



**SMALL PACKAGE DELIVERY
SERVICES 2021-2026**
Lead by the State of Utah

Master Agreement #: MA454

Contractor: **FEDEX**

Participating Entity: **STATE OF NORTH CAROLINA**

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

- Small Package and Express Delivery Services; Multi- No Money Back (MBG) Applicable Rates.

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the **Small Package Delivery Services** led by the State of Utah for use by state agencies and other entities located in the Participating State of North Carolina 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 North Carolina. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

| | |
|------------|----------------------------------------------------------|
| Name: | Bobby Bledsoe |
| Address: | 3650 Hacks Cross Road, Building E, 3 rd Floor |
| Telephone: | 901-219-6964 |
| Fax: | |
| Email: | rdbledsoe@fedex.com |



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Participating Entity

| | |
|------------|------------------------------------------|
| Name: | State of North Carolina |
| Address: | 116 West Jones Street, Raleigh, NC 27699 |
| Telephone: | 984-236-0242 |
| Fax: | |
| Email: | Myra.welch@doa.nc.gov |

4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

NORTH CAROLINA TERMS AND CONDITIONS

1. **ADVERTISING:** Vendor agrees not to use the existence of this Contract or the name of the State of North Carolina or any of its sub-units in or as part of any commercial advertising or marketing of products or services.
2. **GOVERNING LAW:** Solely with respect to matters or disputes related to or arising from purchase orders issued hereunder by governmental entities within the State of North Carolina, this agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules, and within which State all matters, whether sounding in Contract or tort or otherwise, relating to its validity, construction, interpretation and enforcement shall be determined. This is a cooperative purchasing agreement advantageous to the State under 01 NCAC 05B.1513 and has been determined eligible for a Waiver of Competition under 01 NCAC 05B.1401. As to State purchases under the Agreement, it is subject to the provisions of Chapter 143 of the N.C. General Statutes and the rules in 01 NCAC Chapter 05.
3. **ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records, solely to the extent they relate to transactions and matters involving North Carolina's participation in the Contract, to verify accounts and data affecting fees or performance under the Contract, as provided in G. S. §143-49(9).
4. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.
5. **TAXES:** Any applicable taxes shall be invoiced as a separate item.

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G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G.S. 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina.

Some participating entities may be exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the participating entity.

Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.

6. **COMPLIANCE WITH LAWS**: Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this contract, including those of federal, state, and local agencies having jurisdiction and/or authority.
7. **CERTIFICATIONS**: Vendor certifies to each of the following:
 - a). that its bid was submitted competitively and without collusion, as required by G.S. 143-54; or that its participation in the subject co-operative was approved by the authorized Lead Purchasing Agency;
 - b). that none of its officers, directors or controlling owners has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2);
 - c). that it is not an ineligible vendor as set forth in G.S. 143-59.1;
 - d). that no employee or agent of Vendor has offered, and no State employee has accepted, any gift or gratuity in connection this contract, in violation of N.C.G.S. § 133-32; and
 - e). that it, and each of its sub-contractors under this contract, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system, as required by G.S. §143-48.5.
8. **SOVEREIGN IMMUNITY**: Notwithstanding any other term or provision in this contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity that otherwise would be available to the State under applicable law.
9. **INSURANCE**:

COVERAGE - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

 - a. **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's

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liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sub-contracted, the Vendor shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.

b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

REQUIREMENTS - Providing and maintaining adequate insurance coverage is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

Subcontractors: All contactors, dealers, and resellers authorized in the State of North Carolina, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in Master Agreement, CONTRACT Master Agreement #: MA454

10. **DELIVERY PERSONNEL.** The contractor's delivery personnel participation will perform hereunder in accordance with the terms and conditions set forth in the aforementioned Master Agreement and this PA.

11. **Orders:** Any order placed by a Participating Entity or Purchasing Entity for a service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

12. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of a correct invoice or acceptance of goods, whichever is later. The Participating Entity or Purchasing Entity shall be responsible for all payments to the Vendor under the Agreement.

13. **TERMINATION FOR CONVENIENCE:** Since the Agreement contemplates deliveries or

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performance over a period of time, the State may terminate this PA/contract at any time by providing 30 days' written notice to the Vendor.

14. **AFFIRMATIVE ACTION:** The Vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination on the basis of any prohibited grounds as defined by Federal and State law.
15. **PROHIBITED ACTIONS:** Notwithstanding any provision to the contrary, the State expressly does not agree to any Vendor term or provision in any attached or referenced document, or any revision thereof, that is inconsistent with or materially changes any State requirement, term or condition in a relevant procurement hereunder, except as 1) *expressly and lawfully agreed to in writing by authorized official(s)* prior to award of the contract, or, 2) ordered by a court of competent jurisdiction. For avoidance of doubt, the above statement includes and means, without limitation and supplementing any similar provisions in the Master Agreement, any vendor term or provision that provides for:
- indemnification of any person or entity by the State,
 - applicability of state laws other than of North Carolina and of venue in Wake County, North Carolina, G.S. 22B-3 *Contracts against public policy* (Contracts with forum selection provisions deemed void and unenforceable); See, G.S. 114-6,
 - arbitration, mediation or any limitation of any right of the State to jury trial, See G.S. 22B-10 (Contract provisions waiving jury trial unenforceable),
 - delivery other than FOB Destination,
 - passage of title or risk of loss to the State prior to express acceptance of deliverables by the State,
 - pre-payment of maintenance fees for a term other than one year,
 - state contracts that have a term of more than 3 years without approval by the State Purchasing Officer (SPO).
 - a late payment fee, miscellaneous fee, prepping fee, penalty, or interest, or attorney's fees,
 - any obligation by the State to pay taxes inconsistent with its tax-exempt status,
 - any change in the posted payment terms,
 - limitation of the right of the State to contract termination upon failure of legislative appropriation,
 - a statement of "entire agreement" in a subservient Vendor document,
 - assignment of a State contract without approval by the State, 01 NCAC 05B.1507,
 - implementation of any oral promise(s) or statements made by any State official or personnel, 05 NCAC 05B.0102
 - Vendor intellectual property liability or general indemnity clauses that are not unlimited as to dollar amount,
 - any obligation to expose State Personally Identifiable Information or State Data internationally,



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16. Federal Provisions: Only for orders funded with federal funds, the following provisions under 2 C.F.R. 200, Appendix II shall be applicable as consistent with each purchasing entity's federal award:

Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324).

17. Subcontractors: All contactors, dealers, and resellers authorized in the State of *North Carolina*, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer and delivery participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

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

| | |
|--------------------------------------------------|---------------------------------|
| Participating Entity: State of North Carolina | Contractor: FEDEX |
| Signature: | Signature: |
| Name: Myra Welch | Name: Robert Bledsoe |
| Title: State Procurement Specialist | Title: WORLDWIDE ACCOUNT MGR |
| Date: 10/20/2021 | Date: 10/19/2021 |

[Additional signatures may be added if required by the Participating Entity]



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For questions on executing a participating addendum, please contact:

NASPO ValuePoint

| | |
|--------------------------------------|----------------------------------------------------------------------------|
| Cooperative Development Coordinator: | Shannon Berry |
| Telephone: | (775) 720-3404 |
| Email: | sberry@naspovaluepoint.org |

[Please email fully executed PDF copy of this document to

PA@naspovaluepoint.org

to support documentation of participation and posting in appropriate data bases.]