

Participating Addendum

NASPO ValuePoint CLOUD SOLUTIONS 2016-2026

Master Agreement No: AR2488 (the "Master Agreement")

SHI International Corp (hereinafter "Contractor") and

The State of Oregon, acting through its Department of Administrative Services, Procurement Services (hereinafter "DAS PS")

State of Oregon Contract Number: 9404.

This Participating Addendum to the above referenced Master Agreement (this "Participating Addendum") is made and entered into by and between the State of Oregon (the "State") acting by and through its Department of Administrative Services, Procurement Services ("DAS PS") and SHI International Corp a New Jersey corporation ("Contractor") and is dated and effective as of February 15, 2019,

SECTION 1: SCOPE AND ORDER OF PRECEDENCE

1.1 Scope and Purpose.

1.1.1 This Participating Addendum establishes a price agreement between Contractor and DAS PS pursuant to ORS 279A.200 et seq. for the acquisition of Cloud Solutions (as defined in the Master Agreement) and limited services related to the Cloud Solutions (the "Related Services"). Contractor shall offer to Authorized Purchasers the Cloud Solutions and, subject to Sections 1.1.2 and 1.1.3 below. Related Services set forth in the Price and Product Catalog attached to and made a part of the Master Agreement, as amended from time to time. As of the effective date of this Participating Addendum, the Price and Product Catalog attached and made a part of the Master Agreement is available at:
<https://www.naspovaluepoint.org/portfolios/portfolio-contractor/shi-cloud-solutions/>

1.1.2 The "Related Services" available under this Participating Addendum are limited to the following:

- Operations and Maintenance of the Cloud Solutions acquired under this Participating Addendum, including managed services for the Cloud Solutions acquired under this Participating Addendum;
- Training Services for the Cloud Solutions acquired under this Participating Addendum;
- Set up and configuration services of the Cloud Solutions acquired under this

Participating Addendum, including data migration services.

1.1.3 For the avoidance of doubt, "Related Services" include only the service offerings described in Section 1.1.2 above, and do not include:

- Professional or consulting services related to planning for the use of the Cloud Solutions available under this Participating Addendum, such as architectural consulting, application cloud assessment or readiness services;
- Migration services of an existing application to another software solution;
- Integration services related to a system of which a Cloud Solution acquired hereunder is a component;
- Integration services that require development or modification of other systems or applications not otherwise available through this Participating Addendum; or
- Any other services not described in Section 1.1.2 above.

1.2 **Contracts.** Authorized Purchasers may submit Purchase Orders to Contractor to purchase the Cloud Solutions and Related Services available under this Participating Addendum specified in the Purchase Order. Each such Purchase Order agreed to by the Authorized Purchaser and Contractor, in combination with the terms and conditions set forth or referenced herein and in the Master Agreement, will form a contract between the Authorized Purchaser submitting the Purchase Order and Contractor to sell the Cloud Solutions and Related Services described in the Purchase Order (each, a "Contract"), separate and distinct from other Contracts entered into by the same or other Authorized Purchasers. DAS PS will not be a party to nor bound to any of the obligations in a Contract, unless the Purchase Order that formed the Contract was submitted to Contractor by DAS PS for the benefit of DAS. As set forth in the Master Agreement, Purchase Orders may include the licensing of specific software programs pursuant to individual End User License Agreements, in each case as executed by DAS PS or the Authorized Purchaser and the applicable software vendor as part of the applicable Purchase Order.

1.3 **State of Oregon Terms and Conditions.** Exhibit B to this Participating Addendum contains terms and conditions, in addition to those set forth in the Master Agreement that are applicable to individual Contracts between Contractor and Authorized Purchasers.

1.4 **Related Services; Statements of Work; State Contracts for Related Services.**

1.4.1 If Authorized Purchaser enters into a Contract that includes the purchase of Related Services the Contract may also include a Statement of Work describing those Related Services. Such a Statement of Work will, when attached to the

applicable Purchase Order, become part of the Contract for the Cloud Solutions and Related Services described in the Purchase Order. The Statement of Work may include additional terms and conditions appropriate for the completion of the Related Services set forth in the Statement of Work. If such additional terms set forth in a SOW conflict with those set forth in this PA, the terms set forth in the Statement of Work will apply, but only with respect to the Related Services set forth in such Statement of Work.

1.4.2 No State Agency may enter into a Contract that includes a Statement of Work that calls for payment in excess of \$150,000 without first obtaining the approval of DAS PS and, when otherwise required by applicable law, rule, policy or standard, the Oregon Office of the State CIO. In addition, no such Contract shall be effective until the Oregon Attorney General approves the Contract pursuant to ORS 291.047 and associated administrative rules.

1.5 **Participating Addendum Term.** This Participating Addendum shall be effective when it is executed by both parties and approved as required by applicable law. Unless terminated earlier, this Participating Addendum shall terminate as of the date that the Master Agreement Terminates. The expiration or termination of this Participating Addendum shall not affect any then current Contract, which will have the term set forth therein.

1.6 **Order of Precedence.** In the event of a conflict between the terms and conditions of this Participating Addendum and its Exhibits or the Master Agreement, the following order of precedence applies:

- 1.6.1 This Participating Addendum, less its exhibits;
- 1.6.2 Exhibit B - State Specific Terms and Conditions;
- 1.6.3 Exhibit F - State of Oregon Information Security Terms;
- 1.6.4 Exhibit A – Products and Pricing
- 1.6.5 The Master Agreement, including its attachments;
- 1.6.6 Exhibit C – Required Insurance;
- 1.6.7 Exhibit E – Vendor Management Provisions
- 1.6.8 Exhibit D – VCAF and VSR;
- 1.6.9 Exhibit G – Independent Contractor Certification

1.7 **Not Exclusive.** The Participating Addendum is not exclusive. Authorized Purchasers may purchase goods and services that are the same or similar to those described in

the Participating Addendum from any other source, and Contractor may furnish such goods or services to any third party, provided Contractor may not sacrifice the quality or availability of the Cloud Solutions or Related Services provided to Authorized Purchasers pursuant to this Participating Addendum for the benefit of another customer of Contractor.

SECTION 2: PARTICIPATION

- 2.1 **Eligible Entities.** No entity, including agencies of the State of Oregon, may purchase goods or services under this Participating Addendum until it has been approved to do so by the DAS PS Chief Procurement Officer. In addition to any other entities that the DAS PS Chief Procurement Officer may later approve as eligible to purchase goods and services under this Participating Addendum, the following entities may purchase Cloud Solutions and Related Services under this Participating Addendum (each, an "Authorized Purchaser"):
- 2.1.1 **OREGON STATE AGENCIES.** Oregon state agencies, departments, offices, divisions, boards, and commission; and any the following institutions of higher education in the State of Oregon: state universities, regional universities, state college, community colleges, and technical colleges.
 - 2.1.2 **ORCPP MEMBERS.** Members of the Oregon Cooperative Purchasing Program ("ORCPP"), whose members include but are not limited to: cities, counties, school districts, special districts, Qualified Rehabilitation Facilities ("QRFs"), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies.
- 2.2 **Sales to Unauthorized Purchasers.** It is the Contractor's responsibility to verify purchasers' authority to Contract pursuant to this Participating Addendum. If Contractor is found to have entered into two or more Contracts under the Participating Addendum with an entity other than an Authorized Purchaser, Contractor will be deemed to be in material breach of the Participating Addendum.
- 2.3 **Verification of ORCPP Participant Authority.** ORCPP Participants can be verified via the following webpage:
<http://www.oregon.gov/DAS/EGS/ps/ORCPP/orcppMemberList.pdf>.
- 2.4 **Liability for Non-State Authorized Purchasers.** Contractor acknowledges and agrees that the State shall bear no liability with respect to Contracts entered into between Authorized Purchasers that are not State Agencies and Contractor, which liability the State expressly disclaims. With regard to Authorized Purchasers that are not State Agencies, Contractor agrees to look solely to the respective contracting party for any rights and remedies Contractor may have at law or in equity arising out of the sale and purchase of Cloud Solutions and Related Services and the resulting contractual relationship, if any, with each such contracting party.

SECTION 3: SELECTING PROVIDER; ORDERS.

- 3.1 **Selecting a Contractor.** If an Authorized Purchaser wishes to acquire Cloud Solutions and Related Services that are offered by more than one contractor currently a party to a price agreement with the State of Oregon, or if the Authorized Purchaser wishes to compare Cloud Solutions or Related Services available from multiple contractors, then the Authorized Purchaser will issue a request for quotes to each contractor that describes the Cloud Solutions and Related Services sought by the Authorized Purchaser. Each such request for quotes will identify the Cloud Solutions and Related Services Authorized Purchaser seeks to purchase, the time period for responses, the evaluation criteria the Authorized Purchaser will use to select a contractor, and any other matters particular to the Authorized Purchaser's current needs. Authorized Purchaser will conduct a best value analysis of all responses to its request for quotes received by the deadline established in the request for quotes to select the offer that is the most advantageous to the Authorized Purchaser given the needs of the Authorized Purchaser in the particular circumstance. If the Authorized Purchaser chooses to purchase any Cloud Solutions or Related Services based on the request for quotes and responses received it will enter into a Contract as elsewhere set forth in this Participating Addendum.
- 3.2 **Purchase Order Form.** Except for the addition of terms specifically authorized by this Participating Addendum, Authorized Purchasers shall not materially change or alter the terms, conditions, or prices of the Participating Addendum. Contractor shall not accept any Purchase Order that does not comply with the requirements set forth in the following Sections 3.3 through 3.5.
- 3.3 **State Agencies.** State Agencies must use a form of Purchase Order approved by DAS PS. No language in a Purchase Order submitted by a State Agency, including DAS PS, shall vary, amend, modify, or add terms or conditions to the Participating Addendum. Operative provisions in Purchase Orders shall be limited to: designation of Authorized Purchaser and its authorized representative; itemization of the Cloud Solutions and Related Services ordered under the terms of the Participating Addendum; Statements of Work made part of the Purchase Order pursuant to Section 1.4; delivery schedules in accordance with the terms of the Participating Addendum; Information Security Term from Exhibit F – Part II, that Contractor and Authorized Purchaser agree should be made part of the resulting Contract; and service location and invoicing address.
- 3.4 **ORCPP Participants.** ORCPP Participants may use their own Purchase Order forms to order under the Participating Addendum. The Mandatory Purchase Authorization Language set out in Section 3.5 shall be required on the front page of each Purchase Order submitted to Contractor by an ORCPP Authorized Purchaser for Cloud Solutions and Related Services ordered under the Participating Addendum.
- 3.5 **Mandatory ORCPP Purchase Order Language.** Each Purchaser Order submitted by

an Authorized Purchaser that is an ORCPP member must contain the following provision:

THIS PURCHASE ORDER IS PLACED AGAINST STATE OF OREGON PARTICIPATING ADDENDUM # [ORDERING ORGANIZATION WILL INSERT PARTICIPATING ADDENDUM #]. THE TERMS AND CONDITIONS CONTAINED IN THE PARTICIPATING ADDENDUM APPLY TO THIS PURCHASE AND TAKE PRECEDENCE OVER ALL OTHER CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

SECTION 4: SERVICE AGREEMENTS AND LICENSES

- 4.1 **Service Agreements.** If Contractor is a reseller, and not the direct provider, of the Cloud Solutions and Related Services described on a Purchaser Order, then prior to accepting any Purchase Order for those Cloud Solutions and Related Services Contractor shall ensure that either:
- 4.1.1 An enterprise license or services agreement is in place between DAS PS and the provider of the applicable Cloud Solutions or Related Services (the "Service Provider") that establishes the terms and conditions under which the Service Provider will provide the Cloud Solutions or Related Services to Authorized Purchasers; or
 - 4.1.2 An enterprise license or services agreement is in place between the Authorized Purchaser and the Service Provider that establishes the terms and conditions under which the Service Provider will provide the Cloud Solutions or Related Services to the Authorized Purchaser; or
 - 4.1.3 The terms and conditions under which the Service Provider will provide the Cloud Solutions or Related Services to the Authorized Purchaser are set forth in an attachment or Exhibit to this Participating Addendum.

If an enterprise license or services agreement is not in place, Contractor shall assist DAS PS or the Authorized Purchaser to establish an enterprise license or services agreement prior to the acceptance of a Purchase Order for the applicable Cloud Solutions or Related Services.

SECTION 5: PRICING; VOLUME SALES REPORT; VENDOR COLLECTED ADMINISTRATIVE FEE.

- 5.1 **Pricing.** The pricing or mechanism for establishing the price for the Cloud Solutions or Related Services available under this Participating Addendum is set forth in Exhibit A.
- 5.2 **Fixed Discount.** Contractor's discount applied to the Cloud Provider's pricing is set forth in Exhibit A, and shall remain firm for the term of this Participating Addendum.

- 5.3 **Price Changes.** No term of the Master Agreement that amends, revises, adjusts or otherwise changes the pricing or method by which the parties determine the price of the Cloud Solutions or Related Services shall have no effect with respect to this Participating Addendum or any Contract entered into hereunder.
- 5.4 **Cost Savings.** Contractor shall pass on to Authorized Purchasers the benefit of any cost savings realized through, for example, lower transport and storage costs, reduced hosting service costs, energy savings, and increased use of automation. Nothing in this Section 5.3 shall limit DAS PS' ability to negotiate with the Contractor with respect to other cost saving options that may be realized for Authorized Purchasers.
- 5.5 **Volume Sales Reports and VCAF.** As set forth in Exhibit D, Contractor shall submit Volume Sales Reports and Vendor Collected Administrative Fees to DAS PS.

SECTION 6: ACCOUNT TEAM; PRIMARY CONTACTS; VENDOR MANAGEMENT PROGRAM

- 6.1 **Account Team.** Contractor will provide an account team located within the Pacific Northwest, which will make reasonable efforts to be in Salem, Oregon, for on-site meetings with 24 hour notice. The account team will be composed of an account manager and a billing representative. These roles can be held by one or more individuals whom must be fully capable of performing these roles and must have full authority within the Contractor's organization to resolve sales, operations, service, billing and provisioning issues on behalf of the Contractor. Contractor agrees to use reasonable efforts to ensure that the key account team personnel continue performing the required support through the life of the Participating Addendum and resultant Contract terms. Contractor agrees that it will not reassign such personnel without notifying DAS PS and obtaining DAS PS' consent, which will not be unreasonably withheld or delayed. Personnel replacements shall have comparable skill, experience and familiarity, to the extent possible, with the Services and their related processes. At DAS PS' request, on a regular basis the Contractor account team shall be prepared to meet to conduct a broad review of the Cloud Solutions and Related Services provided hereunder, and Contractor's ongoing operations, provisioning performance and billing accuracy. Also at DAS PS' request the, Contractor shall supply an organizational chart that includes the Contractor's account team members, their responsibilities and contact information as well as upper level management support and escalation points.
- 6.2 **Designated Account Contact** – Contractor will provide a designated account contact with whom DAS PS can request meetings when required for Participating Addendum and Contract management and performance review.
- 6.3 **Authorized Representatives.** The authorized representatives for this Participating Addendum are as follows:

Contractor:

Name	Nick Grappone
Address	290 Davidson Ave Somerset, NJ 08873
Telephone	
E-mail	PS_Contracts@shi.com

State of Oregon Participating Addendum Administrator:

Name	Lori Nordlien
Address	1225 Ferry St SE Salem, OR 97301
Telephone	(503) 378-6781
E-mail	Lori.nordlien@oregon.gov

6.4 **Oregon Vendor Management Program.** During the term of this Participating Addendum and each Contract entered into hereunder, Contractor shall, at all times, comply with:

6.4.1 The performance requirements and expectations specified in the State of Oregon, Office of the State CIO, Basecamp New Contractor Onboarding Guide, which is located at:
http://www.oregon.gov/basecamp/Documents/New_Vendor_Onboarding_Guide_V.1.pdf; and

6.4.2 The performance requirements set forth in Exhibit E.

SECTION 7: PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT

Attached hereto as Exhibit B are the State of Oregon Specific Terms and Conditions. Authorized Purchasers may include additional terms and conditions in Contracts with those Authorized Purchasers.

