

**PARTICIPATING ADDENDUM
NASPO ValuePoint**

CLOUD SOLUTIONS 2016-2026

Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT

Master Agreement No: AR2487

Oracle America, Inc.
(hereinafter "Contractor")

and

State of Washington
(hereinafter "Participating State")

Washington Master Contract No.: 05116

Oracle America, Inc., a Delaware corporation ("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 for the above referenced Master Agreement ("Participating Addendum" or "PA") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services" or "Participating State") and Oracle and is dated and effective as of October 1, 2019. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Master Agreement.

1. **SCOPE:** This Participating Addendum covers the competitive procurement for 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:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the prior approval of the respective State chief procurement official. Issues of interpretation and eligibility for participation are solely within the authority of the State chief procurement official. Pursuant to this Participating Addendum, the Master Agreement may be utilized by the following ("Purchasing Entities" or "Purchasers"):
 - (a) **WASHINGTON STATE AGENCIES.** Washington state agencies, departments, offices, divisions, boards, and commission; and any of the following institutions of higher education in Washington: state universities, regional universities, state college, community colleges, and technical colleges.
 - (b) **MCUA PARTIES.** The Master Agreement also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement (MCUA) with Enterprise Services (MCUA list is available at <https://fortress.wa.gov/ga/apps/ContractSearch/MCUAListing.aspx>):

- Political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) in the State of Washington;
- Federal governmental agencies or entities;
- Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
- Federally-recognized Indian Tribes located in the State of Washington.

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

3. **Term:** Orders may be placed under this Participating Addendum for the period commencing upon the Effective Date 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 Participating Addendum if earlier.
4. **PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT:**
 - 4.1. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTIONS (WEBS) SYSTEM:** Within seven (7) days of execution of this Participating Addendum, Contractor shall register in the Washington State Department of Enterprise Services' Electronic Business Solutions (WEBS) System at <https://fortress.wa.gov/ga/webs/>. Contractor shall ensure that all of its information therein is current and accurate and that, throughout the term of the Master Agreement, Contractor shall maintain an accurate profile in WEBS.
 - 4.2. **WASHINGTON'S STATEWIDE PAYEE DESK:** To be paid for contract sales, Contractor must register with Washington's Statewide Payee Desk. Washington state agencies cannot make payments to a contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).
 - 4.3. **CONTRACT SALES REPORTING.** Contractor shall report total contract sales quarterly to Enterprise Services, as set forth below.
 - (a) **REPORTING.** Contractor shall report quarterly the total amount invoiced to Purchasing Entities under this Participating Addendum during that quarter in Enterprise Services' [Contract Sales Reporting System](#). Enterprise Services will provide Contractor with a login password and a vendor number.
 - (b) **DATA.** Each sales report must identify every authorized Purchasing Entity by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Purchasing Entities specified herein during the term of this Participating Addendum. Refer sales reporting questions to the Primary Contact set forth below. If there are no contract sales during the reporting period, Contractor must report zero sales.
 - (c) **DUE DATES FOR CONTRACT SALES REPORTING.** Quarterly Contract Sales Reports must be

submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

For Calendar Quarter Ending	Contract Sales Report Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

4.4. **VENDOR MANAGEMENT FEE:** Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 1.5 percent on the purchase price for the total amount invoiced to Purchasing Entities under this Participating Addendum during that quarter (the purchase price is the total invoice price less applicable sales or use tax).

(a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

$$\text{Amount owed to Enterprise Services} = \text{Total contract sales invoiced (not including sales or use tax)} \times .015$$

(b) The VMF must not be shown as a separate line item on any invoice.

(c) Enterprise Services will invoice Contractor quarterly based on contract sales reported by Contractor. Contractor shall not remit payment until it receives an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference the following:

- This Washington Master Contract No.: 05116
- The NASPO Master Agreement No.: AR2487
- The year and quarter for which the VMF is being remitted, and
- Contractor's name as set forth in this Participating Addendum, if not already included on the face of the check.

(d) Contractor's failure accurately and timely to report total net sales, to submit usage reports, or remit payment of the VMF to Enterprise Services, may be cause for suspension or termination of this Participating Addendum accordance with Section 10 (Defaults and Remedies) of the Master Agreement.

(e) Any increase, decrease, or other change to the VMF must be memorialized in a written amendment to this Participating Addendum that is signed by both parties. The parties agree that any change to the VMF may, at Contractor's discretion, be rolled into Contractor's current pricing.

