

## PARTICIPATING ADDENDUM

### NASPO ValuePoint

### For Wireless Data, Voice and Accessories

## Between the State of Minnesota and AT&T National Mobility Accounts

NASPO ValuePoint Contract No. MA149

State of Minnesota Contract No. 186344

1. **Scope:** This Participating Addendum ("PA" or the "Contract") covers the NASPO ValuePoint Wireless, Data, Voice and Accessories Master Agreement led by the State of Utah (Master Agreement No: MA149) 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, 3.

Participating Entity has elected to participate in **Categories 1, 2, 3A and 3B**

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](http://www.mmd.admin.state.mn.us). Minnesota State Agencies, CPV Members and other entities authorized to purchase under this Contract shall be referred to herein collectively as "Purchasing Entities"

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](mailto: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: Steven Duckett  
Title: Client Solutions Exec  
Address: 7900 Xerxes Avenue S  
Room 350  
Bloomington, MN 55431  
Telephone: 1 952 221 4864  
E-mail: sd226v@att.com

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.

## **8. Custom Plans.**

**8.1 Custom FirstNet Mobile Plans – Agency Paid.** Provided Participant remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding conditions set forth in this §8 (including all sub-sections and Tables), AT&T will provide Participant and its eligible Corporate Responsible User ("CRUs) the custom FirstNet Mobile Plans described in §8.1 (the "Custom FirstNet Mobile Plans"). The Custom FirstNet Mobile Plans are available for the term of the Agreement. The corresponding CRU must be eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Plan. The Custom FirstNet Mobile Plans are not available to Individual Responsible Users ("IRUs") or to individuals eligible to purchase the subscriber paid versions of FirstNet Mobile Plans. In accordance with the Agreement, the Custom FirstNet Mobile Plans are subject to the applicable, standard FirstNet Mobile-Pooled and Mobile-Unlimited Plans' corresponding Sales Information, which are incorporated herein by reference. To the extent of any material conflict between the terms and conditions of this §8.1 and the applicable Sales Information, this §8.1 will control. Notwithstanding the foregoing, the Custom FirstNet Mobile Plans will be provided only if Participant's account is active and in good standing with respect to the applicable CRU. The Custom FirstNet Mobile Plans are NOT eligible for the Service Discount, any other discount provided under the Agreement, nor any other discounts or promotions otherwise available to AT&T's customers. For all Custom FirstNet Mobile Plans, the corresponding Plan's Monthly Service Charge (at times "MSC") will appear on the invoice at the standard price set forth in the Sales Information, but the customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice.

**TABLE 8.1.1  
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR SMARTPHONES**

	<b>Add -a- Line</b>	<b>2GB</b>	<b>5GB</b>	<b>50GB</b>	<b>100GB</b>	<b>500GB</b>	<b>1000GB</b>
<b>For use with an unsubsidized device</b>	\$15.90 MSC	\$24.60 MSC	\$36.10 MSC	\$207.00 MSC	\$377.00 MSC	\$1,762.00 MSC	\$3,480.00 MSC
<b>For use with a subsidized device</b>	\$35.90 MSC	\$44.60 MSC	\$56.10 MSC	\$227.00 MSC	\$397.00 MSC	\$1,782.00 MSC	\$3,500.00 MSC

**TABLE 8.1.2  
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR FEATURE PHONES**

<b>Add-a-Line for use with an unsubsidized device</b>	\$9.99 Monthly Service Charge
<b>Add-a-Line for use with a subsidized device</b>	\$21.99 Monthly Service Charge

**TABLE 8.1.3  
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR DATA-ONLY DEVICES**

	<b>Add -a- Line</b>	<b>2GB</b>	<b>5GB</b>	<b>50GB</b>	<b>100GB</b>	<b>500GB</b>	<b>1000GB</b>
<b>For use with an unsubsidized device</b>	\$10.20 MSC	\$19.00 MSC	\$30.50 MSC	\$202.00 MSC	\$372.00 MSC	\$1,756.00 MSC	\$3,490.00 MSC
<b>For use with a subsidized device</b>	\$20.20 MSC	\$29.00 MSC	\$40.50 MSC	\$212.00 MSC	\$382.00 MSC	\$1,766.00 MSC	\$3,500.00 MSC