SECTION 8: OREGON INFORMATION SECURITY; DATA PROTECTION

8.1 **Physical Safety, Environmental and Security Procedures.** Contractor will maintain and enforce at the locations at which Contractor provides services under this Participating Addendum or any Contract Contractor's standard physical safety, environmental and security procedures that are at least equal to the Security Standards (defined below). When providing any services under this Participating Addendum or a Contract, Contractor will comply with all the rules and regulations

established by the State of Oregon for access to and activities in and around premises controlled by the State of Oregon.

- 8.2 **Information Security Standards.** Contractor acknowledges that the State of Oregon has established minimum levels of security for all data and information processed, transmitted or otherwise used by DAS PS in connection with this Participating Addendum and each Contract, whether it is submitted to, directly or indirectly, or accessed or accessible by Contractor pursuant to Contractor's performance hereunder, including without limitation, Personal Information (as defined in Section 8.5), data concerning DAS PS or Authorized Purchaser's employees or clients, and information provided to Contractor by DAS PS or an Authorized Purchaser related to DAS PS or the Authorized Purchaser or its information systems and operations, and all metadata associated with the foregoing and other Confidential Information of DAS PS or Authorized Purchasers or their customers or clients residing in or accessed by the Cloud Solutions or Related Services (collectively, "Protected Data"). The State of Oregon's information security policies are set forth in Exhibit F- Part I. The State of Oregon will have the right to amend these security policies on 30 days' notice to Contractor or such shorter notice period as required in order to comply with law. If the State amends such security policies, Contractor will implement such amendments in the fulfillment of its obligations hereunder, and the parties will enter into an amendment to this Participating Addendum to document any technical or operational changes associated with or resulting from such amended policies.
- 8.3 **State Premises.** Contractor will comply, and will cause its employees, agents and subcontractors to comply with the State of Oregon's information security policies applicable to Contractor in its performance under this Participating Addendum or a Contract at any State of Oregon premises to which they have access in connection with the performance hereunder.
- 8.4 **Additional Standards.** In addition to the standards established by the Information Security Policies described in Section 8.2, Contractor shall provide Related Services in compliance with the following, in each case to the extent applicable to Contractor in performing the services hereunder:
- 8.4.1 The HIPAA Security Rule set forth at 45 CFR Part 160 and Subparts A and C of Part 164;
 - 8.4.2 The United States Department of Justice, Federal Bureau of Investigation's Criminal Justice Information Services Security Policy, Version 5.6 or current (the "CJIS Security Policy), including, where applicable, signature on the FBI's CJIS Security Addendum in the form set forth in the CJIS Security Policy;
 - 8.4.3 The Family Educational Rights and Privacy Act of 1974, as amended;
 - 8.4.4 Section 6103 of the Internal Revenue Code and guidance issued by the Internal

Revenue Service with respect to compliance thereof, including IRS Publication 1075 or its replacement, as amended from time to time; and

- 8.4.5 The Oregon Consumer Identity Theft Act (ORS 646A.620 et seq.); and
- 8.4.6 Any other laws, rules, regulations or other legal authority set forth elsewhere in this Participating Addendum or in a Contract.

The policies, laws, standards, regulations and other legal authority identified in Sections 8.2 through 8.4 shall be referred to herein, collectively, as the "Security Standards."

- 8.5 **Identity Theft.** In the performance of this Participating Addendum or a Contract, Contractor may have possession or access to documents, records or items that contain "Personal Information" as that term is used in ORS 646A.602(11), including social security numbers. Prior to the receipt of, and during the period in which Contractor has possession of or access to, any Personal Information, Contractor shall have and maintain a formal written information security program that provides safeguards to protect Personal Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600-646A.628.
- 8.6 **Personal Information.** In addition to and without limiting the generality of Sections 8.2 through 8.5, Contractor shall not breach or permit breach of the security of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Participating Addendum. Contractor shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any such Personal Information. Contractor shall not use, distribute or dispose of any Personal Information other than expressly permitted by the State, required by applicable law, or required by an order of a tribunal having competent jurisdiction.
- 8.7 **Disclosure of Personal Information.** Contractor shall promptly report to DAS PS any discovered breach of security, use, disclosure, theft, loss, or other unauthorized access of any document, record, compilation of information or other item that contains Personal Information to which the Contractor receives access, possession, custody or control in the performance of this Participating Addendum.
- 8.8 **Notification; Control of Required Notices.** In the event Contractor or Contractor agents discover or are notified of a breach or potential breach of security relating to Protected Data, or a failure to comply with the Security Standards Contractor will promptly but in any event within one calendar day of becoming aware of the breach or potential breach (i) notify the DAS PS Authorized Representative of such breach or potential breach and (ii) if the applicable protected data was in the possession of Contractor or Contractor agents at the time of such breach or potential breach, Contractor will (a) investigate and remedy the technical causes and technical effects

of the breach or potential breach and (b) provide DAS PS with a written root cause analysis of the breach and the specific steps that Contractor will take to prevent the recurrence of the breach or potential breach will not recur. For the avoidance of doubt, in the event that the State determines that any such breach or potential breach of security involving the data for which notification to the State customers or employees or any other individual or entity is required by law, the State will have sole control over the timing, content, and method of such notification, subject to Contractor's obligations under applicable law.

SECTION 9: PARTICIPATING ADDENDUM REPRESENTATIONS AND WARRANTIES:

- 9.1 **Authority; Binding Obligation.** Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Services under the Participating Addendum and that the Participating Addendum, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- 9.2 **Authorized Service Provider.** Contractor represents and warrants that Contractor is authorized to do business in the State of Oregon and will remain so throughout the term of the Participating Addendum and each Contract entered into thereunder.
- 9.3 **Regulatory Approvals.** Contractor represents and warrants that it has received, and will receive for the duration of the contract (i) all licenses, consents, permits, approvals and authorizations of any regulatory authority, the granting of which is required by law for Contractor to fulfill its obligations under the Participating Addendum and each Contract, or (ii) any notice required to be given to a regulatory authority prior to Contractor to fulfill its obligations under this Participating Addendum and each Contract.
- 9.4 **Warranty for Service.** Contractor warrants that its performance under this Participating Addendum and each Contract shall conform in all material respects with all requirements set out in this Participating Addendum and each Contract and it shall perform its obligations in accordance with the highest professional standards.
- 9.5 **Liquidated Debt.** Contractor represents and warrants that it has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.
- 9.6 **Tax Laws.** Contractor represents and warrants (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this Participating Addendum, faithfully has complied with:
- 9.6.1 All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

- 9.6.2 Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- 9.6.3 Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- 9.6.4 Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- 9.7 **Intellectual Property Non-Infringement.** Contractor represents and warrants that any Related Services provided by Contractor do not and will not infringe upon any patent, copyright, trade secret or similar proprietary right of any third party, and that the Contractor has no knowledge of any claim or other reason to believe that DAS PS' or Authorized Purchaser's use thereof in accordance with the terms of this Participating Addendum and each Contract would be interrupted or otherwise disturbed by the assertion of an infringement claim.
- 9.8 **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Participating Addendum or in a Contract. All warranties provided in this Participating Addendum and a Contract are cumulative, and will be interpreted expansively so as to afford DAS PS and each Authorized Purchaser the broadest warranty protection available.
- 9.9 **Disclaimer of Warranties.** EXCEPT AS OTHERWISE PROVIDED HEREIN, THE SERVICES PROVIDED BY CONTRACTOR UNDER THIS PARTICIPATING ADDENDUM ARE PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, COMPATIBILITY OF SOFTWARE OR EQUIPMENT, OR ANY RESULTS TO BE ACHIEVED THEREFROM. CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS THAT ANY SERVICE WILL BE FREE FROM LOSS OR LIABILITY ARISING OUT OF HACKING OR SIMILAR MALICIOUS ACTIVITY, OR ANY ACT OR OMISSION OF DAS PS. THE PREVIOUS DISCLAIMERS WILL NOT LIMIT DAS PS'S ABILITY TO SEEK ANY APPLICABLE SLA REMEDIES.

SECTION 10: RECORDS AND AUDITS

- 10.1 **Access to Records.** Contractor shall maintain all financial records and other payment records relating to Contractor's performance under this Participating Addendum in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Participating Addendum and each Contract (collectively, "Records"). After providing Contractor reasonable

notice, DAS PS and its duly authorized representatives shall have reasonable access to Records at Contractor's archive facility during normal business hours for purposes of examination and copying at DAS PS' expense. Contractor shall retain and keep accessible all Records for a minimum of seven (7) years following the termination of this Participating Addendum, or such longer period as may be required by applicable law following expiration or termination of the Participating Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to the Participating Addendum, whichever date is later.

10.2 **Service Audits.** Upon notice from DAS PS, Contractor will provide (A) DAS PS, (B) DAS PS' agents, (C) the Oregon Secretary of State, (D) any governmental authority, and (E) any other entity directed to audit DAS PS by a governmental authority ((A) through (E), collectively, "State Auditors") with access to and any assistance that they may require with respect to records and those parts or portions of the Contractor's operations used to perform its obligations under this Participating Addendum and Contracts to the extent necessary and for the purpose of performing audits or inspections of (1) Contractor's resale of the Cloud Solutions or Related Services, (2) the business of Contractor relating to the Cloud Solutions or Related Services, including in each case operational, security, financial and other audits, and (3) for any audit required by a governmental authority, any part of Contractor's operations within the scope of the audit that the governmental authority is permitted or authorized to perform. If any audit by an Agency Auditor results in Contractor being notified that Contractor or Contractor agents are not in compliance with (a) any law with which Contractor is required to comply under this Participating Addendum and any Contract, or (b) any other requirements, including compliance with procedures or controls, set forth in this Participating Addendum or any Contract, Contractor will promptly take actions to comply with such law or other requirement. At Contractor's request, any State Auditor that is not an agency of the State of Oregon shall sign a non-disclosure agreement with commercially reasonable terms and conditions before having access to Contractor's records or operations.

10.3 **Fee Audits.** State Auditors may audit the charges and fees charged to Authorized Purchasers ("Charges") to determine if such Charges are accurate and in accordance with this Participating Addendum and each Contract. Upon reasonable advance notice from DAS PS, Contractor will provide State Auditors with access to such financial records and supporting documentation as may be requested by DAS PS in order to make such determination.

If, as a result of such audit, DAS PS determines that Contractor has overcharged an Authorized Purchaser, DAS PS will notify Contractor of the amount of such overcharge and Contractor will promptly pay to the Authorized Purchaser the amount of the overcharge, plus interest calculated from the date of receipt by Contractor of the overcharged amount until the date of payment to Authorized Purchaser.

10.4 Contractor Audits.

10.4.1 Contractor will maintain an internal audit function to sufficiently monitor the processes and systems Contractor uses to provide the Cloud Solutions and Related Services and to ensure Contractor's compliance with this Participating Addendum and each Contract, including compliance with the Security Standards. Contractor will provide to DAS PS copies of any of Contractor's internal audits related to Contractor's processes and systems Contractor uses to provide the Cloud Solutions and Related Services.

10.4.2 If any Contractor audit reveals information related to an error or deficiency that could reasonably be expected to have an adverse financial or operational impact on an Authorized Purchaser's receipt of the Cloud Solutions or Related Services, Contractor will (1) provide a summary of such audit results to DAS PS and (2) to the extent Contractor is responsible for such error or deficiency, Contractor will take corrective action to rectify any such error or any deficiencies and notify DAS PS when such error or deficiency has been rectified.

10.5 **DAS PS Audit Inquiries.** DAS PS may make inquiries from time to time pertaining to audit monitoring activities and Contractor will provide a response to each such inquiry within five business days after receipt of such inquiry unless otherwise agreed by the Parties.

10.6 Cooperation with Audits; Timing.

10.6.1 Contractor shall reasonably cooperate, at its own expense, with any entity, including Governmental Authorities, conducting audits of DAS PS or any Authorized Purchaser related to the Cloud Solutions and Related Services provided under this Participating Addendum that are conducted pursuant to law.

10.6.2 DAS PS may only exercise its right to conduct audits as set forth in Section 10.2 once during any 12-month period during the term of this Participating Addendum. DAS may only exercise its right to conduct audits as set forth in Section 10.3 once during any 12-month period during the term of this Participating Addendum.

10.7 **Reporting.** Contractor will provide at no additional charge reasonable assistance and information reasonably requested by DAS PS to assist DAS PS in the preparation and presentation of any reports required by a governmental authority.

SECTION 11: JURISDICTION AND VENUE

11.1 **Governing Law.** This Participating Addendum and each Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law.

11.2 **State Agency Venue; Consent to Jurisdiction.** Any claim, action, suit or proceeding (collectively, "Claim") between the State of Oregon or any agency thereof and Contractor that arises from or relates to the Participating Addendum or any Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as (i) a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon, or (ii) consent by the State of Oregon to the jurisdiction of any court.

11.3 **ORCPP Members Venue; Consent to Jurisdiction.** Any Claims between Contractor and an ORCPP Authorized Purchaser that arise from or relate to the Participating Addendum or any Contract shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at Authorized Purchaser's option, within such other county as Authorized Purchaser shall be entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such Authorized Participant resides. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as (i) a waiver of Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or (ii) consent by the Authorized Purchaser to the jurisdiction of any court.

SECTION 12: COMPLIANCE WITH LAWS

12.1 **Compliance with Law Generally.** Contractor shall comply in all material respects with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor's performance hereunder and in the provision of the Related Services under this Participating Addendum and each Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply in all material respects with the following laws, regulations and executive orders to the extent they are applicable to the Contractor's performance hereunder, in the provision of Related Services under this Participating Addendum and each Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the

American Recovery and Reinvestment Act of 2009 (ARRA); (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contractor's performance hereunder, in the provision of Related Services under this Participating Addendum and each Contract and required by law to be so incorporated. Authorized Purchaser's performance under the Participating Addendum and each Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein to the extent applicable to the Contractor in its performance of the Related Services and required by law to be so incorporated.

12.2 Oregon False Claims Act. Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to the Participating Addendum and each Contract, including the procurement process relating to the Participating Addendum, that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Participating Addendum and each Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to the Participating Addendum or Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or Authorized Purchaser under this Participating Addendum, any Contract, or any other provision of law.

12.3 Compliance with Oregon Tax Laws. The obligations set forth in this Section 12.3 apply only with respect to this Participating Addendum, and Contracts to which a State Agency is a party.

12.3.1 Contractor must, throughout the duration of the Participating Addendum, each Contract entered into thereunder, and any extensions of either, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes all the provisions described in Sections 9.6.1 through 9.6.4.

12.3.2 Any violation of Section 12.3.1 shall constitute a material breach of the Contract. Further, any violation of Contractor's warranty in Sections 9.6.1 through 9.6.4 of

the Participating Addendum that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of the Contract. Any violation shall entitle Authorized Purchaser to terminate the Contract, to pursue and recover any and all damages that arise from the breach and the termination of the Contract, and to pursue any or all of the remedies available under the Contract, at law, or in equity, including but not limited to:

- 12.3.2.1 Termination of the Contract, in whole or in part;
- 12.3.2.2 Garnish or exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Authorized Purchaser's setoff right, without penalty; and
- 12.3.2.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Authorized Purchaser shall be entitled to recover any and all damages suffered as the result of Contractor's breach of the Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

These remedies are cumulative to the extent the remedies are not inconsistent, and Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- 12.4 **Nondiscrimination in Employment.** Contractor certifies, in accordance with ORS 279A.112, that it has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class, as defined in ORS 279A.112. As a material condition of this Participating Addendum, Contractor must maintain, throughout the duration of this Participating Addendum and each Contract entered into hereunder, a policy and practice that complies with ORS 279A.112, including giving employees written notice of the Contractor's policy and practice.
- 12.5 **Changes in Law Affecting Performance.** Each party hereby agrees to promptly provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations in accordance with the provisions of this Participating Addendum and each Contract. Each party shall monitor changes in federal and state laws, ordinances, and regulations applicable to its performance hereunder, and will be deemed aware of such changes within thirty (30) calendar days of the enactment of any such change.

