Exhibit B Service Level Agreement and Exhibit C Price and Cost Proposal; 3) The Request for Proposal; and 4) The Contractors response to the Request for Proposal.

NOW, THEREFORE, in consideration of the foregoing and mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties have caused this Contract to be duly executed intending to be bound thereby.

STATE OF OKLAHOMA Office of Management and Enterprise Services	CONTRACTOR Applied Concepts, Inc.
By: 	By: 
Date: 5/17/17	Date: April 24, 2017
Title: State Purchasing Director	Title: Sales Administrator

**Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the Lead State is relying on their representations to that effect.*

Table of Contents

SUMMARY	4
EXHIBIT A – TERMS AND CONDITIONS	6
EXHIBIT B – SERVICE LEVEL AGREEMENT	40
EXHIBIT C – PRICE AND COST PROPOSAL	46

OKLAHOMA NASPO VALUEPOINT MASTER AGREEMENT AWARD

SUMMARY

1. Scope of Work Defined. The goal of this Master Agreement is to provide State(s) requirements for competitive proposals along with value-added solutions which allow State and Local Governments to easily equip their public safety transportation equipment and employees with the best competitive pricing, cutting edge technology, and superior customer services without the need for individual competitive proposals.

With the volatile speed of technology designs, growing demands and unique customizable configurations, these bands shall remain flexible and may be redefined during the life of this contract.

It is the intent upon award to have an offering of Good, Better, and Best to allow for utilization for both small and large public safety organizations.

Note: the following items will not be included in this contract award: *Body Armor, LED Light Bars, Public Safety Radios, Radar, and Lidar Equipment*. These items are on separate NASPO ValuePoint Master Agreements.

There are 3 Product Bands included in this Master Agreement. Each band is awarded equally, and end user may purchase from either or all bands referenced.

BAND 1: Body Worn Video Cameras and Recording Devices

To include, but not limited to: Mobile Camera and Recording Equipment which is not permanently installed on a fixed surface. This may be attached to a person, mounted on the chest, belt, hat, or glasses etc. Equipment shall be able to capture video from the Officer's perspective and store the recorded video on a secure hosted website, or secure local storage solution.

BAND 2: Vehicle Mounted Video and Recording Devices

Includes permanently mounted video equipment. Intended use is for police vehicles, public transit, school buses, and other public safety vehicles. Additional, products can be proposed and available for use by a variety of law enforcement applications, which may also include state police, marine police, corrections, game and inland fisheries, forestry, border surveillance, educational campuses, as well as local fire departments and other emergency first responder needs.

BAND 3: Video Storage, Data Security, Software, and Peripherals

This band will include all supporting equipment and/or services for video storage, including Government cloud services or local secured storage systems. Data management tools, software with related maintenance and/or license fees, related peripherals. Band 3 is not considered to be a hardware category without the purchase of bundled video products and/or accessories.

BAND 4: Intentionally Omitted and while included in the Solicitation OK-MA-145, it is not included in the scope of this Master Agreement.

***** If applicable, each Participating State/Entity is responsible to ensure its own compliance with CJIS security requirements *****

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

- (1) Participating Entity's Participating Addendum ("PA")
- (2) Oklahoma NASPO Valuepoint Master Agreement Award
 - a. Summary
 - b. Oklahoma Terms and Conditions
 - c. NASPO ValuePoint Master Agreement Terms and Conditions
 - d. Service Level Agreement
 - e. Price and Cost Proposal
- (3) A Purchase Order issued against the Master Agreement
- (4) The Solicitation; and
- (5) Contractor's response to the Solicitation, including but not limited to Contractor's Terms and Conditions Contained in Response, as revised and accepted by the Lead State.

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.

OKLAHOMA NASPO VALUEPOINT MASTER AGREEMENT AWARD

EXHIBIT A – TERMS AND CONDITIONS

A. GENERAL TERMS, CONDITIONS & INSTRUCTIONS

1. Period of Performance

The initial term of the master agreement shall be 2 (two) years with renewal provisions as outlined in Section 7.3 of the NASPO ValuePoint Master Terms and conditions (Attachment A) which typically extend the original contract period for three (3) additional years.

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.

“Addendum” and its plural “Addenda” refer to changes to the contract.

“Amendment(s)” refer to changes made to the original solicitation.

“CJIS” means Criminal Justice Information Services

“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 conducting this cooperative procurement, evaluation, and award and centrally administering any resulting Master Agreement(s)

“Market basket” means a representative sample of items which are being sourced and are directly related to volume or dollar amount activity, and to be used as a baseline for evaluation and/or award purposes.

“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 and the District of Columbia. 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. A Participating State is not required to participate through execution of a Participating Addendum. 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.

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

"Proposal" means the official written response submitted by an Offeror in response to this Request for Proposal.

"Request for Proposals" or "RFP" means the entire solicitation document, including all parts, sections, exhibits, attachments, and Amendments.

3. Certification of Non-Debarment

By submitting a response to this solicitation the prospective primary participant and any other subcontract certifies to the best of their knowledge and belief, that they and their principals or participants:

Participants:

- 3.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;
 - 3.2. Have not within a three-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - 3.3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses listed above this certification; and
 - 3.4. Have not with a three-year period preceding this application/proposal had one or more public (Federal, State or local) contracts terminated for cause or default.
- Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

4. Insurance

The Contractor agrees to acquire insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state at the prescribed levels set forth in Section 7.17 of the NASPO ValuePoint Master Agreement Terms and Conditions.

5. Quality Assurance and Warranty Guarantee

Contractor should guarantee its products to be free from defects in materials and workmanship, given normal use and care, over a minimum of the standard manufacturer's warranty period, not less than a 12 month period. Contractor should agree to repair and/or immediately replace without charge (including freight both ways) to Authorized Users any product or part thereof that proves to be defective or fails within the warranty period as specified. Please describe your industry standard warranty.

