



**CLOUD SOLUTIONS 2016-2026**  
Lead by the State of **Utah**

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Master Agreement #: AR2487

State of Kansas Contract Number: 000000000000000000044385

Contractor: **ORACLE AMERICA INC.**

Participating Entity: **STATE OF KANSAS**

Oracle America, Inc. ("Oracle" or "Contractor") and the State of Utah, Division of Purchasing, are parties to that certain NASPO ValuePoint Master Agreement for Cloud Solutions, effective March 1, 2017 (contract # AR2487, the "Master Agreement"). This Participating Addendum (this "Addendum" or "PA") to the Master Agreement is between Oracle, as Contractor, and the State of Kansas (the "Participating State" or "Kansas"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Master Agreement.

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

- All Cloud Services listed on the Contractor page of the NASPO ValuePoint website are available for purchase under this Addendum.

**MASTER AGREEMENT TERMS AND CONDITIONS:**

1. Scope: This addendum covers **Cloud Solutions** led by the State of Utah for use by state agencies and other entities located in the Participating State authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the *State of Kansas* (collectively, the "Purchasing Entities" and each, individually, a "Purchasing Entity"). Issues of eligibility for participation are solely within the authority of the State Chief Procurement Official.

By placing an Order under this Addendum, each Purchasing Entity agrees to be bound by the terms and conditions of this Addendum, including the Master Agreement. Each Purchasing Entity shall be responsible for its own compliance with and breach(es) of such terms and conditions.

The Participating State hereby represents and warrants that the entities listed above have been authorized by the State's Chief Procurement Official to use the Master Agreement and this Addendum.

3. Term: Orders may be placed under this Addendum for the period commencing upon the Effective Date (as defined below) and ending on the earliest of (i) September 15, 2026, (ii) the date of expiration or termination of the Master Agreement, or (iii) the date of expiration or termination of this Addendum.



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4. Access to Cloud Solutions Services Requires State CIO Approval for State of Kansas, Executive Branch agencies: Purchases of Cloud Services under the Master Agreement and this Addendum by State of Kansas executive branch agencies require prior approval of the State of Kansas Chief Information Officer's Office. The State of Kansas executive branch agencies are responsible for obtaining such prior approval before executing an Oracle Ordering Document for a specific purchase.
  
5. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

**Contractor**

Name:	Brian Haven
Address:	1910 Oracle Way, Reston, VA 20190
Telephone:	703-364-0230
Fax:	703-364-0230
Email:	<a href="mailto:brian.haven@oracle.com">brian.haven@oracle.com</a>

**Participating Entity**

Name:	Neal Farron
Address:	Department of Administration, Office of Procurement and Contracts 900 SW Jackson, Rm 451S Topeka, KS 66612
Telephone:	785-296-3122 or 785-296-2376
Fax:	785-296-7240
Email:	<a href="mailto:Neal.Farron@ks.gov">Neal.Farron@ks.gov</a>

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6. Participating Entity Modifications or Additions to the Master Agreement

The parties agree that the modifications or additions to the Master Agreement that are set forth in this Addendum apply only to actions and relationships within the Participating State.

- a. The State of Kansas Contractual Provisions Attachment (as modified), DA-146a is attached hereto and incorporated into this Addendum.
- b. Travel expenses, if applicable, shall be reimbursed under the same rates and conditions as noted in the "Employee Travel Expense Reimbursement Handbook" found at: <https://admin.ks.gov/offices/chief-financial-officer/travel-information-for-state-employees> unless otherwise agreed upon with the Purchasing Entity.
- c. Upon request of the Purchasing Entity, the Contractor shall accept a Business Procurement Card (BPC) or other like instrument in lieu of a warrant for payment under this agreement. No additional charges will be allowed for using the P-Card.

d. Reports and Administrative Fees:

The Contractor shall submit calendar quarterly reports to the Division of Purchases for all invoiced sales of Cloud Services ("actual, net invoice sales"), made under this Addendum.

This report should include as a minimum the agency name, quantity, description and amount. The report will be provided electronically and a check sent payable to the State of Kansas – Office of Procurement and Contracts for an amount equal to one half of one percent (0.50%) of the total actual sales. The report and fee shall be submitted 60 calendar days following the end of the calendar quarter to [reports@da.ks.gov](mailto:reports@da.ks.gov) as follows:

- o Quarter #1: July 1st through September 30th, due by November 30th
  - o Quarter #2: October 1st through December 31st, due by February 28th
  - o Quarter #3: January 1st through March 31st, due by May 31st
  - o Quarter #4: April 1st through June 30th, due by August 31st
- e. A State of Kansas, Tax Clearance Certificate (a copy of which is attached hereto) is required to execute this Addendum.

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7. Resellers: Certain Oracle-authorized resellers (“Authorized Resellers” or “Fulfillment Partner”) are eligible to resell Services to authorized Purchasing Entities under this Addendum. Such Authorized Resellers, if any, are authorized to take orders under this Addendum and invoice and receive payment from such Purchasing Entities. Oracle is responsible for any reports and/or fees that are required per the terms and conditions of the Master Agreement and/or this Addendum, unless expressly stated otherwise herein. Participation of Authorized Resellers, if any, will be in accordance with the terms and conditions set forth in the Master Agreement and this Addendum. All of the Authorized Resellers under this Addendum, if any, will promptly be listed on an Oracle website.
  
