

PARTICIPATING ADDENDUM
NASPO ValuePoint
For Wireless Data, Voice and Accessories
Between the State of Minnesota and T-Mobile USA, Inc.

NASPO ValuePoint Contract No. MA176

State of Minnesota Contract No. 186345

1. **Scope:** This Participating Addendum ("PA") covers the NASPO ValuePoint Wireless, Data, Voice and Accessories Master Agreement led by the State of Utah ("Master Agreement No: MA176" or "Master Agreement") for use by state agencies and other entities, as provided in the Master Agreement, and as more specifically detailed in Paragraph 2, "Participation," below. There were four categories included in the solicitation

Category 1: Cellular Wireless Services
Category 2: Equipment and Accessories
Category 3: Turnkey Wireless and IoT Solutions offered as a Product
Category 4: Alternative Wireless Transport Options

Contractor was awarded Categories 1, 2, 3A, and 3C.

Participating Entity has elected to participate in **Categories 1 and 2**

2. **Participation:** The Contract is available for use by Minnesota State Agencies and Cooperative Purchasing Venture (CPV) Members. Minn. Stat. § 16C.03, subd. 10 authorizes the State, acting through its Office of State Procurement, to enter into purchasing agreements with one or more governmental units and other entities allowable by law, as described in Minn. Stat. § 471.59, subd. 1, to exercise jointly the purchasing powers and functions each has individually. This authority is referred to as the Cooperative Purchasing Venture program. For more information, see State website www.mmd.admin.state.mn.us.

The Contractor agrees to extend the Contract to CPV members at the same prices, terms, conditions, and specifications. With the approval of the Contractor, a CPV member may add additional terms to its ordering document applicable to the CPV member's purchasing activities. Such additional terms shall not modify, diminish, or derogate the terms applicable to the State.

Sales for personal use shall not be allowed under this Contract; however, a governmental entity may permit the use of services, equipment or accessories obtained under this Contract for personal use by employees who obtained the services, equipment or accessories for a governmental purpose.

3. **Authorized Representatives and Primary Contact:**

The State's Authorized Representative and the primary contact individual for the Participating Addendum is identified below. All notifications to the State shall be in writing and addressed as follows:

Name: Doug Heeschen or successor
Title: Division Procurement Coordinator
Address: Minnesota Department of Administration
Office of State Procurement
50 Sherburne Ave., 112 Administration Bldg.
St. Paul, MN 55155
Telephone: 651.201.2422
E-mail: doug.heeschen@state.mn.us

The Contractor's Authorized Representative and the primary contact individual for is identified below. All notifications to the Contractor shall be in writing and addressed as follows:

Name: David Bezzant, Vice President, T-Mobile For Government
Title: Vice President, T-Mobile For Government
Address: c/o T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Telephone: (480) 638-2608
E-mail: David.Bezzant@T-Mobile.com

For Legal Notice to Contractor – send a copy to:

Legal Department, T-Mobile USA, Inc.
c/o T-Mobile USA, Inc.
12920 SE 38th Street, Bellevue, WA 98006

4. **Subcontractors:** The following subcontractor(s) are authorized to perform services. NONE.
5. **Authorized Signature:** The Participating Addendum must be fully and properly executed by an officer or other authorized representative of the responder. If the responder is a corporation, a secretarial certificate or the corporate minutes showing that the signing officer has authority to contractually obligate the corporation should be furnished. Where the corporation has designated an attorney-in-fact, the power of attorney form should be furnished. If the responder is a partnership, a letter of authorization should be furnished signed by one of the general partners. A sole proprietor must sign the response. Proof of authority of the person signing the response must be furnished upon request.
6. **Order of Precedence:** The following documents, in order of precedence, are incorporated herein by reference and constitutes the entire Contract between the Contract Vendor and the State:
 - a. The Minnesota Participating Addendum, including Exhibits A, B and C
 - b. The NASPO ValuePoint Master Agreement
 - c. The NASPO ValuePoint Solicitation
 - d. Response to the NASPO ValuePoint Solicitation

In the event of a conflict in language among any of these documents, the terms and conditions set forth and/or referenced in this Participating Addendum shall prevail over conflicting terms and conditions. No price adjustments are allowed unless approved by the Lead State for the NASPO ValuePoint Master Agreement and adopted by the State of Minnesota through a fully executed Participating Addendum amendment.