6. Product Availability

The Lead State should not allow any cancellation of products without an equal and acceptable replacement approved by the Contracting Officer. Contractors should communicate discontinuation of any products to the Contracting Officer in writing within five (5) business days. Contractors shall work with the Contracting Officer to identify and implement alternative options that will maintain or reduce costs associated with the replacements. Contractors should offer suggested replacements of discontinued products at least 30 business days prior to substitution, including replacement product number, description, specifications, and final price.

7. Emergency Product Substitutions and Out of Stock Items

If necessary to complete a shipment on time, Contractor may request a product substitution. The product substituted should be of equal or better quality and/or grade, at no additional cost, and the Authorized User shall accept the substitution in writing (email is acceptable) prior to delivery. Invoices shall denote all items and quantities as order. Any shorted items shall be noted as "out of stock"

8. Additional Fees

Contractor will not invoice services fees or additional costs to the Authorized Users during the term of the contract. There shall be no small order, minimum order, special order, shipping (Except Rush delivery as specified in Attachment D, Pricing) pallet, or fuel charges or surcharges.

9. Rebates and Special Offers

Contractor shall offer all rebates and special offers (including commercial and consumer offers) in addition to contracted pricing.

10. Disaster Recovery

The State(s) expect the Contractor to have robust disaster recovery capabilities and procedures, to continue service in all aspects of its operations. Contractor shall provide a copy of such plan in response. A more detailed disaster/emergency plan must be completed and approved by the Lead State within thirty (30) days of Contract Award.

In the event of a disaster or other emergency at an Authorized User location, Contractor should provide delivery as soon as possible, or within 24 hours after of receipt of order of the affected facilities, including weekends, except where Contractor's ability to perform is impaired by same disaster or emergency, in which delivery schedule will be mutually agreed upon.

11. Professional and Technical Special Insurance Requirements

Contractors will provide professional and technical, Errors and Omissions, including Network Security and Privacy Liability Insurance, written as a standalone policy or on another form of liability coverage. This policy will provide coverage for all claims the Contractor may face legal obligations to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor professional services required under the contract. Upon award, Supplier is required to carry the following minimum limits:

\$2,000,000.00 -- per claim or event

\$2,000,000.00 -- annual aggregate

Any deductible will be the sole responsibility of the Contractor. Date of coverage shall not be after the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of contract. If such insurance is discontinued, extended reporting period

coverage must be obtained. Upon notification of award, and within seven (7) days of notification, the awarded vendor(s) must provide a Certificate of Insurance with the coverage and amounts mentioned above. Any contract awarded will not be fully executed until the Certificate of Insurance has been received and approved by the Lead State. The State(s) reserve the right to rescind the contract award if certificate of insurance has not been received within the required time.

12. Response Time

Contractor should respond to all communications no later than one business day.

13. Delivery Standards

The Contractor should deliver the products by the delivery date specified on any executed Attachment, Appendix, or Order referencing this Agreement. The Contractor should ensure Delivery Date standards are met no less than 97% of the time.

14. Shipping

All hazardous materials should be shipped per all Federal and State regulations. The State(s) are committed to recycling and reuse of packaging materials. Some Authorized Users may also require shrink wrapping. Authorized Users will inform Contractor of any such requirements.

All products should be shipped in a matter which enables the receiver to easily check shipment with the invoice. All individual units of measure (cases, rolls, pallets, etc.) should have a clearly visible "vendor product label" containing the following fields:

- a. Manufacturer Product Number
- b. Item Description
- c. Quantity per Unit of Measure

15. Freight Policy

All shipments should be F.O.B. Destination to the specified location, with inside delivery if requested. Contractor is responsible for filing and expediting all freight claims with the carrier. The Contractor should pay title and risk of loss or damage charges.

16. Invoice Accuracy

Contractor should strive to achieve invoice accuracy of 100% as measured by SKUs ordered.

17. Fill Rate

Contractor should maintain a Fill Rate of 98%. The fill rate is calculated for each Authorized User, dividing line items delivered on time by line items ordered during that month and multiplied by 100 to receive percent (%) rate.

18. Ordering Methods

Each Authorized User will be responsible for placing its own orders, by written purchase order, telephone, fax, and computer online systems.

19. Payment Options

Authorized Users will pay the Contractor by check, electronic funds transfer, or the State(s) authorized P-Card (Government credit card).

20. Invoice Requirements

All invoices should reflect the prices and discounts established for the items on this contract for all orders placed by Authorized Users. Before payment is made, Authorized Users will verify that all invoiced charges are correct per the Contract. Only properly submitted invoices will be officially processed for payment.

21. Return of Product

Any materials delivered in poor condition, in excess of the amount authorized, at the discretion of the Authorized User, will be returned to the Contractor at Contractor's expense within 30 days. Credit for returned goods shall be made immediately upon Contractor's receipt of the returned goods.

Any product which has been returned for failure of performance, the Contractor will, at the Authorized Users discretion, refund all amounts paid to the Contractor for product or replace the product.

Within twenty (20) days of written notification by Authorized User, Contractor should make arrangements for return of the product.

Contractor should bear all shipping and insurance costs.

Contractor should be liable for damages to the product, unless caused by fault or negligence of the Authorized User that occur during the return process.

22. Returns Due to User Error

Contractor should provide for return of unopened items ordered in error for up to thirty (30) calendar days from delivery. All returns of unopened items should be provided free-of-charge as long as scheduled at a normal delivery schedule. Otherwise, Authorized Users should be responsible for all costs associated with

the preparation and shipment to Contractor's nearest location. No additional charges are allowed, including restocking fees.

