

PARTICIPATING ADDENDUM



SMALL PACKAGE DELIVERY SERVICES

Led by the State of Utah

Master Agreement #: MA454

Contractor: **FEDEx CORPORATE SERVICES INC.**

Participating Entity: **COMMONWEALTH OF VIRGINIA**

Scope and Participation:

1. Scope:

This Participating Addendum includes the entire scope of the products and services available through the Master Agreement, including the following:

- Type of rates – Multi – Non MBG for the term November 28, 2021 – November 27, 2026
- Memorandum of Understanding: Strategic National Stockpile

This Participating Addendum includes the entire scope of the products and services available through the Master Agreement, except the following:

Any scope exclusions specified herein apply only to this Participating Addendum and shall not amend or affect other participating addendums or the Master Agreement itself.

2. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Utah and Contractor for Small Package Delivery Services. This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Term:

This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.

This Participating Addendum shall become effective as of the date of the last signature below and shall terminate on [date], unless terminated sooner or otherwise amended in accordance with the terms set forth herein. Notwithstanding the previous, in no event shall the term of the Participating Addendum exceed the term of the Master Agreement, as amended.

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4. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

CONTRACTOR:

Name:	William Linkin
Address:	900 7th Street NW, Suite 550 Washington DC 20001
Telephone:	732-673-6130
Fax:	-
Email:	wlinkin@fedex.com

PARTICIPATING ENTITY:

Name:	Katie Baird
Address:	1111 E. Broad Street, 6th Floor, Richmond, VA 23219
Telephone:	804-786-3858
Fax:	804-786-5413
Email:	katherine.baird@dgs.virginia.gov

Participating Entity Modifications and Additions to the Master Agreement

- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor.
- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, **subject to the following limitations, modifications, and additions:**

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

A. VIRGINIA PUBLIC PROCUREMENT ACT

The Virginia Public Procurement Act ("VPPA", §2.2-4300 et seq. of the Code of Virginia), including Article 6 (Ethics in Public Contracting), shall apply to any Addendum entered into between the Contractor and a Virginia public entity under the Master Agreement.

B. VENDORS MANUAL

This Addendum is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this Addendum in their entirety. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "I Sell To Virginia".

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C. APPLICABLE LAWS AND COURTS

This Addendum shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the Contractor are encouraged to resolve any issues in controversy arising from the award of the Agreement or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

D. ANTI-DISCRIMINATION

The Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the Addendum is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Addendum on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every Addendum over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this Addendum, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except

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such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employees handbook.

- e. The requirements of these provisions A. and B. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The Contractor will include the provisions of A. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

E. ETHICS IN PUBLIC CONTRACTING

The Contractor certifies that they have not engaged in collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with this Addendum and that they have not conferred on any public employee having official responsibility for this Addendum any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

F. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By entering into a written Addendum with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the Addendum for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

G. DEBARMENT STATUS

By participating in this Addendum, the Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this Addendum. The Contractor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non- debarred vendor will be debarred for the same time period as the debarred vendor.

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H. ANTITRUST

By entering into an Addendum, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title, or interest in or to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Addendum.

I. PAYMENT**1. To Prime Contractor:**

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this Addendum or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Master Agreement price, regardless of which public entity is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the Contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. Within seven (7) days of the Contractor's receipt of payment from the Commonwealth, a Contractor under this Addendum is hereby obligated:
 - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under this Addendum; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

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- b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Master Agreement) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for any amounts withheld as stated in (1)(b) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each Prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, is necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

J. PRECEDENCE OF TERMS

The following Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, PAYMENT shall apply in all instances.

K. QUALIFICATIONS OF CONTRACTORS

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services/furnish the goods and the Contractor shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect the Contractor's physical facilities upon reasonable advance written notice to satisfy questions regarding the Contractor's capabilities.