7. **Term of Participating Addendum**

Effective date. June 1, 2020, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.

Expiration date. August 11, 2024, or until all obligations have been satisfactorily fulfilled, whichever occurs first to the extent such date is coterminous with the Master Agreement including any renewals or extensions to the Master Agreement.

8. Purchase Order Instructions: Any Purchase Order, Order or T-Mobile approved funding document used to order Products and Services shall be in accordance with and subject to the NASPO Master Agreement #MA176. As a pre-condition to ordering T-Mobile Services and Products under the NASPO Master Agreement, T-Mobile will require Participating Entity to provide a Purchase Order, Order or signed funding document.

9. Individual Customer:

Each state agency, political subdivision or other entity placing an order under this Participating Addendum ("Purchasing Entity"), will be treated as if it was an Individual Customer. Except to the extent modified in this Participating Addendum, each agency, political subdivision or other entity will be responsible for compliance with the terms and conditions of the Master Agreement; and they will have the same rights and responsibilities for their purchases as the Lead State (subject to the Minnesota PA) has in the Master Agreement. Each agency, political subdivision or other entity will be responsible for its own charges, fees and liabilities. Each Purchasing Entity will have

the same rights to any indemnity or to recover any costs allowed in the contract for its purchases; and Contractor will apply the charges to each Participating Entity individually. The Individual Customer agrees to the terms of the Participating Addendum, including the disclosure of limited account information as part of the contractual reporting requirements to NASPO ValuePoint and/or the Participating Entity for purposes of monitoring the contract and calculating the administrative fee.

10. Software Terms and Conditions: Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software; however, in the event of a conflict in language between an end user license agreement (EULA) and the Master Agreement, the language in the Master Agreement will supersede and control. In addition, any language in a EULA which violates a Purchasing Entity's constitution, statute or other applicable law will be deemed void, and of no force or effect, as applied to the Purchasing Entity

11. Pursuant to Amendment No. 2 of Master Agreement No. MA176, upon execution of this PA, the parties agree that the terms of any existing Participating Addendum(s) under either: 1) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Contractor ("T-Mobile NASPO 1907 Agreement"); or 2) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Sprint Solutions, Inc., ("Sprint NASPO 1907 Agreement") will be governed under the terms of this PA and Master Agreement No. MA176. Contractor and the Participating Entity agree that this PA will supersede and replace any existing Participating Addendum(s) under either T-Mobile NASPO 1907 Agreement or Sprint NASPO 1907 Agreement ("Existing 1907 Participating Addendums") as of the PA Effective Date, subject to the terms herein. The Existing 1907 Participating Addendums will be terminated in their entirety as of the PA Effective Date.

12. Technology Evolution:

12.1 In the normal course of technology evolution and enhancement, T-Mobile continually updates and upgrades its Services, Products and networks. In some instances, these efforts will result in the need to ultimately replace or discontinue certain offerings or technologies. In such event, T-Mobile will undertake such efforts in a customer-focused and commercially reasonable manner. Accordingly and notwithstanding anything in the PA to the contrary, T-Mobile reserves the right, in its sole discretion, after providing the notice set forth in subsection 12.2 below, to: (a) migrate Participating Entity to a replacement technology; or (b) discontinue any Service, Product, network standard, or technology without either party being in breach of the PA or incurring early termination liability relating to the discontinuance of the affected Service, Product, network standard, or technology.

12.2 If T-Mobile takes any action set forth in subsection 12.1 above, T-Mobile will provide no less than 120 days' advance notice reasonably designed to inform Participating Entity (if affected) of such pending action. The form of T-Mobile's notice may include providing written notice to any address (a) listed in the PA for Participating Entity, (b) T-Mobile uses for billing, or (c) set forth in an Order. Customer agrees that such notice is reasonable and sufficient notice of T-Mobile's pending action.