**TABLE 8.1.4  
CUSTOM FIRSTNET MOBILE-UNLIMITED PLANS**

	<b>Unlimited Enhanced for Smartphones</b>	<b>Unlimited Standard for Smartphones</b>	<b>Unlimited for Data-only Devices</b>
<b>Monthly Service Charge</b>	\$44.99	\$39.99	\$34.99

**TABLE 8.1.5  
CUSTOM FIRSTNET ENHANCED PTT ONLY PLANS**

<b>Unlimited FirstNet Enhanced PTT Only Plan for use with an unsubsidized, compatible Feature Phone</b>	\$9.99 Monthly Service Charge
<b>Unlimited FirstNet Enhanced PTT Only Plan for use with a subsidized, compatible Feature Phone</b>	\$17.99 Monthly Service Charge

**TABLE 8.1.6  
CUSTOM FIRSTNET ENHANCED PTT BOLT-ON PLAN**

<b>Unlimited FirstNet Enhanced PTT Bolt-On Plan for use with eligible, compatible Smartphones, Feature Phones and Tablets</b>	\$2.00 Monthly Service Charge
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**8.2 Custom FirstNet Mobile Plans – Subscriber Paid.** In addition to FirstNet Mobile Plans available to Participant and its CRUs, AT&T offers a subscriber paid version of such plans to eligible individuals associated with a Primary User Public Safety Entity. Participant hereby authorizes AT&T to provide such individuals with the discounts set forth in §8.2 (the “Custom FirstNet Mobile Subscriber Paid Plans”). Participant must remain eligible for the Custom FirstNet Mobile Plans described in §8.1 for the Custom FirstNet Mobile Subscriber Paid Plans to apply. The corresponding subscriber must be eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Subscriber Paid Plan. The Custom FirstNet Mobile Subscriber Paid Plans are not available to Participant, its CRUs, or its IRUs. For all Custom FirstNet Mobile Subscriber Paid Plans, the corresponding Plan’s Monthly Service Charge will appear on the invoice at the standard price set forth in the Sales Information, but the customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice.

**TABLE 8.2.1  
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID PLANS – RESPONDER PLANS**

	For use with Smartphone 2GB	For use with Smartphone 5GB	For use with Feature Phone 100MB	For use with Tablet 2GB	For use with Tablet 5GB
<b>Monthly Service Charge</b>	\$24.60	\$36.10	\$9.99	\$19.00	\$30.50

**TABLE 8.2.2  
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID – RESPONDER UNLIMITED PLANS**

	Unlimited Smartphone Plan (without tethering)	Unlimited With Tethering Smartphone Plan	Unlimited with Tethering Tablet Plan
<b>Monthly Service Charge</b>	\$39.99	\$44.99	\$34.99

**8.3 Custom Equipment Offer.** The Custom Equipment Offer (a) requires activation with new FirstNet Service; (b) does not include applicable Taxes, (c) may not be combined with any other available Equipment Discount, promotions or offers otherwise available to Participating Entities including, without limitation, the Equipment Discount set forth in the PA; (d) is not available through a separate data solutions provider; and (d) remains subject to availability limitations. The Custom Equipment Offer is not available to IRUs or to individuals eligible to purchase the subscriber paid versions of FirstNet Mobile Plans.

**Table 8.3  
Custom Equipment Offer**

CUSTOM EQUIPMENT	EQUIPMENT PRICE*	CONDITIONS
iPhone 7 32 GB iPhone 6s 32 GB Galaxy S7 B 32 GB DURAFORCE XD (E6790) 16 GB	\$0.99	Must be activated with a FirstNet Smartphone Plan with an MSC of \$39.00 or higher
DURA XE(E4710) 8 GB	\$0.99	Must be activated with a FirstNet Voice Only Plan with an MSC of \$22.00 or higher
Nighthawk LTE	\$39.99	Must be activated with a FirstNet Data Only Plan with an MSC of \$22.00 or higher
Galaxy S8 64 GB	\$199.99	Must be activated with a FirstNet Smartphone Plan with an MSC of \$39.00 or higher
VELOCITY 2 AT&T Velocity USB Stick	\$0.99	Must be activated with a FirstNet Data Only Plan with an MSC of \$22.00 or higher

\*Applicable Taxes will be charged

**Section 11. Existing Custom Offers/Waivers/Changes.** All existing, current, custom pricing, except the one plan identified below, from the State of Iowa NASPO III Participating Addendum effective April 27, 2018 is grandfathered and will be carried over into this new NASPO IV PA.