L. TESTING AND INSPECTION

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

M. ASSIGNMENT OF ADDENDUM

The Addendum shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

N. CHANGES TO THE ADDENDUM

Changes can be made to the Addendum in any of the following ways:

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1. The parties may agree in writing to modify the terms, conditions, or scope of the Addendum. Any additional goods or services to be provided shall be of a sort that is ancillary to the Master Agreement goods or services, or within the same broad product or service categories as were included in the Master Agreement award. Any increase or decrease in the price of the Addendum resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Addendum.
2. The Purchasing Agency may order changes within the general scope of the Addendum at any time by written notice to the Contractor. Changes within the scope of the Addendum include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt, unless the Contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the Contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Vendors Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

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O. DEFAULT

In case of failure to deliver goods or services in accordance with the Master Agreement or Addendum terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchases and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

P. INSURANCE

By signing this Addendum, the Contractor certifies that it will have the following insurance coverage at the time the Addendum is executed. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverage during the entire term of the Addendum and that all insurance coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the Addendum shall be in noncompliance with the Addendum.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.
4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract.) Contractor must assure that the required coverage is maintained by the Contractor (or third-party owner of such motor vehicle).

Q. DRUG-FREE WORKPLACE

During the performance of this Addendum, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase.

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order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Addendum.

R. NONDISCRIMINATION OF CONTRACTORS

A Contractor shall not be discriminated against in this Addendum because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the Contractor employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific Addendum is not in its best interest. If the Addendum is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Addendum objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

S. AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this Addendum.

T. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH

A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into an Addendum with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Addendum. A public body may void any Addendum with a business entity if the business entity fails to remain in compliance with the provisions of this section.

U. CIVILITY IN STATE WORKPLACES

The Contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the Contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on

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the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The Contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

V. AUDIT

The Contractor shall retain all books, records, and other documents relative to this Addendum for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

W. CANCELLATION OF CONTRACT

The purchasing agency reserves the right to cancel and terminate any resulting Addendum, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial Addendum period is for more than 12 months, the resulting Addendum may also be terminated by the Contractor, without penalty, after the initial 12 months of the Addendum period upon 60 days written notice to the other party. Any Addendum cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

X. PRIME CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for completely supervising and directing the work under this Addendum and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this Addendum shall be responsible to the prime contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

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Purchasing charge cards offer Commonwealth of Virginia agencies and public entities the opportunity to streamline their procedures for procuring and paying for small dollar goods and/or services. The Contractor should note that acceptance of payment by purchase card is mandatory.

Charge Card Levels: The amount of data passed for each charge card payment depends on the level at which the charge card is established. Payment for orders issued against the contract(s) resulting from this solicitation must allow for the Purchase Order Number to be passed at the time of charge so that the Purchase Order Number is received by the card platform and passed to the Card provider. The levels are delineated below and vendors must establish their card account at Level 2, which is mandatory, or Level 3, which is optional. Information on the various levels for the Purchase Card is indicated below.

Level 1 - vendors provide basic charge card purchase information, including but not limited to the data listed below. By passing "Basic Data", the vendor has a standard interchange cost.

- Supplier Name
- Merchant Category Code
- Date
- Total Purchase Amount

Level 2 - vendors provide additional information to the Level 1 elements, including but not limited to the data listed below. By passing Level 2 detail, the vendor will receive lower interchange costs. Level 2 is **mandatory** for any vendors who do business with the Commonwealth of Virginia and accept the Purchasing Card.

- Customer Code (PCO Number from eVA); and
- Vendor Tax ID

Level 3 - vendors provide line item detail, in addition to the Level 1 and Level 2 elements, including but not limited to the data listed below. By passing Level 3 **optional** data which is considered "Superior Data", the vendor will receive the lowest interchange costs.

- Item Description
- Item Quantity
- Item Unit of Measure
- Product Code
- Freight Amount
- Extended line Item Amount

Z. CONTRACTUAL DISPUTES

In accordance with Code of Virginia § 2.2-4363, contractual claims, whether for money or other relief, shall be submitted in writing to the Authorized User no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to the Authorized User at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts

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agreed due in the final payment. The Authorized User shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

1. The Contractor may not invoke any available administrative procedure under Code of Virginia § 2.2-4365 nor institute legal action prior to receipt of the Commonwealth's decision on the claim, unless the Commonwealth fails to render its decision within thirty (30) days. The decision of the Commonwealth shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Code of Virginia § 2.2-4364 or the administrative procedure authorized by Code of Virginia § 2.2-4365.
2. The Commonwealth or any Authorized User, and their officers, agents and employees, including without limitation, the contracting and Ordering Officers, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent of the Commonwealth agency or Authorized User that is purchasing and receiving the goods or services in question and need not be joined as a party to any dispute that may arise there under.
3. In the event of any breach by the Commonwealth or any Authorized User, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor' remedies include the right to terminate any services hereunder.