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

**1. Contract Vendor:
T-MOBILE USA, INC.**

The Contract Vendor certifies that the appropriate person(s) have executed this Participating Addendum on behalf of the Contract Vendor as required by applicable articles, bylaws, resolutions, or ordinances

DocuSigned by:

By: 

Signature 8F686CC9343743C...
David Bezzant


Printed Name

Title: Vice President

Date: 3/15/2021

Legal approved by:

DocuSigned by:

By: 

Signature 810A05E62748489...
Thorick Dino

Printed Name

Title: Principal Corporate Counsel


Date: 3/15/2021

T-Mobile USA, Inc. -Legal Department

**2. Government Entity:
State of Minnesota
Office of State Procurement**

In accordance with Minn. Stat. § 16C.03, Subd. 3.

DocuSigned by:

By: 

Signature 093FFEC286F945D...

Title: Division Procurement Coordinator

Date: 3/15/2021

**3. State of Minnesota
Commissioner of Administration**

Or delegated representative.

DocuSigned by:

By: 

Signature 68D02A26D7604BA...

Date: 3/15/2021

Minnesota Exhibit A

1. State Audits.

Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Contract.

2. Indemnification.

See NASPO VP Master, Section 32. Indemnification; provided however, the parties agree to add, for purposes of this PA, the following to Section 32. a.:

2.1 To be indemnified, the State must (A) give Contractor prompt written notice of the claim, (B) subject to the initial consent and approval of the Minnesota Attorney General and its appointment of Contractor as a special attorney, give Contractor full and complete authority, information and assistance for the claim's defense and settlement, and (C) not, by any act including but not limited to any admission or acknowledgement, materially prejudice Contractor's ability to satisfactorily defend or settle the claim. Contractor will retain the right, at its option, and subject to Sub (B) above, to settle or defend the claim, at its own expense and with its own counsel. The State will have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but Contractor, subject to Sub (B) above, will retain sole control of the claim's settlement or defense. Such consent, approval and appointment by the Minnesota Attorney General as described in Sub (B) above shall not be unreasonably withheld, conditioned, or delayed.

2.2 Nothing within this Contract, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This shall extend to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.

3. **Insurance.** If applicable, prior to execution of the Participating Addendum, the Contractor will be required to provide a copy of a Certificate of Insurance, including workers' compensation insurance coverage requirements of Minn. Stat. §176.181, subd 2, and other coverages per the insurance requirements included as Exhibit C to this Participating Addendum.

4. Governing Law, Jurisdiction, and Venue.

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota. The State only agrees to the terms and conditions of the Contract to the extent permitted by Minnesota law. Notwithstanding any other term in the Contract, the Contract shall not be construed to deprive the State of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applying to the Contract or afforded to the State by Minnesota law. All rights and remedies provided in the Contract are cumulative and not exclusive or any other rights or remedies that may be available to the State, whether provided by law, equity, statute, in any other agreement between the parties or otherwise.

5. Non-discrimination (in accordance with Minn. Stat. § 181.59).

The Contractor will comply with the provisions of Minn. Stat. § 181.59.

6. Data Disclosure.

Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

7. Government Data Practices.

If applicable, the Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the State contracting party is part of the Judicial Branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State. Notwithstanding the foregoing, the parties acknowledge and agree that (i) Contractor is offering commercial, off-the-shelf products with little or no customization to Participating Entities under this Participating Addendum; (ii) Contractor is neither requesting nor requiring access to Personally Identifiable Information (“PII”) other than points of contact information in managing and serving a Participating Entity’s account; (iii) Contractor will only be accessing Customer Proprietary Network Information (“CPNI”) in the management and service of each Participating Entity’s accounts under this Participating Addendum and shall be obligated to protect each Participating Entity’s CPNI under Federal law; (iv) Contractor’s supporting ordering and provisioning systems being offered as part of Contractor’s wireless offerings are considered commercial systems and are not part of the State of Minnesota’s computing environment; and (v) Contractor’s products and services under this Participating Addendum are not considered a governmental function being performed by the Contractor on behalf of the State of Minnesota.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State’s Authorized Representative as to how the Contractor should respond to the request; provided however, Contractor’s notice obligations under this paragraph shall not apply to legal demands received by Contractor for subscriber information and/or transactional records associated with the use of a particular handset. The Contractor’s response to the request shall comply with applicable law.