SECTION 13: INSURANCE; LIABILITY; INDEMNITIES

- 13.1 **Insurance.** Contractor shall maintain, at a minimum, insurance coverages required by

Exhibit C hereto. Authorized Purchaser and Contractor may specify in a PO or any attachment thereto, additional or less insurance than as set forth on Exhibit C, and any such specification shall prevail in place of the provisions of Exhibit C.

13.2 **Liability.** Each party's liability to the other shall be limited as set forth in the Master Agreement.

13.3 Limits on Indemnity; Defense.

13.3.1 **Limits on Authorized Purchaser Indemnification.** To the extent DAS PS is required under the Participating Addendum to indemnify or hold Contractor harmless against claims brought by third parties against Contractor, the State of Oregon's obligation to indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.

13.3.2 **Defense of Claims.** To the extent Contractor is required under this Participating Addendum (including under the terms of the Master Agreement) to defend, indemnify, or both, the State against claims asserted by third parties, DAS PS shall reasonably cooperate in good faith, at Contractor's reasonable expense, in the defense of the claim and Contractor shall select counsel reasonably acceptable to the Oregon Attorney General to defend the claim, and Contractor shall bear all costs of counsel. The Oregon Attorney General's acceptance of counsel may not be unreasonably withheld. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before counsel may act in the name of, or represent the interests of, the State of Oregon, DAS PS, or their officers, employees or agents. The State of Oregon may elect to assume its own defense with an attorney of its own choice and its own expense at any time if the State of Oregon determines important governmental interests are at stake. DAS PS will promptly provide notice to Contractor of any claim that may result in an obligation on the part of Contractor to defend. Subject to these limitations, Contractor may defend a claim with counsel of its own choosing, on the condition that no settlement or compromise of any claim may occur without the consent of the State of Oregon, which consent must not be unreasonably withheld.

SECTION 14: **GENERAL:**

14.1 **Severability.** If any provision of the Participating Addendum is declared by a court of competent jurisdiction to be illegal, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Participating Addendum did not contain the particular provision held to be invalid.

14.2 **Survival.** The following provisions shall survive termination or expiration of the Participating Addendum: warranty, access to records, audits, indemnification, limitation of liability, governing law, venue, consent to jurisdiction, and remedies.

- 14.3 **Assignment; Subcontract; Successors.** Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Participating Addendum, in whole or in part, without the prior written approval of DAS PS and such approval shall not be unreasonably withheld or delayed. . Notwithstanding the foregoing, either party may assign this Participating Addendum or a portion thereof: (a) in the event of a merger in which the party is not the surviving entity; or (b) in the event of a sale of all or substantially all of its assets; or (c) to any affiliate of such party. Further, no such written approval to any assignment, sale transfer or subcontracting of rights or delegation of duties shall relieve Contractor of any obligations under the Participating Addendum, and any delegate shall be considered the agent of Contractor. The provisions of the Participating Addendum shall be binding upon and shall inure to the benefit of the parties to the Participating Addendum and their respective successors and permitted assigns.
- 14.4 **Contractor's Status.** The Services to be rendered under the Participating Addendum are those of an independent contractor. Contractor is not an officer, employee or agent of the State or any Authorized Purchaser as those terms are used in ORS 30.265. Contractor is not a contributing member of the Public Employees' Retirement System. Contractor will not be eligible for any federal social security, unemployment insurance, workers' compensation or Public Employees' Retirement System benefits from payments made under any Contract, except as a self-employed individual. Contractor certifies that (i) it is not an employee of the State of Oregon; (ii) if Contractor is currently performing work for State or the federal government, Contractor's work to be performed under this Participating Addendum or any Contract creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's work under any Contract; and (iii) if this payment is to be charged against federal funds, it is not currently employed by the federal government.
- 14.5 **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Participating Addendum and each Contract entered into thereunder.
- 14.6 **Recycled Products.** Contractor shall use recycled and recyclable products to the extent reasonably possible and to the maximum extent economically feasible in the performance of all Contracts with Authorized Purchasers subject to ORS 279.555.
- 14.7 **Time is of the Essence.** Contractor agrees that time is of the essence for Contractor's performance obligations under the Participating Addendum and each Contract.
- 14.8 **Notices.** All notices required under the Participating Addendum shall be in writing and addressed to the Party's authorized representative identified in Section 6.3 of this Participating Addendum. Mailed notices shall be deemed given five calendar

days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

14.9 **Merger Clause; Amendment; Waiver.** The Participating Addendum constitutes the entire agreement between the Contractor and DAS PS on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Participating Addendum. No waiver, consent, modification or change of terms of the Participating Addendum (collectively, "Amendment") shall be binding upon either Party, unless such Amendment is in writing, is signed by both parties to the Participating Addendum, and all necessary approvals have been obtained. Amendments shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of the Participating Addendum shall not constitute a waiver by such Party of that or any other provision.

14.10 **Counterparts.** This Participating Addendum may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Participating Addendum at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Participating Addendum.

SECTION 15: CERTIFICATIONS

15.1 **Certifications.** With respect to each Contract and the Participating Addendum, the individual signing on behalf of Contractor hereby:

15.1.1 Certifies and swears under penalty of perjury to the best of the individual's knowledge that: (a) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (b) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws, including, without limitation, those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.657; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620; (c) Contractor is an independent contractor as defined in ORS 670.600; and (d) the supplied Contractor tax identification numbers are true and accurate;

NORDLIEN Lori * DAS

From: SCHEUCH David * DAS
Sent: Tuesday, November 27, 2018 8:51 AM
To: DEJONG Jennifer * DAS; NORDLIEN Lori * DAS
Cc: MCKAY Daniel * DAS
Subject: RE: Cloud Services Master Agreements

Approved from my perspective.
Dave

Dave Scheuch (shoik)
Director, Enterprise Shared Services
Office of the State CIO
Cell (503) 586-8010

From: DEJONG Jennifer * DAS
Sent: Tuesday, November 20, 2018 3:23 PM
To: NORDLIEN Lori * DAS <Lori.NORDLIEN@oregon.gov>; SCHEUCH David * DAS <David.SCHEUCH@oregon.gov>
Cc: MCKAY Daniel * DAS <Daniel.MCKAY@oregon.gov>
Subject: RE: Cloud Services Master Agreements

Hi Lori-

I talked with Terrence and this one will go to Dave for approval. Also it sounds like we do not sign the contract but just designate approval with the email-is that your understanding?

Let me know if there are any questions-Happy T-day all!
Jennifer

From: NORDLIEN Lori * DAS
Sent: Tuesday, November 20, 2018 7:40 AM
To: DEJONG Jennifer * DAS <Jennifer.DEJONG@oregon.gov>
Cc: MCKAY Daniel * DAS <Daniel.MCKAY@oregon.gov>
Subject: Cloud Services Master Agreements

Good morning – we are in the final process for the Cloud Master Agreements. All the Master Agreements have the same terms and conditions – I have attached one of them for reference (includes both NASPO pricing and Oregon pricing).

We awarded to:
A&T Systems
Carahsoft Technology
CDWG
CenturyLink
SHI
Smartronix

Strategic Communications

There is a signature line on each of the Master Agreements for OSCIO. Can you approve these? Let me know if you have any questions.

Thanks,



Lori Nordlien, CPPB

IT Procurement Strategist, IT Team

503-378-6781 (F)503-373-1626

<http://procurement.oregon.gov>

Data Classification Level 2 - Limited

- 15.1.2 Certifies that, to the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against any disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business certified under ORS 200.055 in obtaining any required subcontracts;
- 15.1.3 Certifies that the information provided on the attached Exhibit G, Independent Contractor Certification, is true and correct as of the Effective Date;
- 15.1.4 Certifies that Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
- 15.1.5 Contractor is bound by and will comply with all requirements, terms and conditions contained in this Participating Addendum and each Contract; and
- 15.1.6 Contractor is / is not a nonresident alien as defined in 26 USC § 7701(b) (1).

SECTION 16: SIGNATURES

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

Contractor:

By: Priscilla Benavides

Title: Sr Contract Specialist Date: 02/07/2019

The State of Oregon acting by and through its Department of Administrative Services, Procurement Services:

By: Gary Buchheit

Title: Procurement Services Mgr Date: _____

The State of Oregon acting by and through the Office of the State Chief Information Officer

By: Approved per Email dated 11/27/18

Title: _____ Date: _____

Approved pursuant to ORS 291.047

Oregon Department of Justice

By: approved per email dated 2/6/19 Date: _____

Assistant Attorney General

Exhibit A - Products and Pricing

Products:

The Cloud Solutions and Related Services available under this Participating Addendum are Cloud Solutions and Related Services set forth in the Price and Product Catalog set forth in the Master Agreement, as amended from time to time, which is available at <https://www.naspovaluepoint.org/portfolios/portfolio-contractor/shi-cloud-solutions/>

Pricing:

Software as a Service	Discount: 1%
Infrastructure as a Service	Discount: 1%
Platform as a Service	Discount: 1%
Related Services Offered for Fixed Prices	Discount: 1%

For purposes of calculating the price of the Cloud Solutions and Related Services available under this Participating Addendum, the pricing and discounts set forth above shall be based on the lowest available price for the Cloud Solution or Related Service as set forth in the Master Agreement.

Additional Related Services Fees (Maximum Rates): If Authorized Purchaser purchases Related Services from Contractor that generally are not specified by fixed prices (e.g., the Related Services are not annual maintenance and support services, or standard training or installation services that are provided for an annual or other periodic rate), then Contractor may provide such services pursuant to a Statement of Work, at the hourly rates set forth below.

Services	Onsight Hourly	Remote Hourly
Maintenance Services	\$ 90.00	\$ 90.00
Other Related Services not generally offered for fixed prices	\$240.00	\$240.00

Exhibit B – Oregon Specific Terms and Conditions

STATE OF OREGON PARTICIPATING ADDENDUM

TERMS AND CONDITIONS

This Exhibit sets forth the terms and conditions of each Contract between an Authorized Purchaser and Contractor entered into under the Participating Addendum. These terms are incorporated by reference into each Contract formed by a Purchase Order submitted to the Contractor by the Authorized Purchaser pursuant to Section 3 of the Participating Addendum. The terms and conditions set forth in this Exhibit B may only be waived, modified or deleted only pursuant to a written agreement between an Authorized Purchaser and Contractor, and then only with respect to the particular Contract or Contracts specifically identified in such written agreement. Terms of the Participating Addendum specifically referenced in this Exhibit B are incorporated by reference into each Contract.

1. TERMS AND CONDITIONS; ORDER OF PRECEDENCE; TERM

1.1. Documents; Order of Precedence. In the event of a conflict between the terms and conditions of this Contract and its Exhibits or the Master Agreement, the following order of precedence applies:

- 1.1.1. The Participating Addendum, less its exhibits;
- 1.1.2. The Purchase Order
- 1.1.3. These State of Oregon Participating Addendum Terms and Conditions;
- 1.1.4. Exhibit F - State of Oregon Information Security Policies and Terms;
- 1.1.5. Exhibit A – Products and Pricing
- 1.1.6. The Master Agreement, including its attachments;
- 1.1.7. Exhibit C – Required Insurance;
- 1.1.8. Exhibit E – Vendor Management Provisions
- 1.1.9. Exhibit D – VCAF and VSR;
- 1.1.10. Exhibit G – Independent Contractor Certification

1.2. Payments. All payments made to Contractor by the State are subject to ORS 293.462.

1.3. Contract Term. Each Contract shall have the Contract Term set forth in the Contract (together with any Contract Extension Terms, the “Contract Term”).

1.4. Termination of Participating Addendum. Upon termination of the Participating Addendum all Contracts then in effect shall remain in effect until terminated in accordance with their terms, and the terms and conditions of the Participating Addendum and the Contract, including those related to reporting and vendor management, will remain in effect with respect to each such Contract.

2. SERVICE LEVELS; SERVICE LEVEL CREDITS.

Contractor will perform the Services under a Contract in accordance with the Contract Service Levels, and provide to Authorized Purchaser Service Level Credits as set forth in the Master Agreement.

3. DISPUTE RESOLUTION

3.1. Governing Law. The Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law.

3.2. State Agency Venue; Consent to Jurisdiction. Any claim, action, suit or proceeding (collectively, "Claim") between the State of Oregon and Contractor that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as (i) a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon, or (ii) consent by the State of Oregon to the jurisdiction of any court.

3.3. ORCPP Members Venue; Consent to Jurisdiction. Any Claims between Contractor and an ORCPP Authorized Purchaser that arise from or relate to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at Authorized Purchaser's option, within such other county as Authorized Purchaser shall be entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such Authorized Participant resides. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as (i) a waiver of Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or (ii) consent by the Authorized Purchaser to the jurisdiction of any court.

4. CONFIDENTIAL INFORMATION AND DISCLOSURE

4.1. Confidential Information. Each party agrees that it will make reasonable efforts to maintain the confidentiality of any Confidential Information received from the other party and shall not use such Confidential Information except in performing its obligations pursuant to the Contract. For purposes of the Contract, "Confidential

Information" of Contractor shall mean any information marked or designated in writing by Contractor as "confidential" prior to initial disclosure. Confidential Information of DAS and Authorized Purchasers shall mean any and all information provided to Contractor related to the Contract, and any information marked or designated in writing as confidential by DAS or the Authorized Purchaser.

- 4.2. Exceptions.** The confidentiality obligations imposed by this Section shall not apply to: (a) information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation by the recipient; (b) information subsequently and rightfully received from third parties who have the necessary rights to transfer said information without any obligation of confidentiality; (c) information that was known to the recipient prior to the Contract Effective Date without obligation of confidentiality; (d) information that is independently developed by recipient and documented in writing without use of, or reference to, any Confidential Information of the other party; (e) information required to be disclosed by compulsory judicial or administrative process or by law or regulation; provided that if either party is required to disclose Confidential Information under clause (f), that party shall first give the other party notice and shall provide such information as may reasonably be necessary to enable the other party to take such action to protect its interests.
- 4.3. Public Records Law.** Contractor hereby acknowledges that any Confidential Information that Contractor discloses to a public body, as defined at ORS 192.311, under the Contract may be disclosed subject to the Oregon Public Records Laws, including but not limited to ORS 192.311-192.431, and the provisions for the Custody and Maintenance of Public Records, 192.005-192.170. The non-disclosure of documents or any portion of a document submitted by Contractor to Authorized Purchaser may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law. If Authorized Purchaser receives from a third party any request under the Oregon Public Records Law for the disclosure of information designated by Contractor as "confidential information," the Authorized Purchaser shall notify Contractor within a reasonable period of time of the request, and Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested information. Neither the Authorized Purchaser nor any of its agencies, divisions or subdivisions is or shall be obligated to assist in Contractor's defense. If any requests for disclosure of such information are made to Authorized Purchaser, disclosure shall only be made consistent with and to the extent allowable under law.
- 4.4. Publicity.** Contractor agrees that news releases and other publicity relating to the subject of the Contract will be made only with the prior written consent of Authorized Purchaser.
- 4.5. Trade Secrets.** Contractor shall label the information and documentation qualifying as trade secrets under ORS 192.435(2) that it wishes to protect from disclosure to third

parties with the following: "This data constitutes a trade secret under ORS 192.435(2) and is not to be disclosed except as required by law." Authorized Purchaser will take reasonable measures to hold in confidence all such labeled information and documentation. Provided, however, Authorized Purchaser shall not be liable for release of any information when authorized or required by law or court order to do so, whether pursuant to Oregon Public Records Law or otherwise. Further, if Authorized Purchaser is a State Agency, it shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

4.6. Requests for Disclosure. Contractor shall notify Authorized Purchaser upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to Authorized Purchaser Data. Contractor shall not respond to subpoenas, service of process, and other legal requests related to the Authorized Purchaser without first notifying the affected party unless prohibited by law from providing such notice.

5. OREGON INFORMATION SECURITY; DATA PROTECTION

5.1. Physical Safety, Environmental and Security Procedures. Contractor will maintain and enforce at the locations at which Contractor provides service under this Contract Contractor's standard physical safety, environmental and security procedures that are at least equal to the Security Standards (defined below). When providing any services under this Contract, Contractor will comply with all the rules and regulations established by the State of Oregon for access to and activities in and around premises controlled by the State of Oregon.