23. Overall Customer Satisfaction

Contractor should develop a plan to conduct a quarterly survey of end users to determine the level of customer service satisfaction experienced by Authorized Users, and should conduct such a survey upon request from the Contracting Officer. Both the raw and analyzed survey results should be provided to the Contracting Officer. The following includes some of the areas to be measured on the survey: Responsiveness, Communication, Courtesy, Competence, Effectiveness, and Overall Satisfaction.

24. Governing Laws and Regulations.

This procurement is conducted by the laws of Oklahoma, in accordance with the Oklahoma Central Purchasing Act. This Act is available to view: www.ok.gov/dcs/central_purchasing/index.html

Venue for any administrative or judicial action relating to this procurement, evaluation, and award shall be in Oklahoma County, Oklahoma. The provisions governing choice of law and venue for issues arising after award and during contract performance are specified in section 7.35 of the NASPO ValuePoint Master Agreement Terms and Conditions.

25. NASPO ValuePoint Administrative Fee and Reporting Requirements

Contractor agrees to pay a NASPO ValuePoint administrative fee as specified Section 7.26 of the NASPO ValuePoint Master Agreement Terms and Conditions. Moreover, specific summary and detailed usage reporting requirements are prescribed by Section 7.27 of NASPO ValuePoint Master Agreement Terms and Conditions.

Contractor shall identify the person responsible for providing the mandatory usage reports. (This information must be kept current during the contract period). Contractor will be required to provide reporting contact within 15 days of Master Agreement execution.

26. NASPO ValuePoint eMarket Center

Contractor agrees to cooperate with NASPO ValuePoint and SciQuest (and any authorized agent or successor entity to SciQuest) to integrate its presence in the NASPO ValuePoint eMarket Center either through an electronic catalog (hosted or punchout site) or unique ordering instructions. Refer to Attachment

A, Section 7.36, NASPO ValuePoint Master Agreement Terms and Conditions for the prescribed requirements. Those terms and conditions require as a minimum that the Offeror agree to participate in development of ordering instructions. Proposer shall respond how they can support the eMarket Center in the Proposal through either a hosted catalog or punchout solution.

27. Account Manager

Contractor has named individual who will be the Account Manager for the term of the Contract. The Account Manager will be responsible for operation and administration of the Contract by the Contractor. The Account Manager must respond in a timely manner and in writing unless instructed otherwise, to all information requests from the Contracting Officer.

The Account Manager shall, upon request attend meetings as requested and determined by the Contracting Officer. The Account Manager will be responsible for reports required by the contract and to serve as liaison between the Contractor and Contracting Officer and any other eligible participant. The Contracting Officer may require the Contractor to relieve the Account Manager from work on this contract, if in its opinion, it is apparent that the Account Manager does not deliver work that conforms to performance standards.

Introduce to the Contracting Officer and to the Facilities' staff new products available on the market within the scope of this contract.

- Maintain and update master price lists/catalogs and review with and distribute to the different Facilities on an ongoing basis.
- Handle all facility/agency complaints and maintain a log of the complaints and resolutions. Handle all requests from facility/agency/Contracting Officer for inquiries about products.
- Issue credit memos and arrange for return of incorrectly shipped or deficient products.
- Resolve any problems and/or discrepancies with the order/delivery schedules.
- Coordinate with the Contracting Officer any rebate programs or special pricing promotions.
- Work in conjunction with the Contracting Officer in doing research and making recommendations for product changes to better meet the needs and challenges for all authorized users.
- Attend annual review meetings as scheduled with Contracting Officer and Sourcing Team.

28. Pricing

Pricing will remain fixed for the first twelve (12) months of the contract. Requests for additional increases in pricing for contract terms will be limited to once a year. All requests must be made in writing to Contracting Officer a minimum of 30 days prior to request initiation.

Documentation justification regarding any increases must be provided. No price increase will be approved without 30 days written notice and written approval from Contracting Officer.

29. Time of Order

If any prices fluctuate between the time of order and delivery, Contractor shall charge the prices in effect as of the order date.

30. Criminal Justice Information Services (CJIS)

If applicable, Contractor agrees to comply with all relevant CJIS requirements, including but not limited to Attachment F – CJIS Security Policy V5.4 as identified in the Request for Proposal.

B. OKLAHOMA TERMS AND CONDITIONS

1. Definitions

("Acquisition") means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act.

("Addendum or Addenda") means a document used to effect a contract change or modification in or more provisions of an existing a contract.

("Lead State") means the State centrally administering any resulting Master Agreement. The State of Oklahoma is the Lead State for this Master Agreement.

2. Master Agreement Modification

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

3. Indemnification

In connection with indemnification under the Master Agreement, when the Lead State or any Lead state agency is a named defendant in any filed or threatened lawsuit, the defense of the Lead State or Lead State agency shall be coordinated by the Attorney General of Oklahoma or, in the alternative, the Attorney General of Oklahoma may authorize the Vendor to control the defense and any related settlement negotiations; provided, however, Contractor shall not agree to any settlement of claims against the Lead State or Lead State agency without obtaining advance written concurrence from the State Attorney General. If the Attorney General of Oklahoma does not authorize sole control of the defense and settlement negotiations to Contractor, Contractor shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Master Agreement and shall remain responsible to indemnify the applicable Indemnified Parties.

4. Audits and Records Clause

For transactions between the Lead State and the Contractor, 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 seven (7) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder. If an audit, litigation, or other action involving the above-referenced documents, required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

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.

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.

5. Assignment/Subcontracts

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 State Purchasing Director of the Lead State.

6. Payment

For transactions between the Lead State and the Contractor, invoices are to be paid in arrears after products have been delivered and accepted or services provided and accepted pursuant to 74 O.S. § 85.44(B). Payment by the Lead State will be made within no more than forty-five (45) days from the date a proper invoice is received and the goods have been delivered and accepted or services provided and accepted pursuant to 62 O.S. § 34.71. Interest on late payments made by the Lead State is governed by 62 O.S. § 34.72.