- AT&T Flat Rate Plan will change from \$1.40 monthly to \$4.99 monthly


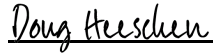

**11.1 Waiver of Shipping Fees.** During the initial term of the Participating Addendum ("PA"), Contractor will waive standard shipping fees with respect to Participant's Equipment purchases for CRUs. The shipping carrier used will be at Contractor's sole discretion.

**11.2 Waiver of Activation Fees.** During the initial term of this PA, Contractor will waive the standard start of service charge (also known as the "Activation Fee") with respect to Participant's eligible CRUs activating new Service on available Voice Service Plans and/or Wireless Data Service Plans.

**11.3 Waiver of Early Termination Fees.** During the term of the PA, Contractor will waive Early Termination Fees and Activation Upgrade Fees for CRUs.

**11.4 Waiver of Upgrade Fees.** Contractor will waive standard upgrade fees with respect to Participant's Equipment Purchase for CRUs.

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

<p><b>1. Contract Vendor:</b>  <b>AT&amp;T National Mobility Accounts</b>  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.</p> <p>By:   Signature  Linda J Cottingham  Printed Name</p> <p>Title: <u>Sr. Contract Manager</u></p> <p>Date: <u>03/08/2021</u></p> <p>By: _____  Signature</p> <p>Printed Name _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p><b>2. Government Entity:</b>  <b>State of Minnesota</b>  <b>Office of State Procurement</b>  In accordance with Minn. Stat. § 16C.03, Subd. 3.  DocuSigned by:</p> <p>By:   093FFEC286F945D...</p> <p>Title: <u>Division Procurement Coordinator</u></p> <p>Date: <u>3/15/2021</u></p> <p><b>3. State of Minnesota</b>  <b>Commissioner of Administration</b>  Or delegated representative.  DocuSigned by:</p> <p>By:   68D02A26D7604BA...</p> <p>Date: <u>3/15/2021</u></p>
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## Minnesota Exhibit A

### 1. State Audits.

Subject to audit. A contract or any pass-through disbursement of public funds to a vendor of goods or services or a grantee made by or under the supervision of the commissioner or any county or unit of local government must include, expressed or implied, an audit clause that provides that the books, records, documents, and accounting procedures and practices of the vendor or other party, that are relevant to the contract or transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. If the contracting agency is a local unit of government, and the governing body of the local unit of government requests that the state auditor examine the books, records, documents, and accounting procedures and practices of the vendor or other party pursuant to this subdivision, the contracting agency shall be liable for the cost of the examination. If the contracting agency is a local unit of government, and the grantee, vendor, or other party requests that the state auditor examine all books, records, documents, and accounting procedures and practices related to the contract, the grantee, vendor, or other party that requested the examination shall be liable for the cost of the examination. An agency contract made for purchase, lease, or license of software and data from the state is not required to contain this audit clause.

### 2. Indemnification.

2.1 In the performance of this Contract, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, and the Purchasing Entity (the "Indemnified Party"), from any claims or causes of action from third parties, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:

- Intentional, willful, or negligent acts or omissions; or
- Actions that give rise to strict liability; or
- Breach of contract or warranty.

The Indemnifying Party is defined to include the Contractor, Contractor's reseller, or Contractor's agents or employees, and to the fullest extent permitted by law. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's negligence or willful misconduct. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for an Indemnified Party's failure to fulfill its obligation under this Contract.

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.**

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.

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. 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. 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. The invoice must be in the same format as the sample invoice form attached to this Contract, unless an alternative format is approved in writing by the State Authorized Representative, or delegate. Minimum invoice requirements are:



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

## **11. Taxes.**

**11.1 Equipment and Accessories.** Purchasing Entities, who are State Agencies and hold a Direct Payment Authorization Letter, will pay directly to the appropriate taxing authority all applicable sales, use, excise, value-added, services, consumption and other taxes and duties on any charges assessed on the Purchasing Entity by the Contractor for Purchases of equipment. and accessories.