5.2. Information Security Standards. Contractor acknowledges that the State of Oregon has established minimum levels of security for all data and information processed, transmitted or otherwise used by Authorized Purchaser in connection with its performance under this Contract, whether it is submitted to, directly or indirectly, or accessed or accessible by Contractor pursuant to Contractor's performance hereunder, including without limitation, Personal Information (as defined in Section 5.5), data concerning Authorized Purchaser or Authorized Purchaser's employees or clients, and information provided to Contractor by Authorized Purchaser or an Authorized Purchaser related to Authorized Purchaser or the Authorized Purchaser or its information systems and operations, and all metadata associated with the foregoing and other Confidential Information of Authorized Purchaser or Authorized Purchasers or their customers or clients residing in or accessed by the Cloud Solutions or Related Services (collectively, "Protected Data"). The State of Oregon's information security policies are set forth in Exhibit F-Part I. The State of Oregon will have the right to amend these security policies on 30 days' notice to Contractor or such shorter notice period as required in order to comply with law. If the State amends such security policies, Contractor will implement such amendments in the fulfillment of its obligations hereunder, and the parties will enter into an amendment to this

Participating Addendum to document any technical or operational changes associated with or resulting from such amended policies.

- 5.3. State Premises.** Contractor will comply, and will cause its employees, agents and subcontractors to comply with the State of Oregon's information security policies applicable to Contractor in its performance of the Services on any State of Oregon premises to which they have access in connection with the performance hereunder.
- 5.4. Additional Standards.** In addition to the standards established by the Information Security Policies described in Section 5.2, Contractor shall implement and maintain the System and provide services in compliance with the following, in each case to the extent applicable to Contractor in performing the Related Services hereunder:
- 5.4.1. The HIPAA Security Rule set forth at 45 CFR Part 160 and Subparts A and C of Part 164;
 - 5.4.2. The United States Department of Justice, Federal Bureau of Investigation's Criminal Justice Information Services Security Policy, Version 5.6 or current (the "CJIS Security Policy"), including, where applicable, signature on the FBI's CJIS Security Addendum in the form set forth in the CJIS Security Policy;
 - 5.4.3. The Family Educational Rights and Privacy Act of 1974, as amended;
 - 5.4.4. Section 6103 of the Internal Revenue Code and guidance issued by the Internal Revenue Service with respect to compliance thereof, including IRS Publication 1075 or its replacement, as amended from time to time; and
 - 5.4.5. The Oregon Consumer Identity Theft Act (ORS 646A.620 et seq.);
 - 5.4.6. Any other statutes, regulations, policies or directives identified in the Contract;
 - 5.4.7. The provisions set forth in Exhibit F, Part II-State of Oregon Security Provisions, identified in the Contract by the Authorized Purchaser and Contractor as applicable to the Cloud Solutions and Related Services that are the subject of the Contract.
 - 5.4.8. Any other laws, rules, regulations or other legal authority set forth elsewhere in this Participating Addendum or in a Contract.

The policies, laws, standards, regulations and other legal authority identified in Sections 5.2 through 5.4 shall be referred to herein, collectively, as the "Security Standards."

- 5.5. Identity Theft.** In the performance of this Contract, Contractor may have possession or access to documents, records or items that contain "Personal Information" as that term is used in ORS 646A.602(11), including social security numbers. Prior to the receipt of, and during the period in which Contractor has possession of or access to, any Personal Information, Contractor shall have and maintain a formal written information security program that provides safeguards to protect Personal

Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600-646A.628.

- 5.6. Personal Information.** In addition to and without limiting the generality of Sections 5.2 through 5.5, Contractor shall not breach or permit breach of the security of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Contract. Contractor shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any such Personal Information. Contractor shall not use, distribute or dispose of any Personal Information other than expressly permitted by the State, required by applicable law, or required by an order of a tribunal having competent jurisdiction.
- 5.7. Disclosure of Personal Information.** Contractor shall promptly report to Authorized Purchaser any discovered breach of security, use, disclosure, theft, loss, or other unauthorized access of any document, record, compilation of information or other item that contains Personal Information to which the Contractor receives access, possession, custody or control in the performance of this Contract.
- 5.8. Notification; Control of Required Notices.** In the event Contractor or Contractor agents discover or are notified of a breach or potential breach of security relating to Protected Data, or a failure to comply with the Security Standards Contractor will promptly but in any event within one calendar day of becoming aware of the breach or potential breach (i) notify the Authorized Purchaser of such breach or potential breach and (ii) if the applicable Protected Data was in the possession of Contractor or Contractor agents at the time of such breach or potential breach, Contractor will (a) investigate and remedy the technical causes and technical effects within the scope of the Services of the breach or potential breach and (b) provide the Authorized Purchaser with a written root cause analysis of the breach and the specific steps that Contractor will take to prevent the recurrence of the breach or potential breach will not recur. For the avoidance of doubt, in the event that the Authorized Purchaser determines that any such breach or potential breach of security involving the Authorized Purchaser data for which notification to the Authorized Purchaser's customers or employees or any other individual or entity is required by law, the Authorized Purchaser will have sole control over the timing, content, and method of such notification, subject to Contractor's obligations under applicable law.

6. CONTRACT REPRESENTATIONS AND WARRANTIES

- 6.1. Authority; Binding Obligation.** Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Services under the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

- 6.2. Authorized Service Provider.** Contractor represents and warrants that Contractor is authorized to do business in the State of Oregon and will remain so throughout the Contract term.
- 6.3. Regulatory Approvals.** Contractor represents and warrants that it has received, and will receive for the duration of the Contract, any and all regulatory approvals required by any regulatory Authority to provide the Services.
- 6.4. Warranty for Service.** Contractor warrants that the Cloud Solutions and Related Services shall conform in all material respects with all requirements set out in the Participating Addendum and Contract and that all Cloud Solutions and Related Services shall be performed in accordance with the highest professional standards.
- 6.5. Tax Laws.** If Authorized Purchaser is a State Agency, then Contractor represents and warrants (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the Effective Date of a Contract, faithfully has complied with:
- 6.5.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - 6.5.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
 - 6.5.3. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
 - 6.5.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- 6.6. Liquidated Debt.** If Authorized Purchaser is a State Agency, Contractor represents and warrants that Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.
- 6.7. Intellectual Property Non-Infringement.** Contractor represents and warrants that the Cloud Solutions and Related Services, documentation, and any other materials, provided by Contractor under the Contract do not and will not infringe upon any patent, copyright, trade secret or similar proprietary right of any third party, and that the Contractor has no knowledge of any claim or other reason to believe that Authorized Purchaser's use thereof in accordance with the terms of the Contract would be interrupted or otherwise disturbed by the assertion of an infringement claim.

6.8. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Participating Addendum or elsewhere in the Contract. All warranties provided in the Contract are cumulative, and will be interpreted expansively so as to afford the Authorized Purchaser the broadest warranty protection available.

6.9. Disclaimer of Warranties. EXCEPT AS OTHERWISE PROVIDED HEREIN, THE SERVICES PROVIDED BY CONTRACTOR UNDER THE CONTRACT ARE PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, COMPATIBILITY OF SOFTWARE OR EQUIPMENT, OR ANY RESULTS TO BE ACHIEVED THEREFROM. CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS THAT ANY SERVICE WILL BE FREE FROM LOSS OR LIABILITY ARISING OUT OF HACKING OR SIMILAR MALICIOUS ACTIVITY, OR ANY ACT OR OMISSION OF AUTHORIZED PURCHASER. THE PREVIOUS DISCLAIMERS WILL NOT LIMIT AUTHORIZED PURCHASER 'S ABILITY TO SEEK ANY APPLICABLE SLA REMEDIES.

7. DEFAULT, REMEDIES AND TERMINATION OF CONTRACT

7.1. Default by Contractor. Contractor will be in default under the Contract if:

- 7.1.1. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings which are not dismissed within sixty (60) calendar days of their commencement, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- 7.1.2. Contractor no longer holds a license or certificate that is required for Contractor to perform the Cloud Solutions and Related Services and Contractor has not obtained such license or certificate within thirty (30) calendar days after delivery of Authorized Purchaser's notice or such longer period as Authorized Purchaser may specify in such notice;
- 7.1.3. Contractor commits any material breach of any covenant, warranty, obligation or certification under the Contract, fails to perform the Cloud Solutions and Related Services in conformance with the specifications and warranties provided herein, or clearly manifests an intent not to perform future obligations under the Contract, and such breach or default is not cured, or such manifestation of an intent not to perform is not corrected by reasonable written assurances of performance within thirty (30) calendar days after delivery of Authorized Purchaser's notice or such longer period as Authorized Purchaser may specify in such notice;
- 7.1.4. Contractor commits repeated or excessive failures to meet any individual or combination of Service Levels set forth in the Contract;

- 7.1.5. Contractor has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State; or
- 7.1.6. Contractor is in default or in material breach of the Contract pursuant to any other provision of the Contract.

7.2. Default by Authorized Purchaser. Authorized Purchaser will be in default under the Contract if:

- 7.2.1. Authorized Purchaser fails to pay Contractor any undisputed amount due to Contractor pursuant to the terms of the Contract, and Authorized Purchaser fails to cure such failure within forty five (45) calendar days after delivery of Contractor's notice or such longer period as Contractor may specify in such notice;
- 7.2.2. Authorized Purchaser commits any material breach or default of any covenant, warranty, or obligation under the Contract, fails to perform its commitments hereunder within the time specified or any extension thereof, and Authorized Purchaser fails to cure such failure within thirty (30) Business Days after delivery of Contractor's notice or such longer period as Contractor may specify in such notice; or
- 7.2.3. Authorized Purchaser is in default or in material breach of the Contract as set forth elsewhere in the Contract.

7.3. Remedies for Default. In addition to any other remedies provided in the Contract including any rights of termination under Sections 7.4 or 7.5, the following remedies are available for a breach of the Contract:

7.3.1. Authorized Purchaser Remedies.

7.3.1.1. In the event Contractor is in material breach of any provision of the Contract, Contractor shall be liable for any and all damages arising out of or related to the breach subject to any limitations on such damages set forth elsewhere in Contract; and

7.3.1.2. If Authorized Purchaser is a State Agency, Authorized Purchaser may garnish all monies due under this Contract to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State.

7.3.2. **Contractor's Remedies.** In the event Authorized Purchaser is in breach of a material provision of the Contract, Contractor is entitled to seek any and all remedies available to it under the law, subject to any limitations on such remedies set forth elsewhere in the Contract. Contractor's sole monetary remedy shall be with respect to Cloud Solutions and Related Services, the total fees earned for Cloud Solutions and Related Services provided through the date of termination. If previous amounts paid to Contractor exceed the amount due

to Contractor under the Contract, Contractor shall pay any excess to Authorized Purchaser upon written demand.

7.4. Termination

7.4.1. Termination by Authorized Purchaser. In addition to any other remedies available to Authorized Purchaser, Authorized Purchaser may terminate the Contract as follows:

7.4.1.1. Default. Immediately upon written notice if Contractor is in default pursuant to Section 7.1;

7.4.1.2. Convenience. For convenience with ninety (90) calendar days written notice to the Contractor;

7.4.1.3. Legal Prohibition. If Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the performance of the Cloud Solutions and Related Services under the Contract are prohibited, the Authorized Purchaser is prohibited from paying for such Cloud Solutions and Related Services from the planned funding source, or if otherwise directed by a regulatory authority; or

7.4.1.4. As Otherwise Set Forth in Contract. Authorized Purchaser may terminate the Contract as otherwise set forth in the Contract.

7.5. Termination by Contractor. In addition to any other remedies available to Contractor under the Contract, Contractor may terminate the Contract if Authorized Purchaser is in default under Section 7.2, and fails to cure such breach within the applicable cure period provide therein.

7.6. Transition Upon Termination or Expiration of Contract. Notwithstanding Section 7.7, upon termination or expiration of any Contract, at the sole request of Authorized Purchaser and upon the parties' execution of an amendment to the Contract, Contractor will continue to provide the Cloud Solutions and Related Services and meet its obligations hereunder for a period of up to twelve (12) calendar months ("Transition Period") as specified by the Authorized Purchaser. The terms and conditions of the Contract, including the pricing and payment provisions, shall remain in effect during a Transition Period. There shall be no minimum usage or volume commitments during any such Transition Period.

7.7. Effect of Termination. The expiration or termination, including any applicable Transition Period, of any Contract shall be without prejudice to the rights of the parties accrued up to the date of such expiration or termination. Any outstanding charges not in dispute shall be paid in full within sixty (60) calendar days of the end of the Transition Period or if there is no Transition Period, within sixty (60) calendar days of Contract expiration or termination. By the end of the Transition Period, unless otherwise agreed to by the parties, each party will (i) cease referring to the other

party and any of its Cloud Solutions and Related Services and products in public oral or written communications, (ii) do such things as are necessary to disable Contractor's direct and indirect connectivity to Authorized Purchaser and (iii) promptly return to the other party or at the other party's option destroy all Confidential Information of that party, including, but not limited to Intellectual Property; and Contractor will promptly return to Authorized Purchaser all information of any kind concerning Authorized Purchaser.

8. COMPLIANCE WITH APPLICABLE LAW.

8.1. Compliance with Law Generally. Contractor shall comply in all material respects with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply in all material respects with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA); (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. Authorized Purchaser's performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein to the extent applicable to Contractor in its performance of the Services and required by law to be so incorporated.

8.2. Oregon False Claims Act. Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to the Contract, including the procurement process relating to the Contract that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of the Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to the Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon

False Claims Act is in addition to any other remedy available to the State or Authorized Purchaser under the Contract or any other provision of law.

8.3. Compliance with Oregon Tax Laws. The obligations set forth in this Section 12.3 apply only with respect to Contracts to which a State Agency is a party.

- 8.3.1. Contractor must, throughout the duration of the Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes all the provisions described in Sections 6.5.1 to 6.5.4.
- 8.3.2. Any violation of Section 8.3.1 shall constitute a material breach of the Contract. Further, any violation of Contractor's warranty in subsection 6.5 of the Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of the Contract. Any violation shall entitle Authorized Purchaser to terminate the Contract, to pursue and recover any and all damages that arise from the breach and the termination of the Contract, and to pursue any or all of the remedies available under the Contract, at law, or in equity, including but not limited to:
 - 8.3.2.1. Termination of the Contract, in whole or in part;
 - 8.3.2.2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Authorized Purchaser's setoff right, without penalty;
 - 8.3.2.3. Garnish or exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor without penalty; and
 - 8.3.2.4. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Authorized Purchaser shall be entitled to recover any and all damages suffered as the result of Contractor's breach of the Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Cloud Solutions and Related Services.

These remedies are cumulative to the extent the remedies are not inconsistent, and Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

8.4. Nondiscrimination in Employment. Contractor certifies, in accordance with ORS 279A.112, that it has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class, as defined ORS 279A.112(1)(b). As a material condition of this Contract, Contractor must maintain, throughout the duration of the Contract, a policy

and practice that comply with ORS 279A.112, including giving employees written notice of the Contractor's policy and practice.

8.5. Changes in Law Affecting Performance. Each party hereby agrees to immediately provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations in accordance with the provisions of the Contract. Each party shall monitor changes in federal and state laws, ordinances, and regulations applicable to its performance hereunder, and will be deemed aware of such changes within thirty (30) calendar days of the enactment of any such change.

9. RECORDS AND AUDITS

9.1. Access to Records. Contractor shall maintain all financial records and other payment records relating to the Contract in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Contract (collectively, "Records"). DAS, Authorized Purchaser, and their duly authorized representatives shall have reasonable access, at their own cost and only following reasonable notice to Contractor, to such Records during normal business hours for purposes of examination and copying at Authorized Purchaser' expense. Contractor shall retain and keep accessible all Records for a minimum of seven (7) years following the expiration or termination of this Contract, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later.