8. Affirmative Action Requirements

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

- 8.1 Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.
- 8.2 General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.
- 8.3 Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- 8.3.1 The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all

employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

8.3.2 The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

8.3.3 In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

8.3.4 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

8.3.5 The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

8.4 Consequences. The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State.

8.5 Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

9. Equal Pay Certification.

If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the State may require Contractor to verify its exempt status.

10. Prompt Payment and Invoicing.

10.1 Prompt Payment. If applicable, the State will pay the Contractor pursuant to Minn. Stat. § 16A.124, which requires payment within 30 days following receipt of an undisputed invoice, or merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read "Net 30 days." Notwithstanding the foregoing, the State may pay the Contractor in advance for purchases as allowed pursuant to Minn. Stat. §16A.065.

The payment for each order will only be made for goods received or services actually performed that have been accepted by the Purchasing Entity, and meet all terms, conditions, and specifications of the Contract and the ordering document.

Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge. There is a purchasing card single purchase limit of \$5,000 for State agencies.

10.2 Invoicing. Minimum invoice requirements are:

- Purchasing Entity name
- State Purchase Order number field
- Item/service description
- Item quantity or service hours
- List price
- Price after discount

11. Taxes.

- 11.1 Equipment and Accessories. Do not add sales tax to the prices being offered. State Agencies hold a Direct Payment Authorization Letter which is used to pay applicable taxes directly to the Department of Revenue. Contractors may go to <http://www.revenue.state.mn.us> to learn about the applicable sales tax (search "Fact Sheet 142").
- 11.2 Wireless Data and Voice Services: The Contractor will charge the Purchasing Entity the applicable sales tax for the wireless data and voice services provided under this Contract.

12. Purchase Orders (PO).

There are no minimum order requirements. There will be no charges to process an individual order. The contract number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.) The Purchasing Entity's purchase order constitutes a binding contract.

13. Default.

The defaults and remedies set forth in NASPO ValuePoint Contract No. MA176-1 for the lead state are also applicable for the Purchasing Entity. Additionally, subject to Section 12. (Technology Evolution) of the PA, no substitutions are permitted without prior approval by the Purchasing Entity. A default resulting in failure to meet delivery requirements, or failures to meet specifications in the purchase order and this Contract authorizes the Purchasing Entity to cancel the purchase order, or any part of it, and to purchase elsewhere and charge the documented increase in cost and administrative handling to the defaulting Contractor which will not exceed a maximum of: (i) the lesser of \$50,000 or the total amount of the purchase order as to an individual cancelled purchase order and/or (ii) the lesser of \$500,000 or the total amount paid under the Contract through the date of termination, in the event of termination for default of this PA. In the event of a default, the Purchasing Entity has the right to pursue any other remedy available by law subject to the limitations of this PA and the Master Agreement, and Contractor may be removed from the State's vendor list, suspended or disbarred from receiving a Contract for failure to comply with the terms and conditions of the Contract, or for failure to pay the fees or costs incurred on the Contract. Notwithstanding the foregoing, Contractor will not be responsible for any delay, interruption or other failure to perform under the Contract due to acts beyond the control of the Contractor (a "Force Majeure Event"). Force Majeure Events include, but are not limited to: natural disasters (e.g. lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers; cable cuts by third parties, a local exchange carrier's activities, malicious, criminal and other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; and governmental decrees and any other cause beyond the reasonable control of Contractor.

14. Copyright.

See NASPO VP Master, Section 32. Indemnification which is also subject to Section 2 Indemnification above.

15. Amendments to Participating Addendum.

Any amendment to this Participating Addendum must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.

16. Termination of the Participating Addendum.

The Participating Addendum may be cancelled by the State or the Commissioner of Administration at any time, with or without cause, upon 30 days written notice to the Contractor. In the event the Contractor is in default, the Participating

Addendum is subject to immediate cancellation after being provided a 30 day notice to cure by the State to the extent allowable by applicable law. In the event of such a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed and accepted. The Contractor may request to cancel the Participating Addendum but must receive written approval from the State.

17. Administrative Personnel Changes.

After execution of this Participating Addendum the State must be notified of intended changes in the Contractor's key Contract personnel as soon as practicable.

18. Publicity.

Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, information posted on corporate or other websites, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract. The Contractor must not claim that the State endorses its products or services.