AA. EXCLUSIVITY OF TERMS AND CONDITIONS

No employee or agent of the Commonwealth or Authorized User shall be required to sign or execute any additional contract, license or other agreement containing contractual terms and conditions. No contractor shall be required to sign, from any employee or agent of the Commonwealth or Authorized Users, any additional agreements, contracts, or other documents that were not part of the original Addendum or Master Agreement. Any documents signed by persons other than the Director of Division of Purchases & Supply or their authorized designee shall have no validity or effect upon the Addendum.

In the event that Commonwealth's individual users are required to accept any "shrink wrap" or "click to accept" online terms and conditions at the time of using the FedEx online shipping solutions or otherwise, the terms and conditions of such "shrink wrap" or "click to accept" shall have no control over any conflicting terms and conditions set forth in the Participating Addendum or NASPO Master Agreement. The individual accessing the solution and agreeing to the terms and conditions will not be held personally liable for violations of the terms and conditions of the "shrink wrap" or "click to accept", and the Commonwealth assumes all liability for the individual user's compliance with the terms and conditions of the "shrink wrap" or "click to accept".

BB. LOBBYING AND INTEGRITY

The Contractor is cautioned that communications with individuals other than the DPS Contracting Officer may result in incorrect and/or insufficient information being provided. In addition, the Contractor shall not, in connection with this or any other contract or agreement with the Commonwealth of Virginia, directly or indirectly (1) offer, confer, or agree to confer

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any pecuniary benefit on anyone as consideration for any state officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give anyone any gratuity for the benefit of or at the direction or request of any state or public officer or employee.

Upon request of the Commonwealth of Virginia's, Department of General Services, the Contractor shall provide any type of information deemed relevant to the Contractor's integrity or responsibility to provide the services or goods, described herein.

CC. E-VERIFY PROGRAM

Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

DD. DELIVERY/SERVICE TO CORRECTIONAL INSTITUTIONS

The Contractor shall be responsible for adherence to the following guidelines as they pertain to delivering goods and/or providing services to correctional institutions, especially if the location is within the secured perimeter.

1. The Contractor shall be responsible for ensuring that all personnel connected with the work comply with the rules and regulations of each ordering agency, which may reach beyond the scope of this Addendum.
2. The Contractor shall maintain proper security and control over all personnel, equipment, tools and materials at all times. The Contractor's equipment and personnel shall be subject to security checks and associated delays therefrom.
3. There shall be no verbal discussion or physical contact between a Contractor's employees and inmates.
4. Anyone bringing any inmate any item such as (but not limited to) weapons, tools, food, drink, clothing, cigarette, matches, correspondence, printed or electronic media, or assisting offenders to escape is in violation of Commonwealth law and may be prosecuted to the fullest extent of the law.
5. No weapons, alcohol, drugs or medication of any type is allowed on Commonwealth property.
6. Keys shall be removed from all vehicles and other mobile equipment when not in operation. Vehicle doors and tool compartments shall be locked at all times when not in use. Ladders left on vehicles shall be chained and locked at all times.
7. Any tools, especially any cutting tools, if left unattended, will be confiscated.
8. All security regulations shall be observed at all times. These will be made known to the Contractor and his representatives by the Institutional Security Chief, or his designee, at the point of entrance to the Institution.

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9. All persons entering the prison complex are subject to being searched.
10. Contractors and their representatives are limited to movement to and from and within the immediate area of their work.
11. An institutional employee may be designated as liaison person between the Contractor and Institution. Unless otherwise stated, this person will be the Department Superintendent for whom the Contractor is performing the service or delivering the goods.
12. Vehicles may not be permitted to leave the facility until after the daily or routine security check has been performed.
13. All Contractor's employees shall have a valid identification with photograph at all times for identification. Validity of identification is determined solely at the discretion of the institution. A valid government-issued driver's license is generally acceptable. No persons will be permitted to enter the Institution without valid identification.
14. The institution reserves the right to refuse entrance to anyone who appears, in the institution's sole judgment, to be under the influence of drugs or alcohol or otherwise is impaired.