9.2. Service Audits. Upon notice from Authorized Purchaser, Contractor will provide (A) Authorized Purchaser, (B) Authorized Purchaser' agents, (C) the Oregon Secretary of State, (D) any regulatory authority, and (E) any other entity directed to audit Authorized Purchaser by a regulatory authority ((A) through (E), collectively, "Authorized Purchaser Auditors") with access to and any assistance that they may require with respect to records and those parts or portions of the Contractor's operations used to perform the Cloud Solutions and Related Services to the extent necessary and for the purpose of performing audits or inspections of (1) Contractor's resale of the Cloud Solutions and Related Services, (2) the business of Contractor relating to the Cloud Solutions and Related Services provided to Authorized Purchaser, including in each case operational, security, financial and other audits, and (3) for any audit required by a regulatory authority, any part of Contractor's operations within the scope of the audit that the regulatory authority is permitted or authorized to perform. If any audit by an Authorized Purchaser Auditor results in Contractor being notified that Contractor or Contractor agents are not in compliance with (a) any law with which Contractor and Contractor agents are required to comply under the Contract, or (b) any other requirements, including compliance with procedures or controls, set forth in the Contract, Contractor will, and will cause Contractor agents to, promptly take actions to comply with such law or other

requirement. At Contractor's request, any State Auditor that is not an agency of the state of Oregon shall sign a non-disclosure agreement with commercially reasonable terms and conditions before having access to Contractor's records or operations.

9.3. Fee Audits. Authorized Purchaser Auditors may audit the charges charged to any Authorized Purchaser to determine if such charges are accurate and in accordance with the terms of the Contract and the applicable Contracts. Upon reasonable advance written notice from Authorized Purchaser, Contractor will provide Authorized Purchaser Auditors with access to such financial records and supporting documentation as may be requested by Authorized Purchaser in order to make such determination. If, as a result of such audit, Authorized Purchaser determines that Contractor has overcharged any Authorized Purchaser, Authorized Purchaser will notify Contractor and Authorized Purchaser of the amount of such overcharge and Contractor will promptly pay to the Authorized Purchaser the amount of the overcharge, plus interest calculated from the date of receipt by Contractor of the overcharged amount until the date of payment to the Authorized Purchaser.

9.4. Contractor Audits.

9.4.1. Contractor will maintain an internal audit function to sufficiently monitor the processes and systems used to provide the Cloud Solutions and Related Services and to ensure Contractor's compliance with the Contract, including the Security Standards. Contractor will provide to Authorized Purchaser copies of any of Contractor's internal audits related to Contractor's processes and systems used to provide the Cloud Solutions and Related Services.

9.4.2. If any Contractor audit reveals information related to an error or deficiency that could reasonably be expected to have an adverse financial or operational impact on Authorized Purchaser's receipt of the Cloud Solutions and Related Services, Contractor will (1) provide a summary of such audit results to Authorized Purchaser and (2) to the extent Contractor is responsible for such error or deficiency, Contractor will take corrective action to rectify any such error or any deficiencies and notify Authorized Purchaser when such error or deficiency has been rectified.

9.5. Authorized Purchaser Audit Inquiries. Authorized Purchaser may make inquiries from time to time pertaining to audit monitoring activities and Contractor will provide a response to each such inquiry within five Business Days after receipt of such inquiry unless otherwise agreed by the parties.

9.6. Cooperation with Audits; Timing.

9.6.1. Contractor shall reasonably cooperate at its own expense with any entity, including regulatory authorities, conducting audits of Authorized Purchaser related to the Cloud Solutions and Related Services that are conducted pursuant to law.

9.6.2. Authorized Purchaser may only exercise its right to conduct audits as set forth in Section 9.2 once during any 12-month period during the term of the Contract. Authorized Purchaser may only exercise its right to conduct audits as set forth in Section 9.3 once during any 12-month period during the term of the Contract.

9.6.3.

9.7. Reporting. Contractor will provide at no additional charge assistance and information requested by Authorized Purchaser to assist Authorized Purchaser in the preparation and presentation of any reports required by a regulatory authority.

10. INSURANCE; LIABILITY

10.1. Insurance. Contractor shall maintain, at a minimum, insurance coverages required by Exhibit C hereto. Authorized Purchaser may specify in a PO or any attachment thereto additional or less insurance than as set forth on Exhibit C, and any such specification shall prevail in place of the provisions of Exhibit C.

10.2. Liability. Each party's liability to the other shall be limited as set forth in the Master Agreement.

11. LIMITS ON INDEMNITY OBLIGATIONS

The following provisions apply if the Authorized Purchaser is a State Agency:

11.1. Limits on Authorized Purchaser Indemnification. To the extent Authorized Purchaser is required under the Contract to indemnify or hold Contractor harmless against claims brought by third parties against Contractor, Authorized Purchaser's obligation to indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.

11.2. Defense of Claims. To the extent Contractor is required under this Contract (including under the terms of the Master Agreement) to defend, indemnify, or both, Authorized Purchaser against claims asserted by third parties, Authorized Purchaser shall reasonably cooperate in good faith, at Contractor's reasonable expense, in the defense of the claim and Contractor shall select counsel reasonably acceptable to the Oregon Attorney General to defend the claim, and Contractor shall bear all costs of counsel. The Oregon Attorney General's acceptance of counsel may not be unreasonably withheld. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before counsel may act in the name of, or represent the interests of, the State of Oregon, Authorized Purchaser, its officers, employees or agents. Authorized Purchaser may elect to assume its own defense with an attorney of its own choice and its own expense at any time if Authorized Purchaser determines important governmental interests are at stake. Authorized Purchaser will promptly provide notice to Contractor of any claim that may result in an obligation on the part of Contractor to defend. Subject to these limitations, Contractor may defend a claim with counsel of its own choosing, on the condition that no settlement or compromise of any claim may occur without the consent of Authorized Purchaser, which consent must not be unreasonably withheld.

12. MISCELLANEOUS PROVISIONS

- 12.1. Severability.** If any provision of the Contract is declared by a court of competent jurisdiction to be illegal, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- 12.2. Survival.** The following provisions shall survive termination or expiration of the Contract: warranty, access to records, indemnification, limitation of liability, governing law, venue, consent to jurisdiction, and remedies.
- 12.3. Assignment; Subcontract; Successors.** Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Contract, in whole or in part, without the prior written approval of Authorized Purchaser and such approval shall not be unreasonably withheld or delayed. . Notwithstanding the foregoing, either party may assign this Participating Addendum or a portion thereof: (a) in the event of a merger in which the party is not the surviving entity; (b) in the event of a sale of all or substantially all of its assets; or (c) to any affiliate of such party. Further, no such written approval shall relieve Contractor of any obligations under the Contract, and any delegate shall be considered the agent of Contractor. The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and permitted assigns.
- 12.4. Contractor's Status.** The Cloud Solutions and Related Services to be rendered under the Contract are those of an independent contractor. Contractor is not an officer, employee or agent of the State or the Authorized Purchaser as those terms are used in ORS 30.265. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under the Contract and, unless Contractor is subject to backup withholding, Authorized Purchaser will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment under the Contract. Contractor will not be eligible for any federal social security, unemployment insurance, workers' compensation or Public Employees' Retirement System benefits from these Contract payments, except as a self-employed individual. Contractor certifies that (i) it is not an employee of the State of Oregon; (ii) if Contractor is currently performing work for State or the federal government, Contractor's work to be performed under the Contract creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's work under the Contract; and (iii) if this payment is to be charged against federal funds, it is not currently employed by the federal government.
- 12.5. Foreign Contractor.** If the amount of a Contract with an Authorized Purchaser that is a state agency exceeds \$10,000 and if Contractor is not domiciled in or registered

to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. The Authorized Purchaser shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

12.6. Compliance with Applicable Laws and Standards. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contractor in its performance of the Services under the Contract and all Contract(s). These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract or any Contract and required by law to be so incorporated. An Authorized Purchaser's performance under a Contract is conditioned upon Contractor's compliance with the provisions of ORS 279.312, 279.314, 279.316 and 279.320, which are incorporated by reference herein.

12.7. Recycled Products. Contractor shall use recycled and recyclable products to the extent reasonably possible and to the maximum extent economically feasible in the performance of all Contracts with Authorized Purchasers subject to ORS 279.555.

12.8. Time is of the Essence. Contractor agrees that time is of the essence for Contractor's performance obligations under any Contract.

12.9. Notices. All notices required under the Contract and Contract shall be in writing and addressed to the party's authorized representative. For Authorized Purchaser, the authorized representative is set forth in the SO related to the Contract. Contractor's authorized representative shall be the individual specified in the FOC accepted by Authorized Purchaser. Mailed notices shall be deemed given five calendar (5) calendar days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

12.10. Merger Clause; Amendment; Waiver. The Contract constitutes the entire agreement between the Contractor and the Authorized Purchaser on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Contract. No waiver, consent, modification or change of terms of the Contract (collectively, "Amendment") shall be binding upon either party to the Contract, unless such Amendment is in writing, is signed by both parties to the Contract, and all necessary approvals have been obtained. Amendments shall be effective only in the specific instance and for the specific purpose given. Amendments may include without limitation, changes in Cloud Solutions or Related Services requirements, and extensions of time and consideration changes for the Contractor associated with the additional work or requirements. The failure of either party to enforce any provision of the Contract shall not constitute a waiver by such party of that or any other provision.

Exhibit C – Insurance

Exhibit C INSURANCE

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit C prior to performing under this Contract, and shall maintain it in full force and at its own expense throughout the duration of this Contract, and as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Coverage must be primary and non-contributory with any other insurance and self-insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

1. INSURANCE REQUIRED.

1.1 Workers' Compensation & Employers' Liability.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and require and ensure that each of its out-of-state subcontractors complies with these requirements.

1.2 Professional Liability.

Technology Errors & Omissions insurance in an amount of not less than \$5,000,000 per claim covering Contractor's liability arising from acts, errors or omissions in rendering or failing to render computer or information technology services, including the failure of technology products to perform the intended function or serve the intended purpose as set forth in this Contract. Coverage for violation of intellectual property rights including trademark and software copyright, privacy liability, the failure of computer or network security to prevent a computer or network attack, misrepresentations, and unauthorized access or use of computer system or networks must be included. There must also be coverage for unauthorized disclosure, access or use of Agency Data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format. Coverage must extend to Business Associates (if applicable) and independent contractors providing Services on behalf of or at the

direction of Contractor. A primary policy or combination of a primary policy and excess policy will be acceptable in order to meet the limits requirement.

1.3 Commercial General Liability.

Contractor shall provide Commercial General Liability Insurance covering bodily injury, and property damage in a form and with coverage that are satisfactory to the State. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage, in each case arising out of Contractor's negligence, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

1.4 AUTOMOBILE LIABILITY INSURANCE.

Contractor shall provide Automobile Liability Insurance covering Contractor's business use including for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

2. ADDITIONAL INSURED.

The Commercial General Liability, and Automobile Liability insurance required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations but only with respect to Contractor's activities under this Contract. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

3. TAIL COVERAGE.

If any of the required insurance is on a claims-made basis and does not include an extended reporting period of at least 24 (twenty-four) months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Contract, for a minimum of 24 (twenty-four) months following the later of (i) Contractor's completion and Agency's acceptance of all

Services required under this Contract, or, (ii) The expiration of all Warranty Periods provided under this Contract.

4. CERTIFICATE(S) AND PROOF OF INSURANCE.

Contractor shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any goods or performing any Services required under this Contract. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured as specified in this exhibit. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

5. NOTICE OF CHANGE OR CANCELLATION.

Contractor or its insurer must endeavor to provide at least 30 (thirty) calendar days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

6. INSURANCE REQUIREMENT REVIEW.

Contractor agrees to periodic review of insurance requirements by Agency under this Contract and to meet updated requirements as agreed upon by Contractor and Agency.

Exhibit D - VCAF

SECTION 1: VOLUME SALES REPORTS (VSRs):

1.1 SUBMITTAL

Contractor shall submit a VSR to DAS PS no later than 30 calendar days after the end of each calendar quarter. For the purposes of this Participating Addendum, calendar quarters end March 31, June 30, September 30 and December 31.

The VSR must contain:

- Complete and accurate details of all receipts (for both sales and refunds) for the reported period;
- The information and column mapping provided below, with one row of data representing one product or service line-item. In instances where there are multiple line-items in a single transaction common fields must be repeated to reflect common groupings:
 - Column A: Client Organization Name
 - Column B: Client Contact Name
 - Column C: Client Contact Email
 - Column D: Client Billing Address Line 1
 - Column E: Client Billing Address Line 2
 - Column F: Client Billing City
 - Column G: Client Billing State
 - Column H: Client Billing Zip
 - Column I: Track (SaaS, PaaS, IaaS)
 - Column J: Product/Service Name
 - Column K: Product/Service # (OEM)
 - Column L: Date Ordered
 - Column M: Delivery Date
 - Column N: Invoice Number
 - Column O: Retail Price
 - Column P: Price Charged
 - Column Q: Quantity
 - Column R: Unit of Measure
 - Column S: Cost without VCAF
 - Column T: VCAF
 - Column U: Final Cost
 - Column V: Original Quoted Cost

- Deviations from the above mapping may be made only by written approval by the Contract Administrator or OSCIO Vendor Manager.
- Should the Contractor choose to provide additional information, such information must be included using columns after the final listed in the above column map.
- Such other information as DAS PS may reasonably request.

1.2 NO-SALE REPORT/FORMAT

Contractor shall send a VSR to DAS PS each quarter, whether or not there are sales. When no sales have been recorded for the quarter, a report must be submitted stating "No Sales for the Quarter"; In such cases, a report shall be submitted with the words "NO SALES THIS QUARTER" in the first row of the report.

1.3 DATA MEDIUM AND DELIVERY MEDIUM

Contractor shall provide VSRs in a machine parse-able spreadsheet format using a Microsoft Excel native extension (.xls, .xlsx). The VSRs must be submitted by email unless the size of the file precludes transmission by email. VSRs may be submitted by means of digital media (CD, DVD, USB Flash Drive) if the file precludes transmission by email. Delivered print outs of VSRs or faxed VSRs are not acceptable.

1.4 RECEIPT/ACCEPTANCE

Each VSR must be submitted to vcaf.reporting@oregon.gov, basecamp.reporting@oregon.gov and to the DAS PS contract administrator. The Contract Administrator's receipt or acceptance of any of the VSRs furnished pursuant to this Price Participating Addendum shall not preclude DAS PS from challenging the validity thereof at any time.

1.5 RIGHT TO TERMINATE

DAS PS reserves the right to terminate this Participating Addendum if VSRs are not received as scheduled or in the prescribed format.

SECTION 2: VENDOR COLLECTED ADMINISTRATIVE FEE (VCAF):

2.1 RECEIPT OF INVOICE

Contractor shall accept invoices from **DAS PS** through e-mail. Vendor shall submit to vcaf.reporting@oregon.gov within 30 days upon execution of this agreement the designated email address that will accept VCAF invoices. Upon occurrence and should **Contractor** no longer use the prior indicated address to receive VCAF invoices, **Contractor** shall submit to vcaf.reporting@oregon.gov a working email address that will accept VCAF invoices. Failure to notify **DAS PS** of such change may result in late payment interest and fees being assessed.

2.2 REMITTANCE DUE UPON INVOICE

Contractor shall remit to DAS PS a VCAF based on invoices received from DAS PS within 30 days from date of invoice receipt. DAS PS generates invoices from data provided by Contractor in quarterly Volume Sales Report.

2.3 REFLECTION OF VCAF

Contractor shall not reflect the VCAF as a separate Quote, PO or Invoice line item charge to Authorized Purchasers.

2.4 RECORDS

Contractor shall retain, maintain, and keep accessible all records relevant to this Participating Addendum showing the sales of Goods or Services for a minimum of 3 (three) years, or such longer period as may be required by applicable law following expiration or termination of the Participating Addendum to enable DAS PS to determine the VCAF payable by Contractor and further agrees to permit its records to be examined at a reasonable time and place for the purpose to verify the Volume Sales Reports. Such examination is to be made at the expense of DAS PS by any auditor appointed by DAS PS who is reasonably acceptable to Contractor, or, at the option and expense of Contractor, by a certified public accountant appointed by Contractor.

2.5 UNDERPAYMENT

In the event that such examination reveals underpayment of the VCAF, Contractor shall immediately pay to DAS PS the amount of deficiency, together with any interest owed. If the examination reveals an underpayment of 5% or more, Contractor shall reimburse Contractor for the cost of the audit.