7. Changes in Contractor Representation

The Contractor must notify the State Purchasing Director of the Lead State of changes in the Contractor's key administrative personnel, in writing within 10 calendar days of the change. The State Purchasing Director of 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.

8. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the State Purchasing Director of the Lead State prior approval for the release of any information that pertains to the potential work or activities covered by the Master Agreement. The Contractor shall not make any representations of NASPO Value Point's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

9. Certification Regarding Debarment, Suspension, and Other Responsibility

The Contractor certifies that the Contractor and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal, state or local department or agency;
- B. Have not within a three-year period preceding the Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; for violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the foregoing offenses enumerated in this certification; and
- D. Have not within a three-year period preceding this Contract had one or more public (federal, state or local) contracts terminated for cause or default.

If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

10. Choice of Venue

Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in Oklahoma County, Oklahoma. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in Oklahoma County, Oklahoma. 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.

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; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party. Where the claim is adjudicated in the United States District Court of the Lead State, it must be brought and adjudicated in the Western District.

11. Extension of the Master Agreement

The Lead State may extend the term of this Master Agreement for up to ninety (90) day intervals if mutually agreed upon by the State Purchasing Director of the Lead State and the Contractor.

12. Gratuities

The right of the Contractor to perform under this Master Agreement may be terminated by written notice if the Procurement Official as specified in E.4. of the Solicitation determines that the Contractor, or its agent or another representative offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Central Purchasing Division of the Lead State.

13. Pricing

For transactions between the Lead State and the Contractor, In accordance with 74 O.S. § 85.40, all travel expenses to be incurred by the Contractor in the performance of the Master Agreement shall be included in the total price/ amount.

14. Type of Contract

This is a firm fixed price contract for indefinite delivery and indefinite quantity for the supplies/services specified.

15. Open Records Act

Vendor acknowledges that all Oklahoma State agencies and certain other Oklahoma-based entities are subject to the Oklahoma Open Records Act. Vendor also acknowledges that such Customers will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act, no Contract provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

16. Patents and Copyrights

Without exception, a Product price shall include all royalties or costs owed by the Vendor to any third party arising from the use of a patent, intellectual property or copyright. Should any third party threaten or make a claim that any portion of a Product or Services provided by Vendor under the Contract infringes that party's patent or copyright, Vendor shall enable Customers to legally continue to use, or modify for use, the portion of the Product or Services at issue or replace such potentially infringing Product, or re-perform in the case of Services, with at least a functional non-infringing equivalent. Vendor's duty under this section shall extend to include other Products or Services rendered materially unusable as intended due to replacement or modification of the Products or Services at issue.

17. Compliance and Electronic and Information Technology Accessibility

Vendor shall comply with federal and State laws, rules and regulations related to information technology accessibility, as applicable, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf and shall provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If Products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Vendor. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. Accordingly, in each statement of work or similar document issued pursuant to the Contract, Vendor shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

18. Media Ownership (Disk Drive and/or Memory Chip Ownership)

Any disk drives and memory cards purchased with or included for use in leased or purchased Products under the Contract remain the property of the State or Customer, as applicable.

Personal information may be retained within electronic media devices and components; therefore, the State shall not allow the release of electronic media either between Customers or for the resale of refurbished equipment that has been in use by a Customer, by the Vendor to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Vendor, its agents or subcontractors during the downtime (repair) of Products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

19. Offshore Services

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally, for troubleshooting or any other use not specifically provided for herein without the prior

written permission, which may be withheld in the State's sole discretion, from the appropriate authorized representative of the State.

20. High Technology System Performance and Upgrades

i. Pursuant to 62 O.S. § 34.12.1, if an Acquisition pursuant to the Contract includes a "high technology system" as defined at 62 O.S. 34.11.1(O) the Vendor shall provide documentation of the projected schedule of recommended or required system upgrades or improvements to such system for the three (3) year period following the purchase date. If Vendor does not plan such system upgrades or improvements, the Vendor shall provide documentation that no system upgrades or improvements to the high technology system are planned for the three (3) year period following the purchase date.

ii. Any Acquisition pursuant to the Contract of an upgrade or enhancement to a high technology system shall be conditioned upon one of the following: the Acquisition being provided at no charge to the State; the Acquisition being provided to the State at no additional charge pursuant to a previous agreement with the Vendor; the Vendor providing documentation that any required or recommended upgrade will enhance or is necessary for performance of the applicable State agency duties and responsibilities; or the Vendor providing documentation that it will no longer supply maintenance assistance to the applicable State agency and the applicable State agency documenting that the functions performed by the high technology system are necessary for performance of the State agency duties and responsibilities.

21. Emerging Technologies

The State of Oklahoma reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

C. NASPO VALUEPOINT TERMS AND CONDITIONS

1. 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 and the District of Columbia. 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. A Participating State is not required to participate through execution of a Participating Addendum. 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.

3. Term of the Master Agreement

The initial term of this Master Agreement is for two (2) years. This Master Agreement may be extended beyond the original contract period for three (3) 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 approval of the Lead State.

5. 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.

6. Price and Rate Guarantee Period

All prices and rates must be guaranteed for the first twelve (12) months of the Master Agreement term. Thereafter, requests for additional increases in pricing for contract terms will be limited to once a year. All requests must be made in writing to Lead State Contracting Officer a minimum of 30 days prior to request initiation. Documentation justification regarding any increases must be provided. No price increase will be approved without 30 days written notice and written approval from Lead State Contracting Officer. 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.

7. 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 and 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.

8. Confidentiality, Non-Disclosure, and Injunctive Relief

8.1 **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity's 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.

- 8.2 **Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. 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.
- 8.3 **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.
- 8.4 **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.

9. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of any information that pertains to the potential work or activities covered by the Master Agreement. The Contractor shall not make any representations of NASPO Value Point'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.

10. Defaults and Remedies

- 10.1 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.

10.2 Upon the occurrence of an event of default, 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.

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

10.3.1 Exercise any remedy provided by law; and

10.3.2 Terminate this Master Agreement and any related Contracts or portions thereof; and

10.3.3 Impose liquidated damages as provided in this Master Agreement; and

10.3.4 Suspend Contractor from being able to respond to future bid solicitations; and

10.3.5 Suspend Contractor's performance; and

10.3.6 Withhold payment until the default is remedied.

10.4 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.

11. Shipping and Delivery

11.1.1 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 Buyer 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.

- 11.1.2 All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Offeror. If damage does occur, it is the responsibility of the Offeror to immediately notify the Purchasing Entity placing the Order.
- 11.1.3 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 item description, brand and manufacturer product number, quantity, and the Ordering Entity's Purchase Order number.

12. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel, 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.

13. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is 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.

14. Indemnification

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.

15. 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.

16. Individual Customers

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement which include the Oklahoma Terms and Conditions and NASPO ValuePoint Master Agreement Terms and Conditions, 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.

17. Insurance

- a. This section requires insurance in addition to the insurance required by RFP section 4.1.18, Professional and Technical Special Insurance Requirements. 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.

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

18. Laws and Regulations

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

19. 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.

20. 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 State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating 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.

21. 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. The resulting Master Agreements permit Purchasing Entities to 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 compliance with 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 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 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.

22. 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 Oklahoma Terms and Conditions and 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 States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating 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. State Participating Addenda or other Participating Addenda shall not be construed to amend the terms of 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.

23. Payment

Payment for completion of a contract order 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. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

24. Public Information

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

25. 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 seven (7) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder. If an audit, litigation, or other action involving the above-referenced documents, required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

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.

26. 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 7.26 a. 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.

27. 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 I— Usage Reporting Template

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.

28. 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.

29. Warranty

Unless a warranty is otherwise proposed by Contractor and accepted by the Lead State in accordance with RFP section 4.1.8, 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, and (b) the Product is free of defects in materials and workmanship. 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.

30. 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.

31. 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.

32. 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.

33. Assignment of Antitrust Rights

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

34. 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.

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 (in most cases also the 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; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

36. NASPO ValuePoint eMarket Center

a. 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.

b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide customers information regarding the Contractors website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

c. 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.

d. If the solicitation requires either a catalog hosted on or integration of a punchout site with eMarket Center or either solution is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

eMarket Center Appendix

a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.

b. **Supplier's Interface with the eMarket Center.** There is no cost charged by SciQuest to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) **Implementation Timeline:** NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and SciQuest to set up an enablement schedule, at which time SciQuest's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) NASPO ValuePoint and SciQuest will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).

(a) **Hosted Catalog.** By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to SciQuest, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data [Insert Time Frame Here] to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) **Punch-Out Catalog.** By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update [every Insert Time Frame Here] to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. **Revising Pricing and Product Offerings:** Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per quarter. The following conditions apply with respect to hosted catalogs:

(1). Updated pricing files are required by the 1st of the month and shall go into effect in the eMarket Center on the [1st day of the following month (i.e. file received on 1/01/13 would be effective in the eMarket Center on 2/01/13)]. Files received after the 1st of the month may be delayed up to a month (i.e. file received on 11/06/09 would be effect in the eMarket Center on 1/01/10).

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. **Supplier Network Requirements:** Contractor shall join the SciQuest Supplier Network (SQSN) and shall use the SciQuest's Supplier Portal to import the Contractor's catalog and pricing, into the SciQuest system, and view reports

on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: www.sciquest.com or call the SciQuest Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

- (1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and
- (2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract between the Contractor and the Contract Administrator; and
- (3) The Catalog must include a Lead State contract identification number; and
- (4) The Catalog must include detailed product line item descriptions; and
- (5) The Catalog must include pictures when possible; and
- (6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by SciQuest for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity. More information about the UNSPSC is available at: <http://www.unspsc.com> and <http://www.unspsc.com/FAQs.asp#howdoesunspscwork>.

i. Applicability: Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several NASPO ValuePoint Participating Entities currently maintain separate SciQuest eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate SciQuest catalogs.

Contract Provisions for Orders Utilizing Federal Funds 7.37

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.

D. CONTRACTOR'S TERMS AND CONDITIONS CONTAINED IN CONTRACTOR'S RESPONSE AS REVISED AND ACCEPTED BY THE LEAD STATE

ACI's Standard Maintenance and Storage Agreements

1. CopTrax hardware is warrantied for twenty-four (24) months.
2. CopTrax software is warrantied for twelve (12) months. The warranty includes no-charge technical support and free major and minor software updates. Additional years of warranty, support, and upgrades may be purchased.
3. If data is stored on the CopTrax CJIS Government Cloud, the first minimum storage and maintenance contract period is three (3) years, and can be renewed upon mutual consent annually or tri-annually thereafter.
4. Updates to Software will be provided electronically. Adequate access to the Internet in order to receive the updates is the User responsibility.
5. The User controls and owns all right, title, and interest in and to User Content.
6. User will pay all subscription fees specified in the Purchase Order and duties for CopTrax without setoff, deduction, or withholding net 45 (unless otherwise specified in the Purchase Order). Additional users may be added during the Term at the pro-rated pricing in effect at the time of purchase of additional users.
7. Prior to the commencement of Services, User will notify ACI in writing of retention periods for User Content. User may change retention periods at any time by written notice to ACI. If User does not provide ACI with retention periods for User Content, data will be classified as non-felony

events and deleted after 18 months. Felony events will not be deleted until 90 days after the conclusion of this Agreement. Prior to deletion of any User Content, a permanent delete notification will be sent allowing 72 hours for User to download User Content and store it locally. Retention of User Content may result in additional data storage fees as specified in the Purchase Order. User will have access to User Content during the Term.