EE. COMMONWEALTH OF VIRGINIA FEES AND REPORTS

1. eVA Contract Transaction Fee and Quarterly Report of Sales: In lieu of eVA Purchase Order Transaction Fees the Contractor shall pay an eVA Contract Transaction Fee equal to one percent (1%) of the Contractor's invoiced sales, paid quarterly. Invoiced sales shall include, but are not limited to, all express, ground, and international shipments, as well as accessorial fees. Each quarterly eVA Contract Transaction Fee payment shall be submitted to the Commonwealth's eVA Business Manager within 30 days after the end of the quarter and shall be substantiated by an itemized report of the invoiced sales used to calculate the eVA Contract Transaction Fee payment for that quarter. The report shall be provided in an electronic Excel format and shall include the following itemized data:

- Shipper Name (i.e., state agency or other public body)
- Shipper Number
- Shipper Zone
- Deliver to Zone
- Order Number
- Date
- Container Type
- Weight
- Service Type
- Quantity
- Undiscounted price
- % Discount
- Discounted price
- Accessorial Service Type
- Accessorial Fee
- eVA Contract Transaction Fee

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- Invoice Number
- Invoice Date

The report must also include the sum of the discounted price, sum of quantities, sum of the accessorial fees, sum of weights, and sum of the eVA Contract Transaction Fees for the quarter.

Contractor must report the quarterly dollar value in U.S. dollars and round to the nearest whole dollar of all invoiced sales under the Contract by calendar quarter; i.e., January through March, April through June, July through September, and October through December. The dollar value of an invoiced sale is the price paid by the Authorized User for goods and services on a contract order as recorded by the Contractor.

2. The Contractor shall:

- a. Meet or conference call at least quarterly with the DPS Contracting Officer to review performance, usage under the Addendum, and discuss opportunities for improvements.
- b. Provide any documentation or reports as requested by the DPS Contracting Officer.
- c. Notify the DPS Contracting Officer, in writing, of any unresolved disputes or problems that have been outstanding for more than thirty (30) days.

FF. OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA ("OAG")

As a state agency of the Commonwealth of Virginia, the Office of the Attorney General of Virginia ("OAG") is an Authorized User that regularly utilizes Contractor's small package delivery services for timely delivery of court filings to federal and state courts. In the event that Contractor fails to timely deliver any small packages on behalf of OAG within the guaranteed time to any federal or state courts, or to any other appropriate legal forum, the Contractor shall indemnify OAG and any party it represents from and against any and all losses (including, but not limited to, claims, damages, liabilities, courts costs, court sanctions, and attorney's fees) suffered or incurred by OAG or any party it represents arising from, in connection with, or resulting from Contractor's failure to timely deliver. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

5. Subcontractors: All contractors, dealers, and resellers authorized to provide sales and service support in Participating Entity's state, as shown on Contractor's NASPO ValuePoint-specific webpage, may provide sales and service support to users of this Participating Addendum. Participation of Contractor's contractors, dealers, and resellers will be in accordance with the terms and conditions set forth in the Master Agreement.
6. Orders: Any order placed by Participating Entity or a Purchasing Entity for a product or service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement unless



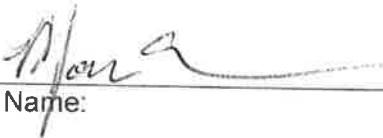

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the parties to the order agree in writing that another contract or agreement applies to the order.

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

PARTICIPATING ENTITY

CONTRACTOR

Signature: 	Signature: 
Name: <i>Monique Curkey</i>	Name: <i>William Linkin</i>
Title: <i>Director, Sourcing & Contracting</i>	Title: <i>Worldwide Account Manager</i>
Date: <i>April 4, 2022</i>	Date: <i>April 4, 2022</i>

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at ccc@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.