2.6 VCAF RATE

The VCAF is a charge equal to one half of one percent (0.5%) of Contractor's gross total sales, prior to any addition of VCAF and less any credits, made to Authorized Purchasers during the calendar quarter. For purposes of this Participating Addendum, "credits" includes refunds.

2.7 LATE PAYMENTS

Starting 30 days after receipt of invoice, any Contractor late payments of the VCAF will accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount has been paid in full. Invoices not paid may be subject to assignment to the Department of Revenue or a private collection firm, per applicable policy or law (ORS 293.231), which will result in additional collection fees. DAS PS' right to interest on late payments shall not preclude DAS PS from exercising any of its other rights or remedies pursuant to this Participating Addendum or otherwise with regards to Contractor's failure to make timely remittances.

2.8 VCAF PAYMENT METHOD

Contractor shall make VCAF payments by Automated Clearing House (ACH) transactions.

ACH Credit transactions will be initiated by Contractor to initiate transfer of funds from a bank account of Contractor's choosing to the bank for DAS PS after Contractor receives from DAS PS a completed authorization agreement for ACH Credits. These payment transactions will be processed upon receipt of invoice from DAS PS. Contractor shall comply with DAS PS's reasonable instructions to facilitate this method of payment.

For assistance setting up ACH transactions Contractor will contact DAS Shared Financial Services using the das.billing@oregon.gov email address.

In the event ACH is not available as a means of invoice payment, Contractor may remit in the form of a check. The check MUST reference the DAS PS invoice number. Payments must be mailed to:

DAS-SFS-Cashier
155 Cottage ST NE
Salem, OR 97301

Exhibit E – Vendor Management Provisions

GENERAL PERFORMANCE METRICS AND STANDARDS:

Performance Objective	Performance Standard	Performance Levels	Method Of Measurement
PM#3301: The State of Oregon desires to work with consultants who support the State's and Authorized Purchaser's data initiatives and operational practices.	Consultant submissions are made without need for revision and in the format established by the VSR template on time.	Exceeds Expectations: On-time and without revision for last 4 quarters Satisfactory: On-time and without revision for last quarter Unsatisfactory: Not on time, or required revision last quarter	Consultant management reviews VSR submissions with DAS-Procurement Services. If report is submitted on-time <i>and</i> using template format <i>and</i> does not require resubmission then status is Satisfactory, if not then status is Unsatisfactory. If Consultant receives four concurrent Satisfactory statuses Consultant is upgraded to Exceeds Expectations.
PM#4101: The State of Oregon desires its Authorized Purchasers to have positive experiences when working with Basecamp Consultants.	Consultants maintain a Net Promotor Score of 40 or higher.	Exceeds Expectations: $x \geq 55$ Satisfactory: $40 \leq x \leq 55$ Unsatisfactory: $x < 40$	Calculation: Y = Percentage of Promoters – Percentage of Detractors <i>Figures are rounded to the nearest integer.</i>

			<p>Where:</p> <p>A Promoter is a respondent who responded with a score of 9 or 10</p> <p>A Detractor is a respondent who responded with a score between 1 and 6.</p> <p>Sample Survey Question:</p> <p>“Would you recommend the products/services of [VENDOR NAME] to a colleague or a public organization?” on a scale of 1-10;</p>
<p>PM#4102: The State of Oregon desires Authorized Purchasers to see the Basecamp Catalog and its price agreements are of the highest quality.</p>	<p>Consultants maintain a mean score of 3 out of 5</p>	<p>Exceeds Expectations: $x > 4.0$</p> <p>Satisfactory: $3.0 \geq x < 4.0$</p> <p>Unsatisfactory: $x < 3.0$</p>	<p>Calculation:</p> <p>Y = Mean response value over a rolling 4 periods</p> <p><i>Figures are rounded to the nearest single decimal place.</i></p>

			<p>Sample Survey Question:</p> <p>“In thinking about your most recent purchase with [Consultant], how was the quality of the product or service you received?” using a 5 point semantic differential scale (1: Bad through 5: Good)</p>
<p>PM#4301: The State of Oregon desires consultants who are able to respond to and react to Authorized Purchaser requests.</p>	<p>More than 80% of issues raised to the Basecamp program are resolved in a manner that is acceptable to the Authorized Purchaser.</p>	<p>Exceeds Expectations: $x \geq 90\%$</p> <p>Satisfactory: $80\% \leq x < 90\%$</p> <p>Unsatisfactory: $x < 80\%$</p>	<p>Calculation:</p> <p>Y = Percent of responses that are greater than or equal to 3 – Percent of responses that are less than 3</p> <p><i>Figures are rounded to the nearest whole percentage point.</i></p> <p>Sample Survey Question:</p> <p>“Thinking about your recent issue, please indicate your level of acceptability as it relates to the resolution?” using a 5</p>

			point semantic differential scale (1: Unacceptable through 5: Acceptable)
PM#1303: The State of Oregon desires an agreement in which Authorized Purchasers are given upfront and transparent prices, both before the engagement begins and on the invoice before they make payment.	All (100%) reviewed invoices detail prices, quantities, and total by line-item. For services this includes rates, positions, and hours as applicable.	Exceeds Expectations: $x = 100\%$ Satisfactory: $95\% \leq x < 100\%$ Unsatisfactory: $x < 95\%$	Calculation: Percent of quotes with corresponding invoices that detail costs broken down by item or service including all deliverables. <i>Figures are rounded to the nearest whole percentage point.</i>
PM#4103: The State of Oregon desires Consultants to price their products and services competitively and show they provide value.	Consultants maintain a mean score of 3.5 out of 5	Exceeds Expectations: $x \geq 4.5$ Satisfactory: $3.5 \leq x < 4.5$ Unsatisfactory: $x < 3.5$	Calculation: $Y = \text{Mean response value over a rolling 4 periods}$ <i>Figures are rounded to the nearest single decimal place.</i>

			<p>Sample Survey Question:</p> <p>“Please rate your level of agreement when thinking about your most recent purchase with [CONSULTANT]: Our organization received value for the money.” (1: Strongly Disagree, 2: Disagree, 3: Neither Agree nor Disagree, 4: Agree, 5: Strongly Agree)</p>
<p>PM#4104: The State of Oregon desires its Consultants to provide high quality, skilled, and customer service oriented key persons to participate on Authorized Purchasers’ contracts.</p>	<p>Consultants maintain a mean score of 3 out of 5</p>	<p>Exceeds Expectations: $x \geq 4.0$</p> <p>Satisfactory: $3.0 \leq x < 4.0$</p> <p>Unsatisfactory: $x < 3.0$</p>	<p>Calculation:</p> <p>Y = Mean response value over a rolling 4 periods</p> <p><i>Figures are rounded to the nearest single decimal place.</i></p> <p>Sample Survey Question:</p> <p>“In thinking about your most recent purchase with [CONSULTANT], please rate the satisfaction with the</p>

			persons employed by [CONSULTANT]?" (1: Unsatisfied through 5: Satisfied)
PM#4302: The State of Oregon desires to work with consultants who provide timely response to Authorized Purchasers' requests	Purchasing Partners generally receive a response within 2 business days of a request as indicated by a response of greater than 3 out of 5.	Exceeds Expectations: $x \geq 4.0$ Satisfactory: $3.0 < x < 4.0$ Unsatisfactory: $x \leq 3.0$	<p>Calculation:</p> <p>Y = Mean response value over a rolling 4 periods</p> <p><i>Figures are rounded to the nearest single decimal place.</i></p> <p>Sample Survey Question:</p> <p>"When making a request about project related work, submitting a ticket, or reporting a problem, staff from [COMPANY] generally respond within 2 business days" (99: Too Early to Measure 1: Never, 5: Always)</p>

SPECIFIC METRICS AND PERFORMANCE STANDARDS FOR THIS PARTICIPATING ADDENDUM:

Performance Objective	Performance Standard	Performance Levels	Method Of Measurement
<p>PM#3303: The State of Oregon desires to work with consultants who provide quality work when they estimate work will be completed</p>	<p>On average, deliverables are submitted when they are due</p>	<p>Exceeds Expectations: $x < -1.0$</p> <p>Satisfactory: $-1.0 \leq x \leq 0.0$</p> <p>Unsatisfactory: $x > 0.0$</p>	<p>Calculation: $Y = \text{Mean of: (Deliverable submission date – Deliverable due date)}$ In number of days</p> <p><i>Figures are rounded to the nearest single decimal place</i></p>
<p>IaaS/PaaS: PM#3101: The State of Oregon desires to work with vendors who provide the ability to Authorized Purchasers to utilize systems 24/7/365 days a year.</p>	<p>Systems Utilized by the State of Oregon for Infrastructure and Platform Services have a measured system availability of 99.95%</p>	<p>Exceeds Expectations: $\geq 99.99\%$</p> <p>Satisfactory: $99.95\% \leq x < 99.99\%$</p> <p>Unsatisfactory: $<99.95\%$</p>	<p>$Y = (\text{Agreed Service Time (in minutes) – Amount of recorded downtime (in minutes)})$ $/ \text{Agreed Service Time (in minutes)}$</p> <p>Agreed Service Time is defined as total minutes within review period minus scheduled maintenance.</p> <p><i>Figures are rounded three decimal places</i></p>
<p>IaaS/PaaS: PM#3102: The State of Oregon</p>	<p>Providers utilized by the State of Oregon</p>	<p>Exceeds Expectations:</p>	<p>$Y = (\text{Sum of the date/time of service})$</p>

desires stable and reliable systems and services with short downtimes.	will on average see service disruptions last no more than 60 Minutes.	\leq 30.0 <i>minutes</i> Satisfactory: 30.0 <i>minutes</i> < $x \leq$ 60.0 <i>minutes</i> Unsatisfactory: > 60 <i>minutes</i>	restoration – the date/time of service degradation) / Total number of degradation events <i>Figures are rounded to the nearest single decimal place</i>
SaaS: PM#5101: The State of Oregon desires our authorized purchasers to have confidence that vendors provide timely solution delivery.	Contracted SaaS providers deliver licenses to customers within 2 business days of an order being placed.	Exceeds Expectations: ≤ 1.0 Satisfactory: $1.0 < x \leq 2.0$ Unsatisfactory: >2.0	$Y = \frac{\text{The Sum of the (date delivered – the date of purchase)}}{\text{number of orders delivered.}}$

NON-CORE MEASUREMENTS RECORDED BY BASECAMP:

Performance Objective	Performance Standard	Performance Levels	Method Of Measurement
PM#9901: The State wants visibility into the utilization of its price agreements.	NON-CORE: No Defined Standard		Calculated as the count of agencies and authorized purchasers over the life of the agreement.

<p>PM#9902: The State wants visibility into the utilization of its price agreements.</p>	<p>NON-CORE: No Defined Standard</p>		<p>Calculated as the count of engagements over the life of the agreement.</p>
<p>PM#9903: The State of Oregon wants visibility on the utilization of its price agreements.</p>	<p>NON-CORE: No Defined Standard</p>		<p>Calculated as the total dollars expended over the life of the price agreement.</p>
<p>PM#9904: The State of Oregon desires to partner with and promote firms who hold Certification from the Office of Business Inclusion and Diversity (http://www.oregon4biz.com/How-We-Can-Help/COBID/)</p> <p>Basecamp also wishes to extend opportunities to firms who are</p>	<p>NON-CORE: No Defined Standard</p>		<p>Flag:</p> <ul style="list-style-type: none"> • Oregon Certified: Certified in the State of Oregon • Other Certified: [Listed certifications] • Not Certified

certified in other states or by a federal entity in certifications of Minority, Women, Emerging/Small, and/or Disadvantaged Business enterprises. (Noted with an asterisk)			
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Exhibit F – Information Security

PART I-OREGON INFORMATION SECURITY POLICIES AND STANDARDS

State of Oregon Information security Policies: <http://www.oregon.gov/das/Pages/policies.aspx#IT>

State of Oregon Statewide Security Standards:

<http://www.oregon.gov/das/OSCIO/Documents/2017%20ISO%20Standards%20Oregon.pdf>

PART II- STATE OF OREGON SECURITY PROVISIONS

Defined terms herein have the meanings set forth in the Participating Addendum unless they are also defined separately in these Information Security Provisions, in which case the meanings defined herein shall prevail. In the event of a conflict between a provision herein and a term in the Participating Addendum, the provision herein shall prevail.

1. DEFINITIONS

a. **Breach of Security.** Breach of Security has the same meaning as the term “Breach of Security” under the Oregon ID Theft Act and also includes: (i) any act or omission that compromises either the security, confidentiality, or integrity of Protected Authorized Purchaser Information or the physical, technical, administrative, or organizational safeguards put in place by Provider (or put in place by the Authorized Purchaser should Provider have access to the Authorized Purchaser Network) that relate to the protection of the security, confidentiality, or integrity of Protected Authorized Purchaser Information; and (ii) a breach or alleged breach of this Participating Addendum relating to such privacy and data security practices. Without limiting the foregoing, a compromise includes any unauthorized access to or disclosure or acquisition of Protected Authorized Purchaser Information.

b. **Contract.** The written agreement between the Authorized Purchaser and Provider which these Information Security Provisions is a part of.

c. **Internet-facing System.** Equipment or a device capable of communicating by means of the internet through a modem or other device using an applicable data protocol, such as TCP/IP or similar communications protocol.

d. **Oregon ID Theft Act.** The Oregon Consumer Identity Theft Protection Act at ORS 646A.600 et seq.

e. **PCI Data.** All credit card and account information protected under PCI Security Standards.

f. **PCI Security Standards.** Payment card industry security standards developed and managed by the PCI SSC, including the PCI Data Security Standard (PCI DSS), Payment

Application Data Security Standard (PA-DSS), and PIN Transaction Security (PTS) requirements.

- g. **PCI SSC.** The PCI (Payment Card Industry) Security Standards Council.
- h. **Personal Information.** All information defined as “Personal Information” under the Oregon ID Theft Act or any other law of similar effect, and also including any information provided to Provider by or at the direction of the Authorized Purchaser, information which is created or obtained by Provider on behalf of the Authorized Purchaser, or information to which access was provided to Provider by or at the direction of the Authorized Purchaser, in the course of Provider's performance under this Contract that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses, social security numbers and other unique identifiers); (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, user identification and account access credentials or passwords, financial account numbers, credit report information, biometric, health, genetic, medical, or medical insurance data, answers to security questions, and other personal identifiers); or (iii) a financial account number, credit card number, debit card number, credit report information, with or without any required security code, access code, personal identification number or password that would permit access to an individual's financial account.
- i. **Oregon Cooperative Purchasing Program (ORCPP):** The State of Oregon Cooperative Purchasing Program that allows its members to utilize certain Oregon State Price Agreements for goods and services. ORCPP eligible entities include cities, counties, school districts, special districts, Oregon University Systems and its individual institutions, Qualified Rehabilitation Facilities, residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, American Indian tribes and agencies of American Indian tribes, and certain qualified public benefit corporations. Also included under this membership program are state agencies not subject to ORS 279A.140 and DAS implemented Administrative Rules, such as Oregon Lottery, Treasury, Secretary of State, etc.
- j. **Authorized Purchaser.** An Agency of the State of Oregon or any ORCPP member that submits a Purchase Order to Provider.
- k. **Authorized Purchaser Network.** The Authorized Purchaser's computer systems and data processing capabilities, programs, data storage and communication capabilities, and all related equipment and devices, including any public Wi-Fi or other network provided to the Authorized Purchaser's customers, tenants and guests.
 - l. **Authorized Purchaser Business Service.** Any service, including without limitation any transportation, merchandising, property, leasing, shipping, or trade service that the Authorized Purchaser makes available to its customers, prospects and/or users, including without limitation through web sites, desktops, email, wireless devices, or from any other communications channel or other medium developed, owned, licensed, operated, hosted, or otherwise controlled by or on behalf of the Authorized Purchaser.