8. ACI will not delete any User Content until 90-days after termination of this Agreement, during which period User Content may be retrieved at no charge if, and only if, all amounts due have been paid. After the 90-day period, ACI will, unless legally prohibited, delete all of User Content.

Off Premises Hosting Terms and Conditions

A. Definitions

1. "Public Jurisdiction" means any government or government agency that uses these terms and conditions.
2. "Data Breach" means access by a non-authorized person/s that results in the improper or illegal use, disclosure, or theft of a Public Jurisdiction's unencrypted personal data.
3. "Public Jurisdiction Data" means all data created or in any way originating with the Public Jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the Public Jurisdiction, whether such data or output is stored on the Public Jurisdiction's hardware, the Service Provider's hardware, or exists in any system owned, maintained or otherwise controlled by the Public Jurisdiction or by the Service Provider.
4. "Security Incident" means the access by non-authorized persons to personal data or non-public data the Service Provider believes could reasonably result in a Data Breach. A Security Incident may or may not turn into a data breach.
5. "Service Level Agreement" or "SLA" means that part of the written agreement between both the Public Jurisdiction and the Service Provider that is subject to the terms and conditions in this document and that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) the amount of time required for notice by the Service Provider to the Public Jurisdiction for notification of upcoming changes, (3) security notice requirements, (4) timeframes for response to operational problems and failures, and (5) any remedies for performance failures.
6. "Service Provider" means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

B. Hosting Provisions

1. **Data Ownership:** The Public Jurisdiction will own all right, title and interest in and to the data that is related to the services provided by the Service Provider pursuant to this contract. The Service

Provider shall not access Public Jurisdiction user accounts or Public Jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the Public Jurisdiction's written request.

2. Data Location: The Service Provider shall provide its services to the Public Jurisdiction and the Public Jurisdiction's end users solely from data centers in the U.S. Storage of Public Jurisdiction data at rest shall be located solely in data centers in the U.S. The Service Provider shall not allow its personnel or contractors to store Public Jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at the Service Provider's U.S. data centers. The Service Provider shall permit its personnel and contractors to access Public Jurisdiction data remotely only as required to provide technical support or other services required or permitted by this contract. The Service Provider may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited in the SLA.

3. Security Incident or Data Breach Notification: The Service Provider shall inform the Public Jurisdiction of any Security Incident or Data Breach.

a. Incident Response: The Service Provider may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing Security Incidents with the Public Jurisdiction should be handled on an urgent as-needed basis, as part of Service Provider communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

b. Security Incident Reporting Requirements: The Service Provider shall report a Security Incident to the appropriate public jurisdiction identified contact immediately as defined in the SLA.

c. Breach Reporting Requirements: If the Service Provider has actual knowledge of a confirmed Data Breach that affects the security of any Public Jurisdiction Data that is subject to applicable Data Breach notification law, the Service Provider shall (1) promptly notify the appropriate Public Jurisdiction identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

4. Notification of Legal Requests: In the event that the Service Provider receives from a court, governmental or regulatory agency, or other tribunal of competent jurisdiction, a request to preserve, disclose, copy, or otherwise to provide access to the Public Jurisdiction Data in the form of a subpoena, discovery request, order, litigation hold, preservation order, hold order, or other request or order (an "Order"), the Service Provider will immediately notify the Public Jurisdiction in writing of the Order and shall not respond to the Order except in accordance with the written instructions of the Public Jurisdiction, unless such failure to respond would, in the reasonable opinion of the Service Provider's counsel, subject the Service Provider to legal jeopardy. In the event that the Service Provider is compelled by law to respond to any Order, Service Provider shall, to the maximum extent legally permissible, afford the Public Jurisdiction with time to quash or limit the scope of such Order or to seek appropriate protective orders to limit the further disclosure of the Public Agency Data.

5. Termination and Suspension of Service:

a. In the event of a termination of the contract, the service provider shall implement an orderly return of Public Jurisdiction Data in a CSV or another mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of Public Jurisdiction Data.

b. During any period of service suspension, the Service Provider shall not take any action to intentionally erase any Public Jurisdiction Data.

c. In the event of termination of any services or agreement in entirety, the Service Provider shall not take any action to intentionally erase any Public Jurisdiction Data for a period of:

- 10 days after the effective date of termination, if the termination is in accordance with the contract period
- 30 days after the effective date of termination, if the termination is for convenience or for cause related to the Public Jurisdiction's breach
- 60 days after the effective date of termination, if the termination is for cause

After such period, the Service Provider shall have no obligation to maintain or provide any Public Jurisdiction Data and shall thereafter, unless legally prohibited, delete all Public Jurisdiction Data in its systems or otherwise in its possession or under its control.

d. The Public Jurisdiction shall be entitled to any post termination assistance generally made available with respect to the services provided to other Service Provider customers, unless a unique data retrieval arrangement has been established as part of the SOW.

e. The Service Provider shall securely dispose of all requested data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Public Jurisdiction. Public Jurisdiction Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the Public Jurisdiction.

OKLAHOMA NASPO VALUEPOINT MASTER AGREEMENT AWARD

EXHIBIT B – SERVICE LEVEL AGREEMENT

This Agreement represents a Service Level Agreement (“SLA” or “Agreement”) between Applied Concepts, Inc. (ACI) and the Contracting Officer for the provisioning of IT services required to support and sustain the Master Agreement for Public Safety Video and Vehicle Mounted Equipment.

This Agreement remains valid until superseded by a revised agreement mutually endorsed by the stakeholders.

This Agreement outlines the parameters of all IT services covered as they are mutually understood by the primary stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

1. Goals & Objectives

The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide consistent IT service support and delivery to the Customer(s) by the Service Provider(s).