19. Americans with Disabilities Act (ADA).

Products provided under the Contract must comply with the requirements of the Americans with Disabilities Act (ADA). The Contractor's catalog and other marketing materials utilized to offer products under the Contract must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Purchasing Entity can assume the product meets or exceeds the ADA requirements.

20. IT Accessibility Standard.

Contractor acknowledges and is fully aware that the State of Minnesota (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at: <https://mn.gov/mnit/government/policies/accessibility/>.

The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.

When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the State in advance of the change, occurring within an agreed upon timeframe sufficient for the state to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the State to consider the Contractor in default.

21. Nonvisual Access Standards.

Pursuant to Minn. Stat. §§ 16C.145, the Contractor must comply with the following nonvisual technology access standards to the extent required by law:

- That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

- That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired; and
- Executive branch state agencies subject to Section 16E.03, subdivision 9, are not required to include nonvisual technology access standards developed under this Section in contracts for the procurement of information technology.
- These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

22. Security and Data Protection.

See NASPO VP Master, Attachment AA, Section 7. Privacy.

23. Compliance with Data Privacy and Security Laws and Standards.

See NASPO VP Master, Attachment AA, Section 7. Privacy.

24. Supply Chain Security.

Unless the authorized representative of the State or the Purchasing Entity requests a refurbished device or equipment, Contractor shall take commercially reasonable steps to ensure all equipment and devices provided as new under this contract are new from the manufacturer and do not contain previously returned, opened, or refurbished items. Contractor will use commercial reasonable efforts to mitigate supply chain risk in the provision of supplies and services under this Contract. "Supply chain risk" means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a device or equipment so as to surveil, deny, disrupt, or otherwise degrade the function, use or operation of such device or equipment.

25. Minnesota Administrative Fee and Reporting Requirements.

25.1 Administrative Fee. On a quarterly basis, the Contractor shall return to the Department of Administration, Office of State Procurement, a fee of 1% (0.01 multiplication factor) of the total sales during that quarter, to assist with the cost of administering the Participating Addendum. The administrative fee shall be remitted to the State within 30 days of the end of the quarter. The quarter periods are July 1 through September 30 (1st Quarter), October 1 through December 31 (2nd Quarter), January 1 to March 31 (3rd Quarter) and April 1 through June 30 (4th Quarter). The Contractor must provide a report detailing the total sales to Purchasing Entities (State Agencies and CPV Members). The report must be submitted with the check on or before the required 30 days after the end of the quarter.

25.2 Quarterly Usage Reports for Office of State Procurement. Usage reports for each quarter shall be delivered within 30 days following the end of the quarter to osp.usagereports@state.mn.us. Each report should contain the following information at a minimum:

- Sales broken down by each Purchasing Entity. If it is a state agency, the name must include the agency name and the division (e.g., Minnesota Department of Natural Resources, Forestry Division). All amounts in US Dollars.
- Total Summary of all plan usage, separated by state and CPV usage.
- Total Summary of all equipment purchased, separated by state and CPV usage.

25.3 Purchasing Entity Reports. Upon request of a Purchasing Entity, or via web portal available, Contractor must provide requester with a list of all active wireless phone numbers assigned to each account from the most recent quarter. This report must be downloadable.

25.4 Environmental Reports for Minnesota Pollution Control Agency (MPCA). Not applicable.

26. Severability.

If any provision of the Contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the State and the Contractor shall be relieved of all obligations arising under such provisions; if the remainder of the Contract is capable of performance it will not be affected by the declaration or finding and will be fully performed.

27. Survivability of Orders.

In the event the term of any order placed under this Contract extends past the termination or expiration of this Contract, the terms and conditions of this Contract shall remain in full force and effect as it applies to such order and will continue in effect for such order until the term of that order expires or the order is cancelled or terminated in accordance with the terms of this Contract.

28. Survivability of Terms.

The following rights and duties of the State and Contractor will survive the expiration or cancellation of the resulting Contract(s). These rights and duties include, but are not limited to the paragraphs on: Indemnification; State Audits; Government Data Practices; Governing Law, Jurisdiction and Venue; Intellectual Property Indemnification; Publicity, and Minnesota Administrative Fee and Reporting Requirements.