m. **Protected Authorized Purchaser Information:**

i. All non-public data and information, in written or other tangible form and in electronic or non-tangible form, whether or not designated as confidential, which is provided by the Authorized Purchaser to the Provider or which the Provider obtains as a result of performing this Contract, including without limitation: (a) all proprietary information of the Authorized Purchaser; (b) all information secured physically or logically through encryption or other technology; (c) all individual information, including name, address, email address, passwords, account numbers, financial information, demographic data, marketing data, credit data, or any other identification data; (d) Personal Information; (e) all information relating to a Authorized Purchaser employee's compensation, benefits, employment history, performance, and other personally identifiable employee information; (f) PCI Data; (g) all information provided to the Authorized Purchaser by third parties which the Authorized Purchaser is obligated to keep confidential; (h) all information concerning the Authorized Purchaser's research, engineering and development activities, data processing research and methods, marketing, merchandising, price data, cost data, suppliers and vendors, customers; tenants and guests; (i) any other data which is made available to Provider through the Authorized Purchaser Network and the operability and functionality of the Authorized Purchaser Network; (j) all information that reflects use of or interactions with a Authorized Purchaser Business Service, including without limitation its web sites, information concerning computer search paths, any profiles created or general usage data, cookies, tags or beacons; (k) any data otherwise submitted in the process of registering for a Authorized Purchaser Business Service, including its web sites and any data submitted during the course of using a Authorized Purchaser Business Service, including its web sites; (l) Transportation Security Administration (TSA) information; (m) all information which is required to be kept confidential or secure by federal, state or local law, statute, regulation or ordinance, (n) all information that the Authorized Purchaser treats as confidential; and (o) all information that Provider should reasonably know is confidential.

ii. Notwithstanding subsection (i) immediately above, Protected Authorized Purchaser Information excludes any information that: (a) is or becomes part of the public domain through no act or failure to act on the part of Provider; (b) is furnished to Provider by a third party without restriction on disclosure, where such third party obtained such information and the right to disclose it to the receiving party without violation of any rights which the Authorized Purchaser may have in such information; or (c) has been independently developed by Provider, before or after the execution of this Contract, without violation of any rights which the Authorized Purchaser may have in such information.

n. **Provider.** The vendor providing Services to the Authorized Purchaser, whether termed "Contractor," "Consultant," "Licensor," "Vendor" or otherwise in the Contract.

o. **Provider Personnel.** Any individuals Provider assigns to provide Services, including without limitation Provider's employees, temporary personnel, contractors, subcontractors, and other third parties under Provider's control.

p. **Removable Media.** Removable data storage media, including without limitation portable or removable hard disks, floppy disks, USB memory drives, zip disks, optical disks, CDs,

DVDs, digital film, memory cards (e.g. Secure Digital, Memory Sticks, CompactFlash, SmartMedia, MultiMediaCard, xD-Picture Card), and magnetic tape.

- q. **Services.** Any services Provider is obligated to provide to the Authorized Purchaser under the Contract.

2. **PROTECTED Authorized Purchaser INFORMATION**

a. **Nondisclosure; Use; Security Precautions.** With respect to Protected Authorized Purchaser Information, Provider shall: (i) not disclose, distribute, share, or otherwise transfer it, directly or indirectly, to any third party except as expressly provided in this Contract or as the Authorized Purchaser may expressly consent in writing; (ii) use Protected Authorized Purchaser Information only in compliance with: (1) this Contract; (2) the Authorized Purchaser's then-current privacy policies; and (3) all applicable laws (including without limitation applicable policies and laws related to spamming, privacy, and consumer protection); (iii) use Protected Authorized Purchaser Information only as required to perform this Contract; (iv) hold and maintain it in trust and confidence for the Authorized Purchaser's benefit; (v) not copy, transmit, reproduce, summarize, quote or make any commercial or other use of it, except for the Authorized Purchaser's benefit; (vi) inform all persons having access to it of the confidential nature thereof and of Provider's obligations hereunder; and (vii) take reasonable security precautions and such other actions as may be necessary to ensure that there is no use or disclosure of it in violation of this Contract.

b. **Compelled Disclosures.** To the extent required by applicable law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over Provider, Provider may disclose Protected Authorized Purchaser Information in accordance with such law or order or requirement, subject to the following conditions: As soon as possible after becoming aware of such law, order or requirement and prior to disclosing Protected Authorized Purchaser Information pursuant thereto, Provider will so notify the Authorized Purchaser in writing and, if possible, Provider will provide the Authorized Purchaser notice not less than five (5) business days prior to the required disclosure. Provider will use reasonable efforts not to release Protected Authorized Purchaser Information pending the outcome of any measures taken by the Authorized Purchaser to contest, otherwise oppose or seek to limit such disclosure by Provider and any subsequent disclosure or use of Protected Authorized Purchaser Information that may result from such disclosure. Provider will cooperate with and provide assistance to the Authorized Purchaser regarding such measures. Notwithstanding any such compelled disclosure by Provider, such compelled disclosure will not otherwise affect Provider's obligations hereunder with respect to Protected Authorized Purchaser Information so disclosed.

c. **Protection of Personal Information under the Oregon ID Theft Act**

i. **Oregon ID Theft Act.** Provider shall comply with all data protection obligations of the Oregon ID Theft Act, including the encryption of Personal Information in transit and at rest using the following standards:

1. **File Transmission and Encryption.** Provider will consult with Authorized Purchaser IT staff to approve an appropriate method for transmission and encryption of one or more source files containing Personal Information (each, a "Source

File”) to and/or from the Authorized Purchaser or any other recipient. At minimum, the approved method of transmission and encryption of Source Files will consist of: encryption in transit (e.g. secure file transfer protocol), encryption at rest (e.g. PGP); and the use of strongest feasible industry-standard non-deprecated encryption ciphers.

2. Wireless Networks. Personal Information shall be encrypted when transmitted over any wireless network.

3. Data Storage

a. Internet-facing Systems. Personal Information shall be encrypted when stored on any Internet-facing System. Source Files and other files containing Personal Information shall be removed from Internet-facing Systems as soon as possible.

b. Portable and Mobile Devices. Personal Information shall not be stored on any portable device (e.g. laptop or tablet) or any mobile device (e.g., smartphone or e-reader).

c. Backup Files. Backup files containing Personal Information that are transported or stored outside of Provider’s control shall be encrypted.

END SECTION

The following will be included when the Authorized Purchaser determines it is applicable:

d. **Protection of PCI Data**. Provider acknowledges that Provider is responsible for the security of Authorized Purchaser PCI Data to the extent that: (i) Provider possesses or otherwise stores, processes, or transmits Authorized Purchaser PCI Data on the Authorized Purchaser’s behalf; or (ii) Provider could impact the security of the Authorized Purchaser’s cardholder data environment. Provider represents and warrants that Provider understands all requirements for handling Authorized Purchaser PCI Data in compliance with PCI Security Standards. Provider shall comply with all such requirements. Provider will achieve and maintain PCI DSS compliance against the current version of the PCI DSS and will deliver to the Authorized Purchaser, when requested, a current attestation of such compliance issued by a PCI Qualified Security Assessor.

e. **Breach of Security Reporting and Remediation**

i. In the event of a Breach of Security that applies to Protected

Authorized Purchaser Information, Provider shall immediately report the Breach of Security to the Authorized Purchaser project manager and cooperate closely with the Authorized Purchaser in the investigation, reporting, remediation and resolution of the Breach of Security. Provider shall comply with the breach reporting obligations of the Oregon ID Theft Act and all applicable federal or state privacy or data protection statutes, rules, or regulations governing the Authorized Purchaser and the Services; provided, however, that prior to giving notice under the Oregon ID Theft Act or any other applicable reporting requirement, Provider shall first notify the Authorized Purchaser's point of contact under this Contract, and in any event, Provider's notice to the Authorized Purchaser shall occur within 24 hours of Provider's discovery of the breach. The Authorized Purchaser must approve the form of any notices sent by the Provider to affected individuals or to the public.

ii. Provider will also promptly report to the Authorized Purchaser project manager (but in no event more than twenty-four (24) hours after the occurrence) any Breach of Security or unauthorized access to Provider's systems that Provider detects or becomes aware of, whether or not such breach rises to a reportable level under the Oregon ID Theft Act or any other applicable reporting requirement, and whether or not the breach resulted in the loss of Protected Authorized Purchaser Information. Reportable incidents under this subsection include, without limitation, instances in which an individual accesses Provider's systems in excess of the individual's user rights, or uses the systems inappropriately.

iii. Reports under this subsection (e) must be made by telephone and subsequently via e-mail and any other delivery requirement for giving notices under the Contract. The report shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence.

iv. Provider will use diligent efforts to remedy any Breach of Security that applies to Protected Authorized Purchaser Information or other breach of security or unauthorized access in a timely manner, and will deliver to the Authorized Purchaser a root cause assessment and future incident mitigation plan with regard to any such breaches or unauthorized access.

f. **No Retention.** Provider will not gather, store, log, archive, use or otherwise retain any Protected Authorized Purchaser Information for any period longer than necessary for Provider to fulfill its obligations under this Contract. As soon as Provider no longer needs to retain Protected Authorized Purchaser Information in order to perform its duties under this Contract, Provider will promptly return or destroy or erase all originals and copies of such Protected Authorized Purchaser Information in accordance with Section 6 below.

The following will be included when the Authorized Purchaser determines it is applicable:

3. PREMISES SECURITY

a. **Authorized Personnel.** Provider shall provide to the Authorized Purchaser a list of names and contact information for all authorized individuals who will enter on Authorized Purchaser premises to perform any Services. Provider shall keep the list current

and shall not direct any individual to perform Services on Authorized Purchaser premises without first informing the Authorized Purchaser and updating the authorization list.

b. **Safety; Compliance.** Provider and Provider Personnel shall, when providing Services on Authorized Purchaser premises, conduct their activities so that Provider's equipment, working conditions, and methods are safe and without risk to health for any users of the Authorized Purchaser premises. Provider Personnel shall comply in all respects with all workplace safety and security procedures or guidelines that the Authorized Purchaser may designate from time to time. In the event that any individual Provider Personnel disregards such procedures or guidelines, or uses the Authorized Purchaser premises for purposes other than providing the Services, the Authorized Purchaser may, at its election and in addition to its other remedies at law or in equity or its other contractual remedies, request that the non-compliant individual immediately cease performing the Services or exclude such individual from Authorized Purchaser premises.

c. **Electronic Protected Authorized Purchaser Information.** The Authorized Purchaser maintains electronic Protected Authorized Purchaser Information under information security policies which include certain physical security measures when such data is removed from the premises or the Authorized Purchaser's control. For that reason, all tests and use of electronic Protected Authorized Purchaser Information must be performed using the Authorized Purchaser Network and Authorized Purchaser processes whenever possible. If Provider removes any electronic Protected Authorized Purchaser Information for processing, storage, testing or other purposes under this Contract, Provider shall take reasonable security measures to maintain control over such data and to prevent any unauthorized person from accessing or taking the data or copies thereof. Reasonable steps for the security of electronic Protected Authorized Purchaser Information include using administrative password controls for access to such data and taking steps to secure the data at least equivalent to the steps Provider takes to secure its own non-public data or to security measures set forth in any information security policy provided by the Authorized Purchaser.

d. **Investigations.** The Authorized Purchaser may, at any time, conduct a background investigation of any Provider Personnel, to determine whether any such Provider Personnel have any felony or misdemeanor convictions for offenses based on dishonesty and/or of a monetary or financial nature, including without limitation theft, fraud (credit card, bad checks or otherwise), shoplifting, forgery, counterfeiting or embezzlement, or any other misdemeanor or felony convictions related to employment. In addition, the Authorized Purchaser may, at any time and at the Authorized Purchaser's sole expense, require Provider Personnel to be fingerprinted for purposes of conducting an FBI fingerprint check. The Authorized Purchaser may remove from the engagement, and require that Provider immediately replace with a suitable and qualified individual, any Provider Personnel who fails to meet the background investigation report criteria specified above, who refuses to be fingerprinted or whose results of the FBI fingerprint check do not satisfy any requirements as determined by the Authorized Purchaser to the extent permitted by applicable law. Provider shall provide reasonable cooperation and information to the Authorized Purchaser, in connection with any such background investigation and fingerprint

check. The Authorized Purchaser shall treat the results of such background investigations and fingerprint checks as Provider's confidential information. Further, the Authorized Purchaser shall use information obtained from the background investigations and the fingerprint checks solely for the purposes of approving or disapproving the assignment of any Provider Personnel or as may be otherwise required by law.

e. **Physical Inspection.** Provider Personnel and all bags, luggage, and other containers brought on the Authorized Purchaser premises by Provider Personnel are subject to the Authorized Purchaser's reasonable inspection at any time and without notice. Any property situated on the Authorized Purchaser's premises and owned by the Authorized Purchaser, including disks and other storage media, filing cabinets or other work areas, is also subject to the Authorized Purchaser's inspection at any time with and without notice.

f. **Return of Items Containing Protected Authorized Purchaser Information.** Upon request, Provider will return to the Authorized Purchaser all Authorized Purchaser items and material in Provider's possession or control which contain any Protected Authorized Purchaser Information, and in the absence of such request, upon termination of Provider's engagement with the Authorized Purchaser. Any copies of such items or material shall also be returned.

END SECTION

The following will be included when the Authorized Purchaser determines it is applicable:

4. USE OF THE Authorized Purchaser NETWORK

a. **Access; Use.** All access by Provider to the Authorized Purchaser Network, and all password and login information, is subject to the Authorized Purchaser's access guidelines and may be set forth in a Authorized Purchaser network access policy provided to Provider. The Authorized Purchaser does not warrant that the Authorized Purchaser Network will be operational, and the fact that the Authorized Purchaser Network is not operational at any given time shall not constitute a defense to Provider's nonperformance; provided, however, that delay in delivery of any Services will be excused by a period of time equal to the time during which the Authorized Purchaser Network is non-operational, to the extent that such delay was caused solely by Provider's inability to access the Authorized Purchaser Network. Provider releases and discharges the Authorized Purchaser from all liability of any nature whatsoever arising out of Provider's use of or reliance on the Authorized Purchaser Network.

b. **Notice to Terminate Network User Accounts.** To enable the Authorized Purchaser to timely terminate access to the Authorized Purchaser Network by former users, Provider will notify the Authorized Purchaser designated contact within 24 hours from any event after which an individual Provider Personnel no longer requires access to the Authorized Purchaser Network, including without limitation: (i) any separation of employment (including without limitation termination, layoff, and resignation); or (ii) any

removal from or completion of duties requiring access to the Authorized Purchaser Network.

c. **Use of Third-Party Software.** Provider understands that the Authorized Purchaser must perform due diligence before allowing individuals other than Authorized Purchaser employees to use the Authorized Purchaser Network; and in particular, before allowing non-employees to access software products which have been licensed to the Authorized Purchaser by third parties. Provider further understands that, in the event that Provider Personnel use the Authorized Purchaser Network, the Authorized Purchaser must know which software products they will be using on the Authorized Purchaser Network, so that the Authorized Purchaser can ensure that such use is authorized under agreements with third party software licensors. Provider will provide the Authorized Purchaser with a list of the third party software products, if any, that Provider believes it must use on the Authorized Purchaser Network in order to perform the Services. Upon receiving such information from Provider the Authorized Purchaser will inform Provider whether or not the Authorized Purchaser has the right to authorize such use.

