

STATE OF NEW HAMPSHIRE
BUREAU OF PURCHASE AND PROPERTY
STATE HOUSE ANNEX - ROOM 102
25 CAPITOL ST
CONCORD NH 03301-6398

DATE: 6/10
July 18, 2023

CONTRACT FOR: Internet Technology (IT) Disaster Recovery/Business Resiliency Services

CONTRACT #: 8003184

COMMODITY/NIGP CODE: 920-23

CONTRACTOR: Kyndryl, Inc:

VENDOR CODE #: 363740

SUBMITTED FOR ACCEPTANCE BY:


JLR
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PURCHASING AGENT / COLIN CAPELLE, ADMINISTRATOR
BUREAU OF PURCHASE AND PROPERTY

RECOMMENDED FOR ACCEPTANCE BY:

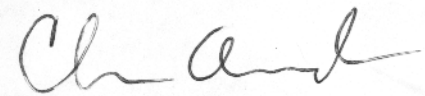
MATHEW T. STANTON, DEPUTY DIRECTOR
BUREAU OF PURCHASE AND PROPERTY

RECOMMENDED FOR ACCEPTANCE BY:

 6/10/2023

GARY S. LUNETTA, DIRECTOR
DIVISION OF PROCUREMENT & SUPPORT SERVICES

ACCEPTED FOR THE STATE OF NEW HAMPSHIRE UNDER THE AUTHORITY GRANTED TO ME BY NEW HAMPSHIRE REVISED STATUTES, ANNOTATED 21-I:14, XII.



CHARLES M. ARLINGHAUS, COMMISSIONER
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE 7/18/23

CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

Master Agreement #: AR3710

Contractor: **KYNDRYL, INC.**

Participating Entity: **STATE OF NEW HAMPSHIRE**

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

- Disaster Recovery/Business Resiliency Services products and services.

The following products or services are not included in this agreement:

- No products or services other than listed about are included in this agreement.

Master Agreement Terms and Conditions:

1. Scope: This addendum covers *Cloud Solutions* led by the State of *Utah* for use by state agencies and other entities located in the Participating State *[or State Entity]* 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 *New Hampshire*. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.
4. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Kyndryl, Inc.
Address:	
Telephone:	863-581-0468
Fax:	
Email:	Katia.saintfort-russ@kyndryl.com



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Participating Entity

Name:	Wayne Goulet
Address:	State House Annex 25 Capital Street Room 102 Concord, NH 03301
Telephone:	603-271-2009
Fax:	603-271-2700
Email:	Wayne.V.Goulet@das.nh.gov

5. 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.

5.2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified as the ("State"), engages contractor identified as the ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in which is incorporated herein by reference ("Services").

5.3. EFFECTIVE DATE/COMPLETION OF SERVICES.

5.3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Participating Addendum to the NASPO ValuePoint Master Agreement (collectively the "Agreement"), and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State ("Effective Date").

5.3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date as specified.

5.4. CONDITIONAL NATURE OF AGREEMENT.

CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable. The State shall remain responsible for the payment of Services delivered prior to the reduction or termination of appropriated funds.

5.5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in Attachment A, Section 21 of the NASPO ValuePoint Master Agreement.

5.5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7 c or any other applicable provision of law.

5.5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the price limitation set forth in this Agreement.

5.6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

5.6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

5.6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

5.6.3. The Contractor agrees to permit the State or United States, and the State or United States expense, access to any of the Contractor's books, records and accounts relevant to and for the purpose of ascertaining compliance with all applicable rules, regulations and orders, and the covenants, terms and conditions of this Agreement. Such access shall not include confidential cost data or employee salary information which is irrelevant of this Agreement.

5.7. PERSONNEL.

5.7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

5.7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

5.7.3 The Contracting Officer specified herein, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

5.8. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

5.9 ASSIGNMENT/DELEGATION/SUBCONTRACTS.

5.9.1 Neither party may assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the other party at least fifteen (15) days prior to the assignment, and a written consent of therefrom. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

5.9.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

5.10 NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses or sent electronically to the emails included in Section 4.

5.11 CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in the state of New Hampshire.

5.12 CONFLICTING TERMS. In the event of a conflict between the terms of this Participating Addendum, the NASPO Master Services Agreement and/or attachments and amendment thereof, the terms of this Participating Addendum) shall control.

5.13 THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

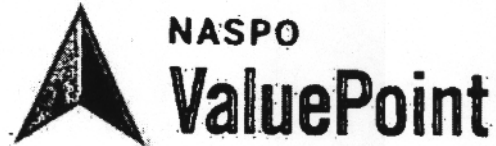
5.14 HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

5.15 SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

5.16 ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, together with any mutually agreed and executed statements of work (SOWs) constitute the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.



6. Subcontractors: All contactors, dealers, and resellers authorized in the State of *New Hampshire*, 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 participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

NASPO ValuePoint
PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

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

Participating Entity:	Contractor: Kyndryl.
Signature: 	Signature: 
Name: Charles Arlinghaus	Name: Austin Mikus
Title: Commissioner	Title: Vice President, Gov / Ed.
Date: 7-18-23	Date: 2/8/23

Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that KYNDRYL, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on May 04, 2021. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 870557

Certificate Number: 0006222988



IN TESTIMONY WHEREOF.