29. Hazardous Substances.

To the extent that the goods to be supplied to the State by the Contractor contain or may create hazardous substances, harmful physical agents, or infectious agents, as set forth in applicable State and federal laws and regulations, the Contractor must provide the State with Material Safety Data Sheets regarding those substances. A copy must be provided upon request. Goods and containers supplied to the State must be labeled in compliance with state and federal laws, rules, and regulations.

These terms apply to goods supplied under this contract:

29.1 Products Containing Triclosan Banned. The Contractor must comply with Minn. Stat. § 145.945.

29.2 Products Containing Certain Types of Polybrominated Diphenyl Ether Banned. The Contractor must comply with Minn. Stat. § 325E.385-325E.388).

29.3 Coal Tar Sealant Use and Sale Prohibited. The Contractor must comply with Minn. Stat. § 116.202.

29.4 Products Containing Mercury. The Contractor must comply with Minn. Stat. 116.92.

30. E-Verify Certification (in accordance with Minn. Stat. § 16C.075).

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

31. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel,

when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

32. Contractor's Documents.

Any licensing and maintenance agreement, or any order-specific agreement or document, including any pre-installation, linked or "click through" agreement that is allowed by, referenced within or incorporated within the ordering document whenever the Contract is used for a State or CPV Member procurement, whether directly by the Contractor or through a Contractor's agent, subcontractor or reseller, is agreed to only to the extent the terms within any such agreement or document do not conflict with the Contract or applicable Minnesota or Federal law, and only to the extent that the terms do not modify, diminish or derogate the terms of the Contract or create an additional financial obligation to the State. Any such agreement or document must not be construed to deprive the State or the Purchasing Entity of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applicable to this Contract or afforded to the State by Minnesota law. A Purchasing Entity employee's decision to choose "accept" or an equivalent option associated with a "click-through" agreement does not constitute the Purchasing Entity's concurrence or acceptance of terms, if such terms are in conflict with this section.

33. No Mandatory Mediation or Arbitration.

Any term or condition that requires the parties to mediate or arbitrate is null and void. Voluntary dispute resolution procedures are valid to the extent allowed by law.

34. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions.

Contractor certifies that neither it nor its principals is presently debarred or suspended by the Federal government, the State, or any of the State's departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor shall provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

35. Federal Funds.

Payments under this Contract may be made from federal funds obtained by the Purchasing Entity. Additional terms and conditions may be presented by the Ordering Entity to the Contractor, subject to review and agreement by the Contractor, if federal funds are being used in support of a federal grant, cooperative agreement, or procurement contract.

Minnesota Exhibit C

GENERAL INSURANCE REQUIREMENTS

Insurance Requirements

- A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.
- B. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- 1. **Workers' Compensation Insurance:** Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

- \$100,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

- 2. **Commercial General Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** limits are as follows:

- \$2,000,000 – per occurrence
- \$2,000,000 – annual aggregate
- \$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- Other; if applicable, please list _____
- State of Minnesota named as an Additional Insured, to the extent permitted by law

- 3. **Commercial Automobile Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned

autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

4. **Professional/Technical, Errors and Omissions, including Network Security and Privacy Liability Insurance (or equivalent Network Security and Privacy Liability coverage endorsed on another form of liability coverage or written as a standalone policy):**

This policy will provide coverage for all claims the contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor's professional services required under the contract.

Contractor is required to carry the following **minimum** limits:

\$2,000,000 – per claim or event

\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a higher amount, the Contractor shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Contractor to cover the deductible from its own resources.

The retroactive or prior acts date of such 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 the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

5. **Network Security and Privacy Liability Insurance (or equivalent)**

Contractor is required to maintain insurance to cover claims which may arise from failure of Contractor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of confidential or private information, transmission of a computer virus or denial of service.

Contractor is required to carry the following **minimum** limits:

\$2,000,000 per claim or event

\$2,000,000 annual aggregate

C. Additional Insurance Conditions:

- Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contractor's performance under this contract;
- If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of

the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota;

- Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of B.4 above;
- Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

D. The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

E. The successful Contract Vendor is required to submit Certificates of Insurance acceptable to the State of MN as evidence of insurance coverage requirements prior to commencing work under the contract.