The **goal** of this Agreement is to obtain mutual agreement for IT service provision between the Service Provider(s) and Customer(s).

The **objectives** of this Agreement are to:

- Provide clear reference to service ownership, accountability, roles and/or responsibilities.
- Present a clear, concise and measurable description of service provision to the customer.
- Match perceptions of expected service provision with actual service support & delivery.

2. Stakeholders

The following Service Provider(s) and Customer(s) will be used as the basis of the Agreement and represent the **primary stakeholders** associated with this SLA:

IT Service Provider(s): ACI (“Provider”)

IT Customer(s): Contracting Officer ("Customer")

3. Periodic Review

The **Business Relationship Manager** ("Document Owner") is responsible for facilitating regular reviews of this document. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. The Document Owner will incorporate all subsequent revisions and obtain mutual agreements / approvals as required.

Business Relationship Manager: ACI Review

Period: Annual (12 months) Previous Review

Date:

Next Review Date:

4. Service Agreement

The following detailed service parameters are the responsibility of the Service Provider in the ongoing support of this Agreement.

4.1 Service Scope

The following Services are covered by this Agreement;

- Manned telephone support
- Monitored email support
- Warranty Repairs
- Installation, deployment, and training

4.2 Customer Requirements

Customer responsibilities and/or requirements in support of this Agreement include:

- Payment for all support costs at the agreed interval.
- Reasonable availability of customer representative(s) when resolving a service related incident or request.

4.3 Service Provider Requirements

Service Provider responsibilities and/or requirements in support of this Agreement include:

- Meeting response times associated with service related incidents.
- Appropriate notification to Customer for all scheduled maintenance.

4.4 Service Assumptions

Assumptions related to in-scope services and/or components include:

- Changes to services will be communicated and documented to all stakeholders.
- Microsoft Azure Government adheres to the CJIS Security Policy, required to access the FBI's Criminal Justice Information Services (CJIS) database through the cloud.
- Microsoft Azure Government Cloud guarantees a 99.95% uptime.

5.4.1 Azure Functions

For Function Apps running on App Service Plans we guarantee that the associated Functions compute will be available 99.95% of the time. No SLA is provided for Functions Apps running under Consumption Plans.

Additional Definitions:

"Deployment Minutes" is the total number of minutes that a given Function App is available to be triggered during a billing month. Deployment Minutes are measured based on the total time that the service is available to trigger a function execution and not based on the potential number of Function executions that might be triggered during a given month.

"Maximum Available Minutes" is the sum of all Deployment Minutes across all Function Apps deployed by Customer in a given Microsoft Azure subscription during a billing month.

"Function App" is an individual Function deployed on an App Service Plan with an associated trigger.

"Downtime" The total accumulated Deployment Minutes, across the Function App deployed by a customer in a given Microsoft Azure subscription, during which the Function App is unavailable to be triggered. A minute is considered unavailable for a given Function App when there is no connectivity between the App Service Plan on which the Function App is hosted and Microsoft's Internet gateway.

Monthly Uptime Percentage: The Monthly Uptime Percentage is calculated using the following formula:

$$\frac{\text{Maximum Available Minutes} - \text{Downtime}}{\text{Maximum Available Minutes}} \times 100$$

Service Credit:

Monthly Uptime Percentage	Service Credit
< 99.95%	10%
< 99%	25%
< 95%	40%

5. Service Management

ACI is well known for customer service, technical support, and understanding of urgency. During standard office hours of 8-6pm, CST, there are two dedicated senior technicians whose sole responsibility is to address incoming customer calls and troubleshoot real-time issues.

The Stalker CopTrax team that will manage this system is comprised of specialists with over 40 years of combined experience in the video arena.

- Mark Brown – CopTrax Project Manager and Integration Specialist
- Danny Beasley – CopTrax Video Specialist
- Ben Fritsch – CopTrax Video Specialist

6.1. Service Availability

Coverage parameters specific to the service(s) covered in this Agreement are as follows:

	Severity Level 1	Severity Level 2	Severity Level 3
Technical Support w/o equipment failure			X
Single vehicle system down		X	
Software updates, system not affected			X
Intermittent issues, system is functional			X
Department back-end software non-operational	X		
Complete system failure	X		

Resolution Time Response Time	Response Time: < 2 Hours M – F 08:00 – 18:00 CST Scheduled appointments after hours	Response Time: < 4 Hours M – F 08:00 – 18:00 CST Scheduled appointments after hours	Response Time: < 8 hour M – F 08:00 – 18:00 CST Scheduled appointments after hours
----------------------------------	--------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------

- After hours support is available on an as-needed basis
- Calls received out of office hours will be forwarded to a mobile phone and best efforts will be made to answer
- Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day

6.2. Service Requests

In support of services outlined in this Agreement, the Service Provider will respond to service related incidents and/or requests submitted by the Customer as outlined below:

- In order to ensure no loss of service, we will temporarily replace the defective components. After review of the defective components and at our election, we will repair or replace the components at our cost all CopTrax hardware components that fail due to defective materials or workmanship during the warranty period of **24 months** from the date of shipment. You must return any failed CopTrax II unit to the factory or an authorized service center, freight prepaid. Return shipping on any components that fail within 6 months from shipment date, will be paid by ACI through a shipping label we provide to you. We will pay standard UPS ground on all return shipping. This warranty excludes normal wear-and-tear such as frayed cords, broken connectors, scratched or broken cases, or physical abuse.
- All software is warranted for a period of **12 months** from the activation date. During this time all software will be supported and upgraded to the latest revision.