4.5. **COMPLIANCE WITH LAW; TAXES, LICENSES, & REGISTRATION:** Contractor shall comply with all applicable law. If the Contractor is not already registered, Contractor shall register to conduct business in the State of Washington and promptly acquire and maintain all necessary licenses and registrations and pay all applicable taxes and fees. In addition, for all sales to purchasers in the State of Washington, if Contractor does not currently do so, Contractor shall calculate, collect, and remit, as appropriate, the applicable state and local sales tax on all invoices.

- 4.6. **PAY EQUALITY:** Contractor represents and warrants that among its workers similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Participating Addendum and any Purchaser hereunder similarly may suspend or terminate its use of the Participating Addendum and/or any agreement entered into pursuant to the Participating Addendum.
- 4.7. **COMPLIANCE WITH PARTICIPATING STATE'S (WASHINGTON'S) STATEWIDE IT POLICIES:** Prior to final execution of a Washington State Agency's Order with a Contractor, the Oracle Programs and Cloud Services, as implemented by a Washington State Agency, will be subject to a security design review performed by Washington Consolidated Technology Services to ensure compliance with OCIO Policy 141.10 - Securing Information Technology Assets Standards.
5. **LEASE AGREEMENTS:** Leasing, or renting, by Purchasing Entities under this Participating Addendum is not allowed throughout the term of the Master Agreement.
6. **PRIMARY CONTACTS:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor	Participating State
Oracle America Inc. 1910 Oracle Way Reston VA, 20190	State of Washington Department of Enterprise Services Contracts, Procurement and Risk Mgmt. P.O. Box 41411 Olympia, WA 98504-1411
Attn: Stephanie Feaman Tel: (703) 364-0465 Email: stephanie.feaman@oracle.com	Attn: Mike Dombrowsky Tel: (360) 407-8717 Email: mike.dombrowsky@des.wa.gov

7. **ORDERS:** Orders and payments shall 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. Unless the parties to an order agree in writing that another contract or agreement applies to such order, any order placed by a Purchasing Entity for a product and/or service available pursuant to this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions of) the Master Agreement as conditioned by this Participating Addendum.

8. GENERAL:

- (a) **PUBLIC INFORMATION.** This Participating Addendum, all related documents, and all records created as a result of the Participating Addendum, are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56. Consistent with the Public Records Act, to the extent that any such Contractor document or record – in whole or in part – includes information exempted or protected from disclosure by the Public Records Act, Contractor may mark such document or record – the exempted or protected portions only – with the specific basis for protection under the Public Records Act. In the event that Enterprise Services receives a public records disclosure request that pertains to such properly marked documents or records, Enterprise Services shall notify Contractor of such disclosure request and of the date that the records will be released to the requester unless Contractor, at Contractor's sole expense, timely obtains a court order enjoining such disclosure. In the event Contractor fails to file a motion for a court order enjoining such disclosure, Enterprise Services shall release the requested documents on the date specified. Contractor's failure properly to identify exempted or protected information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are protected or exempt from disclosure.

Notwithstanding the foregoing paragraph, the parties agree that in the event any confidential information is required to comply with or is otherwise provided in furtherance of the security design review requirements of Section 4.5, Contractor and the Purchasing Entity shall negotiate a nondisclosure agreement that addresses the nature of any confidential information to be disclosed and mutually agreeable procedures to be followed with respect to such information.

- (b) **INTEGRATED AGREEMENT; MODIFICATION.** This Participating Addendum and Master Agreement, together with its exhibits, set forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. This Participating Addendum may not be modified except in writing signed by the Parties.

It is expressly agreed that the terms of the Master Agreement, this Participating Addendum and any Ordering Document 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.

- (c) **AUTHORITY.** Each party to this Participating Addendum, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Participating Addendum and that its execution, delivery, and performance of this Participating Addendum has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- (d) **ELECTRONIC SIGNATURES.** A signed copy of this Participating Addendum or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be

deemed to have the same legal effect as delivery of an original executed copy of this Participating Addendum or such other ancillary agreement for all purposes.

- (e) COUNTERPARTS. This Participating Addendum may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Participating Addendum at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Participating Addendum.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: Clement Cooper

Its: Enterprise Procurement Manager

Date: 9/27/19

ORACLE AMERICA, INC.
A DELAWARE CORPORATION

By: DocuSigned by:
Stephanie Feaman
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Its: Contracts Manager

Date: 27-Sep-2019 | 6:47 PM EDT