Purchasing Entities who have a direct pay or other applicable exemption and provide to Contractor with an acceptable certificate evidencing such exemption, prior to the delivery of any equipment or accessories hereunder, will not be subject to the payment of any sales or tax.

Purchasing Entities who have neither a Direct Payment Authorization Letter nor a valid exemption from applicable taxes will pay applicable taxes on equipment or accessories directly to the Contractor.

**11.2 Wireless Data and Voice Services:** Contract price and quoted price are exclusive of, and the Purchasing Entity will pay , all current and future taxes (excluding those on Contractor's net income), surcharges, recovery fees, expedited shipping charges, when requested by the State, and other similar charges similar to the foregoing (and any associated interest and penalties resulting from the Purchasing Entity's failure to timely pay such taxes or similar charges) relating to the provision of services under this agreement, except to the extent a Purchasing Entity provides satisfactory proof of a valid tax exemption prior to the delivery of services. In particular, the Contractor will charge the Purchasing Entity the applicable sales tax for the wireless data and voice services provided under this Contract. To the extent Purchasing Entities are required by law to withhold or deduct any applicable taxes from payments due to Contractor, the Purchaser Entities will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty, and the Purchasing Entities will furnish Contractor with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that Contractor may claim an applicable credit.

## **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.**

Subject to the notice and cure provisions of Section 21.2 of the NASPO Master Service Agreement, back orders, failure to meet delivery requirements, or failures to meet specifications in the purchase order and/or the Contract authorizes the Ordering Entity to cancel the purchase order, or any portion of it, and purchase elsewhere.

## **14. Copyright.**

The Contractor shall save and hold harmless the State of Minnesota, its officers, agents, servants and employees, from liability of any kind or nature, arising from the use of any copyrighted or noncopyrighted compositions, secret process, patented or nonpatented invention, article or appliance furnished or used in the performance of the Contract.

## **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 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. 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 shall comply with the following nonvisual technology access standards:

- a. 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;

- b. 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;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. 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.

These standards are not applicable for 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 S. Security Disclosure

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

See NASPO VP Master, Attachment S. Security Disclosure

## 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.

On a quarterly basis, the Contractor shall return to the Department of Administration, Office of State Procurement, a fee of  $<_1_>\%$  ( $_.01$  multiplication factor) of the Total Wireless Spend\* during that quarter, to assist with the cost of administering the Participating Addendum. The administrative fee and usage report shall be remitted to the State as set forth in the Report and Remittance Schedule. See Section VII of the Special Terms and Conditions for additional reporting requirements.

### Report & Remittance Schedule

Quarter Dates	Reporting Date	Payment Date
January 1st - March 31st	April 30th or next business day or as soon as practicable thereafter	April 30 <sup>th</sup> or next business day, or as soon as practicable thereafter
April 1st - June 30th	July 30 <sup>th</sup> or next business day or as soon as practicable thereafter	July 30 <sup>th</sup> or the next business day, or as soon as practicable thereafter
July 1st - September 30th	October 30th or next business day or as soon as practicable thereafter	October 30 <sup>th</sup> or the next business day, or as soon as practicable thereafter
October 1st - December 31st	January 30 <sup>th</sup> or next business day or as soon as practicable thereafter	January 30 <sup>th</sup> or the next business day, or as soon as practicable thereafter

\* **Total Wireless Spend**" means, with respect to the Administration Fee, the total amount of the charges set forth on the invoices sent by Contractor to Participating Entities under the Participating Addendum, less taxes and surcharges.

## 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 if federal funds are being used in support of a federal grant, cooperative agreement, or procurement contract.

**36. Quarterly Environmental/Sustainability Reporting**

The Contractor must submit quarterly reports. Use of the new CCMS System will apply to vendors' environmental/sustainability reports starting. On a quarterly basis, the Contractor shall submit their reports within 30 days of the end of the State of Minnesota fiscal quarter. The quarter periods are July 1 to September 30 (1st Quarter), October 1 to December 31 (2nd Quarter), January 1 to March 31 (3rd Quarter), and April 1 to June 30 (4th Quarter).