6.3. System Deployment

The installation, deployment, and training of a new CopTrax system can be very unsettling to an agency, Applied Concepts, Inc. attempts to take any and every precaution in deploying an installation of this size and scope. A delivery timeframe is 4-5 weeks depending on parts availability and the size of the install, with a typical installation time of 3 hours per vehicle. The deployed system can be quickly modified remotely in order to meet the unique needs of any department. Customization is limited only by creativity and customer feedback.

- Ordering and Staging
 - A CopTrax video specialist will be assigned as project manager. That person will be responsible for coordinating all phases of the project with the Stalker Regional

Manager, Inside Sales Partner, the Contracting Officer, and IT team to make sure that all items are ordered correctly.

- Site Survey
 - A CopTrax representative will schedule a site survey. The purpose of the site survey will be to work with the IT team to analyze the campus of each location and ensure that proper wireless coverage is available in order to meet the needs of the agency.
- Staging and Shipping
 - The CopTrax team will work with purchasing, fleet, and IT teams to make sure that all the items are shipped accurately and in a timely fashion in order to not delay installation.
- Installation
 - The CopTrax project manager will coordinate date, time, and install strategy.
- Training
 - The CopTrax project manager will coordinate with fleet and IT in order to schedule training with the designated trainer for CopTrax. On-line video modules are also available for training on the CopTrax system.
- Monitoring
 - Since the CopTrax Command and Control Dashboard is web enabled, the Contracting Officer State's entire fleet can be monitored for quality assistance. If given temporary administrator information, ACI will be able to help monitor performance during the launch.

OKLAHOMA NASPO VALUEPOINT MASTER AGREEMENT AWARD

EXHIBIT C – PRICE AND COST PROPOSAL

Cost in proposals will be evaluated independent of the technical evaluation. Cost proposal must be submitted to the Lead State as a separate document in Offerors Proposal. Do not embed cost proposal in the technical proposal response.

Offeror shall provide detailed pricing for all costs associated with the responsibilities and related services, per Attachment D.

Offer may provide pricing for one band or all bands.

Cost for the NASPO ValuePoint Master Agreements shall be based on the following:

Offeror must submit cost, prices and rates as required by Attachment D Pricing Template. Prices and rates shall include all anticipated charges, including but not limited to, freight and delivery, cost of materials and product, travel expenses, transaction fees, overhead, profits, and other costs or expenses incidental to the Offeror's performance.

The Lead State is exempt from federal excise taxes and no payment will be made for any taxes levied on the Offeror's or any Subcontractor's employee's wages. If required by Lead State, Taxes shall be included as a separate line item on an Offeror's invoice. The tax rules with respect to other Participating Entities may vary and are expected to be addressed in the Participating Addenda. As a general rule, Government Agencies do not pay sales tax.

1. Price and Rate Guarantee Period

All prices and rates offered shall be guaranteed for the initial term of the Master Agreement. Any request for price or rate adjustment following the initial Master Agreement term, is detailed in Section 7.6 of the Master Agreement terms and conditions, and must be submitted to Lead State in writing as specified.

2. Cost for the NASPO ValuePoint Master Agreements shall be based on the following:

There are four (4) bands of products included with this proposal offering. Each band has a separate pricing template, and is named Attachment D – Band 1, 2, 3, or 4. Respondents may submit pricing for one or all product bands. Additionally, each cost sheet is divided with color tabs at the bottom of each sheet for identification of type of cost required.

To ensure contract flexibility for new technology and product offerings, contract will be awarded at the percentage discount stated per category of item. Clearly indicate how percentage quoted correlates to the identified item description.

Contract pricing shall be marked as a discount percentage from the referenced catalog or publically available URL, and required identified baseline as identified by the item descriptions on pricing tables.

Volume or Cumulative-spend based additional discount percentages are to be clearly marked in tab provided.

Respondents may also propose additional product identifiers as good, better, or best; contract specific Hot-List Items, as long as pricing will be held for the initial agreement period. These items should be included within the market basket which is contained in each band of Attachment D, pricing cost proposals, and clearly marked as such.

Market basket items, unless specifically identified as a special offering, will be used for evaluation purposes. All items must include identifiable baseline references, or will be disqualified from costing evaluation.

3. Special pricing instructions per Band

Band 1 (Body Worn Video)

Percentage discounts will outline the basic catalog discount structure. Respondents will identify the baseline used, and category / catalog discounts. The areas for volume discounts and additional discounts are how respondent can show additional incentives.

Cost scenario pricing will be used for evaluation purposes. Each responded shall list proposed product and indicate the category of Good, Better, or Best. Respondent shall indicate if pricing scenario will be offered as a special contract item – specific product line at quoted price.

Offeror is encouraged to provide contract special offerings to entail the final end user's understanding of available body worn video products.

Band 2 (Vehicle Mounted Video – May include Public Transit and School Bus Video/Recording)

Percentage discounts will outline the basic catalog discount structure. Respondents will identify the baseline used, and category / catalog discounts. The areas for volume discounts and additional discounts are how respondent can show additional incentives.

Cost scenario pricing will be used for evaluation purposes. Each respondent shall list proposed product and indicate the category of Good, Better, or Best. Respondent shall indicate if pricing scenario will be offered as a special contract item – specific product line at quoted price.

Offeror is encouraged to provide contract special offerings to entail the final end user's understanding of available vehicle mounted video products

Band 3 (Video Storage, Data Security, Software and Peripherals)

Cost scenarios are provided to allow offeror the ability to provide their best solution for each situation. Offeror may propose multiple storage and security options, and may include both cloud services and secure self-contained storage solutions. These scenarios will be used in evaluation calculations.

Percentage discounts will be used for final award, and must be stated with baseline identified. Offeror is encouraged to provide contract special offerings to entail the final end user's understanding of available storage and security solutions.

Band 4 (Vehicle Mounted Equipment)

Band 4 has been intentionally omitted and while included in the Solicitation OK-MA-145, it is not included in the scope of this Master Agreement.