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 4th day of May A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan
Secretary of State

DELEGATION OF AUTHORITY


I, Evan Barth, Assistant Secretary of Kyndryl, Inc., do hereby certify that in accordance with and pursuant to the resolutions of the Board of Directors ("Board") of Kyndryl, Inc. ("Company") duly adopted by the unanimous written consent of the Board dated as of August 27, 2021, that as Assistant Secretary I have been duly authorized to approve, execute and deliver in the name of and on behalf of the Company all contracts, instruments, bids, proposals, bonds and other documents (and amendments thereto) necessary or appropriate in the ordinary course of the Company's business, including, without limitation (i) contracts and other documents for the sale, lease or license of products and services, (ii) contracts and other documents for the purpose or procurement of supplies, materials or components, (iii) documents for the prosecution, settlement and disposition of claims and suits in the ordinary course (including environmental matters), (iv) documents prepared for or filed pursuant to governmental reporting or certification requirements, (v) contracts with insurance related agents, brokers or other similar parties, (vi) contracts with benefit plan trustees, administrators and investment advisors, (vii) contracts with tax service providers, and (viii) other contracts and documents in furtherance of manufacturing, development, marketing and protection of the Company's products, services, and assets (including intellectual property); and to delegate this authorization within the Company's organization in the United States, including Puerto Rico; and that said authorization has not been modified, amended or rescinded and continues in full force and effect. So authorized, I hereby delegate said authority to execute and deliver in the name of and on behalf of the Company any such contract or other document or instrument reasonably related to, or performed in accordance with, the job duties, and/or responsibilities of the persons holding the below listed positions with the Company or any of the Company's direct or indirect wholly owned subsidiaries in the United States, including Puerto Rico:

Position titles that include the words:

- Group President
- Chief Financial Officer
- Treasurer
- Vice President
- Country President
- Strategic Market Leader
- Managing Director
- Country Leader
- Country A&IS Leader
- Global Leader, Risk Management & Insurance
- Managing Partner
- Senior Partner
- Partner
- New Logo/Sales Leaders
- Growth Transformation Leader
- Strategic Sales Leader
- Partner, Business Development
- Deal Maker
- Sales Leader, Tech Sales Leader
- Customer Unit Leader

A&IS Partner
A&IS Leader
Alliance Leader
Strategic Solutioning / Global Solutioning Leader
Offering Integration Leader
Practice Leader
Delivery Integration Leader/ Delivery Leader
Senior Partner, Delivery
Partner, Delivery
Chief Technology Officer
Account Chief Technology Officer
Chief Operations Officer (COO)
Share Services roles
Fellows
Distinguished Engineer
Director
Associate Partner
Attorney
Business Operations Manager
CIO Devices
Client Manager
Client Relationship Representative
Contract Administrator
Contract Professional
Contract Management Specialist
Contracts & Negotiations
Counsel
Customer Fulfillment
Deal Maker
IT Architect
IT Consultant
IT Specialist
Operations Manager
Operations Specialist
Practice Manager
Program Manager
RFS Program Manager
Sales Manager
Sales Representative
Sales Specialist
Service Delivery Manager
Solution Representative

IN WITNESS WHEREOF, I have hereunto set my hand in my capacity as Assistant Secretary of said Kyndryl, Inc., effective July 5, 2022.



Evan Barth
Assistant Secretary

OFFICER'S CERTIFICATE

I, Evan Barth, Vice President, Associate General Counsel, and Assistant Secretary of **Kyndryl, Inc.**, a company duly organized and existing under the laws of the State of Delaware, United States of America, and having its principal offices at One Vanderbilt Avenue, New York, New York 10017, do hereby certify that the following is a true and correct copy of the **Kyndryl, Inc. Delegation of Authority** that was in effect as of the date it was signed (July 5, 2022), and continues to be in effect as of the date written below.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of May, 2023.

KYNDRYL, INC.

DocuSigned by:
Evan Barth
DCEED871E22D4EC

Evan Barth
Vice President, Associate General Counsel, and
Assistant Secretary of **Kyndryl, Inc.**



ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Northeast, Inc. One Liberty Plaza 165 Broadway, Suite 3201 New York, NY 10006	NAMED INSURED Kyndryl Holdings, Inc., including Kyndryl, Inc. & any other subsidiary corp. majority owned or controlled by the Insured 1 Vanderbilt Avenue New York, NY 10017 United States
EFFECTIVE DATE: Various (see prior page)	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

EMPLOYERS LIABILITY/WORKERS COMP POLICIES

Policy Number	Eff. Date	Exp. Date	Company Affording Coverage
SCF C68925812 (WI)	11/3/2022	11/3/2023	ACE Fire Underwriters Insurance Company
WLR C68925770 (AOS)	11/3/2022	11/3/2023	Indemnity Insurance Company of N A

With respect to Voluntary Compensation and Contingent Employers Liability:
All operations incidental to the conduct of Named Insured's business in the United States of America.

If there is a question regarding this certificate please contact David Cheng
(Email: David.Cheng1@kyndryl.com Phone: 347-970-9800)