8. Orders:
  - a. Any order placed by a Participating State or Purchasing Entity for a product and/or service available from this Master Agreement and this Addendum shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement and this Addendum unless the parties to the order agree in writing that another contract or agreement applies to such order.
  
  - b. Unless otherwise handled by an Authorized Reseller under Section 7 above, Orders and payments may be made directly to Oracle. Orders are to be submitted as directed to Oracle’s sales representative. After the contents of an Ordering Document have been mutually agreed upon, Oracle and the Purchasing Entity shall sign the Ordering Document, and payments shall be submitted in accordance with such Ordering Document and applicable Oracle invoice.
  
9. Entire Agreement:
  - a. By placing an order under this Addendum, each Purchasing Entity agrees that this Addendum and any information that is incorporated by written reference into this Addendum or the applicable ordering document (including reference to information contained in a URL or referenced policy), together with the applicable ordering document, are the complete agreement for the Services ordered by such Purchasing Entity and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Services.
  
  - b. It is expressly agreed that the terms of this Addendum and any Oracle order shall supersede the terms in any purchase order, procurement internet portal or any other similar non-Oracle document and no terms included in any such purchase order, portal or other non-Oracle document shall apply to the Services ordered.



**SIGNATURE PAGE FOLLOWS**

NASPO ValuePoint  
**PARTICIPATING ADDENDUM**



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

Participating State: State of Kansas	Contractor: Oracle America, Inc.
Signature: 	Signature: 
Name: Tracy Diel	Name: JASON GLASSER
Title: Director of Procurement and Contracts	Title: CONTRACTS MANAGER
Date: 2-13-2017	Date: 2/14/18

**Kansas Contractual Provisions Attachment (as modified), DA-146a**

The parties agree that the modifications or additions to the Master Agreement that are set forth in this Kansas Contractual Provisions Attachment (as modified), DA-146a (the "DA-146a Exhibit") apply only to actions and relationships within the Participating State.

The parties agree that this DA-146a Exhibit is hereby incorporated into the Addendum

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this DA-146a Exhibit shall prevail and control over the terms of any other conflicting provision within the Master Agreement.
2. **Kansas Law and Venue:** The Addendum shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with the Addendum shall reside only in state or federal courts of competent jurisdiction located in the State of Kansas.
3. **Termination Due to Lack of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed under an Order and for the payment of the charges thereunder, the Purchasing Entity's may terminate the applicable Order at the end of its current fiscal year. The Purchasing Entity agrees to give written notice of termination to Oracle at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in the applicable Order, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Oracle shall have the right, at the end of such fiscal year, to take possession of any equipment provided to the Purchasing Entity under the applicable Order. A Purchasing Entity's signature on an Order referencing this Addendum and issuance of a purchase order shall signify to Oracle that all funds for such Order have been fully appropriated and are available and no longer are subject to any appropriations contingency for the then current fiscal year. The Purchasing Entity will pay to Oracle all regular contractual payments incurred through the date of termination, plus contractual charges incidental to the return of any such equipment. Upon termination of the applicable Order by the Purchasing Entity title to any such equipment shall revert to Oracle at the end of the Purchasing Entity's current fiscal year. The termination of an Order pursuant to this paragraph shall not cause any penalty to be charged to the Purchasing Entity or Oracle.
4. **Disclaimer of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless, or indemnify any contractor beyond that liability under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** Oracle agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) ("ADA") and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Addendum may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Addendum may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Oracle agrees to comply with all applicable state and federal anti-discrimination laws to the extent that such laws, by their terms, are expressly applicable to Oracle's delivery of Services under this Addendum and impose obligations directly upon Oracle in its role as an information technology services provider with respect to the Services performed under this Addendum.  
  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance of Contract:** The Addendum shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications expressly specified herein have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this Addendum shall find that the State or its agencies have agreed to binding arbitration or the payment of damages or penalties. Further, the Participating State does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403).
8. **Representative's Authority To Contract:** By signing this Addendum, the representative of Oracle hereby represents that such person is duly authorized by Oracle to execute this Addendum on behalf of Oracle and that Oracle agrees to be bound by the provisions herein.
9. **Responsibility for Taxes:** Where exempted from such responsibility by law, the State of Kansas and its agencies shall not be responsible for, nor indemnify Oracle for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Addendum.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this Addendum, nor shall this Addendum require them to establish a "self-

insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), Oracle shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information:** No provision of this Addendum shall be construed as limiting the Legislative Division of Post Audit from having access to information from state agencies pursuant to K.S.A. 46-1101 et seq. The parties acknowledge and agree, however, that any information requests to Oracle will be governed by Section 26 of the Master Agreement (Records Administration and Audit).
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that, subject to the terms and conditions of section 2 (Kansas Law and Venue) above, nothing related to this Addendum shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through the Addendum shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.