END SECTION

5. REMOTE ACCESS TO THE AUTHORIZED PURCHASER NETWORK; OFF-SITE STORAGE OF PROTECTED Authorized Purchaser INFORMATION

a. **Minimum Standards.** This Section 5 sets forth information security procedures to be established by Provider before the effective date of this Contract and maintained throughout the term of engagement. These procedures are in addition to the requirements of the Contract and present a minimum standard only. However, it is Provider's sole obligation to: (i) implement appropriate measures to secure its systems and data, including Protected Authorized Purchaser Information, against internal and external threats and risks; and (ii) continuously review and revise those measures to address ongoing threats and risks. Failure to comply with the minimum standards set forth in this Section 5 will constitute a material, non-curable breach of the Contract by Provider, entitling the Authorized Purchaser, in addition to and cumulative of all other remedies available to it at law, in equity, or under the Contract, to immediately terminate the Contract.

b. **Unauthorized Access to the Authorized Purchaser Network or Protected Authorized Purchaser Information.** Provider shall not access, and shall not permit Provider Personnel, to access the Authorized Purchaser Network or Protected Authorized Purchaser Information without the Authorized Purchaser's express written authorization. The Authorized Purchaser may revoke such written authorization subsequently at any time in its sole discretion. Further, any access shall be consistent with, and in no case exceed the scope of, any such authorization given by the Authorized Purchaser. All Authorized Purchaser authorized connectivity or attempted connectivity to the Authorized Purchaser Network or Protected Authorized Purchaser Information shall be only through the Authorized Purchaser's security gateways and/or firewalls, and in conformity with applicable Authorized Purchaser security policies.

c. **Provider Information Security Policy.** Provider shall establish and maintain a

formal, documented, mandated, Provider-wide information security program, including security policies, standards and procedures (collectively "Provider's Information Security Policy"). Provider must communicate Provider's Information Security Policy to all Provider Personnel in a relevant, accessible, and understandable form, and regularly review and evaluate it to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks.

d. **Communications and Operational Management.** Provider shall: (i) monitor and manage all of its information processing facilities, including without limitation implementing operational procedures, change management and incident response procedures; (ii) deploy adequate back-up facilities to ensure that essential business information can be promptly recovered in the event of a disaster or media failure; and (iii) ensure its operating procedures will be adequately documented and designed to protect information, computer media, and data from theft and unauthorized access.

e. **Removable Media.** Except in the context of Provider's routine back-ups or as otherwise specifically authorized by the Authorized Purchaser in writing, Provider shall institute strict physical and logical security controls to prevent transfer of Protected Authorized Purchaser Information to any form of Removable Media. Additional Removable Media requirements are set forth in subsection (f) below.

f. **Data Control; Media Disposal and Servicing.** Protected Authorized Purchaser Information: (i) may only be made available and accessible to those parties explicitly authorized under the Contract or otherwise expressly by the Authorized Purchaser in writing; (ii) if transferred across the Internet, any wireless network (e.g., cellular, 802.11x, or similar technology), or other public or shared networks, must be protected using appropriate cryptography as designated or approved by the Authorized Purchaser in writing; and (iii) if transferred using Removable Media must be sent via a bonded courier or protected using cryptography designated or approved by the Authorized Purchaser in writing. The foregoing requirements shall apply to back-up data stored by Provider at off-site facilities. In the event any hardware, storage media, or Removable Media must be disposed of or sent off-site for servicing, Provider shall ensure all Protected Authorized Purchaser Information has been "scrubbed" from such hardware and/or media using methods at least as protective as the DoD 5220-22-M Standard unless otherwise approved in writing by the Authorized Purchaser.

g. **Provider Facilities Security.** Provider facilities that process Protected Authorized Purchaser Information will be housed in secure areas and protected by perimeter security (e.g., appropriate alarm systems, the use of guards and entry badges, video surveillance, staff egress searches) that provide a physically secure environment from unauthorized access, damage, and interference. Equipment containing Protected Authorized Purchaser Information must be physically and logically secured within Provider's facilities to protect such Protected Authorized Purchaser Information from modification, theft, misuse and destruction.

h. **Provider Systems Security -- Generally.** Provider is solely responsible for all systems Provider uses to access the Authorized Purchaser Network or Protected Authorized Purchaser Information. Provider will take all reasonable measures to secure and defend its systems against "hackers" and others who may seek, without authorization, to modify or

access Provider systems or the information found therein without Provider's consent, including without limitation maintaining up-to-date anti-viral software to prevent viruses from reaching the Authorized Purchaser Network or Protected Authorized Purchaser Information through Provider's systems. Provider will periodically test its systems for potential areas where security could be breached.

i. **Provider Systems Security -- Access Control.** Provider shall implement formal procedures to control access to its systems, services, and data, including without limitation user account management procedures and the following controls:

i. Control network access to both internal and external networked services, including without limitation the use of properly configured firewalls;

ii. Use operating systems to enforce access controls to computer resources, including without limitation authentication, authorization, and event logging;

iii. Control access to applications to limit user access to information and application system functions; and

iv. Monitor all systems to detect deviation from access control policies and identify suspicious activity. Provider shall record, review and act upon all events in accordance with Provider's Information Security Policy.

j. **VPN Use.** Provider shall ensure that Provider Personnel do not use any virtual private network or other device ("VPN") to simultaneously connect machines on the Authorized Purchaser Network to any machines on any Provider or third-party systems, without: (i) using only a remote access method approved in writing and in advance by the Authorized Purchaser; (ii) providing the Authorized Purchaser with the full name of each individual who uses any such VPN and the phone number at which the individual may be reached while using the VPN; and (iii) ensuring that any computer used by Provider Personnel to remotely access the Authorized Purchaser Network will not simultaneously access the internet or any other third-party network while connected to the Authorized Purchaser Network.

k. **Business Continuation.** Provider represents, warrants, and covenants to the Authorized Purchaser that it:

(i) has and shall maintain a disaster recovery and business continuation plan that will enable Provider to provide the Services; (ii) shall test the operability of such plan at least once every 12 months and revise such plan as necessary to ensure continued operability; and (iii) shall activate such plan upon the occurrence of any event materially affecting the Authorized Purchaser's timely receipt of Services.

l. **Security Audits.** Upon ten (10) days prior written notice, Provider shall provide such auditors and inspectors as the Authorized Purchaser may from time to time designate with reasonable access to Provider's computer operating environment and other areas of support services, for the limited purpose of confirming that adequate controls and security measures are being maintained, and that Protected Authorized Purchaser Information is being safeguarded in accordance with these Information Security Provisions.

The Authorized Purchaser may conduct up to two audit and verification reviews per year and may be assisted by a third party organization. Any third party auditor retained by the Authorized Purchaser who is granted access to Provider's records pursuant to this paragraph shall, if requested by Provider, execute a confidentiality agreement in form and substance reasonably satisfactory to Provider. If the Authorized Purchaser's audit results demonstrate Provider's failure to comply with these Information Security Provisions, the Authorized Purchaser will provide Provider with written details of such failures and Provider shall correct all such failures within ninety (90) days after receipt of such notice. Provider's failure to correct all such failures within the specified time period shall constitute a breach of its obligations under this Contract.

6. RETURN OR DESTRUCTION OF PROTECTED Authorized Purchaser INFORMATION AND OTHER Authorized Purchaser ASSETS

a. **Ownership of Protected Authorized Purchaser Information.** As between the Authorized Purchaser and Provider, Protected Authorized Purchaser Information is and will remain the exclusive property of the Authorized Purchaser and, as applicable, its third party providers and licensors. Nothing contained in this Contract shall be construed as granting or conferring any right, title or interest in any Protected Authorized Purchaser Information, patent, trademark, copyright, other proprietary right, or asset that is now or subsequently owned by the Authorized Purchaser, regardless of whether such information, proprietary right, or asset is transferred to, installed on, stored, or processed through Provider's equipment, hardware, or software.

b. **Return or Destruction of Protected Authorized Purchaser Information and Other Authorized Purchaser Assets.** At any time upon the Authorized Purchaser's demand Provider will promptly return to the Authorized Purchaser or destroy all Protected Authorized Purchaser Information, files, records, documents, materials, and other items which contain any Protected Authorized Purchaser Information, and all other Authorized Purchaser assets in Provider's possession or control. Any copies thereof shall also be returned. Provider will comply with this requirement with or without a termination of the Contract. In the absence of such a demand, Provider will return or destroy all such Protected Authorized Purchaser Information and other Authorized Purchaser assets upon the termination of the Contract. Provider's failure to comply with this subsection shall be a material breach of the Contract.

c. **Hardware Return.** When returning hardware containing Protected Authorized Purchaser Information to the Authorized Purchaser, the Protected Authorized Purchaser Information shall not be removed or altered in any way. The hardware must be physically sealed and returned via a bonded courier, or as the Authorized Purchaser otherwise directs. Prior to returning

any hardware containing Protected Authorized Purchaser Information to a third party, Provider must destroy all Protected Authorized Purchaser Information on such hardware in accordance with Section 6a above, then send the Authorized Purchaser project manager a notarized

statement detailing the destruction method used, the data sets involved, the date of destruction, and the identity of the individual who performed the destruction within fifteen (15) days.

d. **Provider Bankruptcy, Etc.** The Contract is for the Authorized Purchaser's benefit. Accordingly, notwithstanding the institution of bankruptcy, receivership, insolvency, reorganization, or other similar proceedings by or against Provider under the Federal Bankruptcy Code, or any other law or regulation; or the insolvency or making of an assignment for the benefit of creditors or the admittance by Provider of any involuntary debts as they mature; or the taking of any action by Provider in furtherance of any of the foregoing, Provider will return all Protected Authorized Purchaser Information, files, records, documents, materials, and other items which contain any Protected Authorized Purchaser Information, and all other Authorized Purchaser assets in Provider's possession or control, in accordance with Section 6(b) above. Provider's assignment of the Contract without the Authorized Purchaser's prior written consent shall be a material breach of the Contract.

e. **Certification of Return or Destruction.** On the Authorized Purchaser's written request, Provider will provide a notarized written statement to the Authorized Purchaser certifying that all Protected Authorized Purchaser Information, files, records, documents, materials, and other items which contain any Protected Authorized Purchaser Information, and all other Authorized Purchaser assets in Provider's possession or control have been delivered to the Authorized Purchaser or destroyed, as requested by the Authorized Purchaser.

f. **Destruction Standard.** When required pursuant to this Section 6, Provider must destroy or erase Protected Authorized Purchaser Information in compliance with industry best practices (e.g., DoD 5220.22-M), but in no event less than the level of care set forth in the guidelines for media sanitization in NIST Special Publication 800-88, Rev. 1, unless otherwise approved in writing by the Authorized Purchaser.

7. PROVIDER PERSONNEL

a. **Qualifications.** All Provider Personnel will be duly qualified, properly trained, and capable of providing Services in a workmanlike manner at least as well as other skilled industry professionals.

b. **Location of Services and Protected Authorized Purchaser Information.** Except with the Authorized Purchaser's express written permission, the Services (including storage of Protected Authorized Purchaser Information), shall be provided solely from within the continental United States and on computing and data storage devices residing therein. In the event Provider has secured the Authorized Purchaser's permission to perform some of the Services from outside the United States, Provider will comply with the Authorized Purchaser's reasonable written security requirements made as conditions of such permission.

c. **Protections.** Provider shall screen with appropriate background checks all Provider Personnel in contact with or with access to Protected Authorized Purchaser Information or the Authorized Purchaser Network for potential security risks, and require all such individuals to sign appropriate written confidentiality/non-disclosure agreements. All

agreements with third parties involving access to Provider's systems and data, including all outsourcing arrangements and maintenance and support agreements (including facilities maintenance), shall specifically address security risks, controls, and procedures for information systems. Provider shall supply all Provider Personnel with appropriate, ongoing training regarding information security procedures, risks, and threats. Provider shall have an established set of procedures to ensure Provider Personnel promptly report actual and/or suspected Breaches of Security.

8. [RESERVED].

9. [RESERVED]

The following may be included, in the Authorized Purchaser's discretion:

10. [RESERVED]

11. TERMINATION

a. **Authorized Purchaser's Discretionary Termination.** Notwithstanding any term to the contrary in the Contract or these Information Security Provisions, the Authorized Purchaser may terminate this Contract upon written notice of not less than thirty (30) days in the event of any of the following:

i. Provider makes changes to its data protection policies which materially and adversely impair the Authorized Purchaser's use of the Services and which are objectionable to the Authorized Purchaser;

ii. Provider makes changes to its services team that do not provide the Authorized Purchaser reasonable comfort as to their competence, training, or awareness of Authorized Purchaser IT security policies and which are objectionable to the Authorized Purchaser;

iii. Provider is the subject of a Breach of Security and Provider does not provide the Authorized Purchaser with a satisfactory explanation and plan for future prevention of such breach; or

iv. Laws or regulations affecting the protection of Protected Authorized Purchaser Information change and Provider is unable or unwilling to provide satisfactory evidence that it will comply with the changes within the applicable time periods, and in any event, within a reasonable time period.

b. **Authorized Purchaser's Additional Rights to Terminate or Restrict Services.** The Authorized Purchaser reserves the right (but shall have no obligation) to take additional action, up to and including termination, in the following limited circumstances:

i. The Authorized Purchaser may modify or terminate any or all Services or restrict Provider's access to Protected Authorized Purchaser Information, the Authorized Purchaser Network, and Authorized Purchaser premises in whole or in part if, in the Authorized Purchaser's sole judgment, Provider's Services or those of Provider Personnel: (1) present a material security risk or will interfere materially with the proper continued use of Protected Authorized Purchaser Information or related services; or (2) are subject to an order from a court or governmental entity stating that such use generally or for certain

activities must stop. Where permitted under the relevant court or governmental order, the Authorized Purchaser will notify Provider of such order promptly so that Provider will have an opportunity to respond to the order. The Authorized Purchaser also will notify Provider promptly of any security risks identified and any action taken by the Authorized Purchaser with respect to such security risks.

ii. Upon notice of not less than seven (7) days and failure to cure within the notice period, the Authorized Purchaser may modify or terminate any or all Services or restrict Provider's use and access to Protected Authorized Purchaser Information, the Authorized Purchaser Network, and Authorized Purchaser premises in whole or in part if, in the Authorized Purchaser's reasonable judgment, use and access to such items: (1) violates applicable laws or governmental regulations, including without limitation consumer protection, data regulation, data privacy, data transfer and telecommunications laws; (2) violates or infringes any intellectual property right of the Authorized Purchaser or a third party; (3) violates export control regulations of the United States or other applicable countries; or (4) otherwise violates any Authorized Purchaser IT or information security policies.

c. **Effect of Termination.** Upon termination, all rights granted to Provider under the Contract terminate immediately. The Authorized Purchaser will promptly deliver to Provider written instructions for disposition of all Protected Authorized Purchaser

END SECTION

Information, items and material which contain any Protected Authorized Purchaser Information, and other Authorized Purchaser assets.

12. OTHER

a. **Application Security.** Provider will maintain and enforce information security standards in any software applications provided to the Authorized Purchaser under this Contract ("Applications") that, with respect to their interface with Protected Authorized Purchaser Information and the Authorized Purchaser Network: (i) are at least equal to industry standards for similar Applications; (ii) are in accordance with reasonable information security and network protection requirements; and (iii) provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration or unauthorized disclosure of or access to Protected Authorized Purchaser Information and the Authorized Purchaser Network. Provider will allow the Authorized Purchaser, if necessary in the Authorized Purchaser's discretion, to implement reasonable measures to secure and defend Applications against unauthorized access to Protected Authorized Purchaser Information or the Authorized Purchaser Network. Applications must allow the Authorized Purchaser to change Provider's default administrator settings, including the default password provided upon delivery, to settings of the Authorized Purchaser's designation. After acceptance, if security issues are discovered or reasonably suspected in the Applications, Provider will assist the Authorized Purchaser in performing an investigation to determine the nature of the issue.

b. **Provider's Use of Authorized Purchaser Assets.** Should the Authorized Purchaser permit Provider to use any of the Authorized Purchaser's assets such as equipment, tools, software, the Authorized Purchaser Network, or facilities during the term of the Contract, such permission shall be gratuitous and Provider shall be responsible for any injury or death to any person (including Authorized Purchaser employees) or damage to property (including the Authorized Purchaser's property) arising out of Provider's use of such assets, whether or not such claim is based upon the condition of the asset or on the Authorized Purchaser's alleged negligence in permitting Provider to use the asset.

c. **Compliance with Laws and Policies.** In addition to complying with all specific legal and operational requirements in these Information Security Provisions, Provider will comply with all applicable federal or state privacy or information protection statutes, rules, or regulations governing the Authorized Purchaser and the Services. Provider further will comply with all Authorized Purchaser data or information protection policies that the Authorized Purchaser may provide to Provider from time to time.

d. **Compliance by Others.** Provider must ensure the privacy and security of Protected Authorized Purchaser Information in permitted onward transfers. Provider will cause Provider's authorized representatives, including without limitation Provider Personnel, to comply with the provisions of these Information Security Provisions.

e. **Media Releases.** Without the Authorized Purchaser's prior written consent, Provider shall not issue or release any statement, article, advertisement, public or private announcement, media release or other similar publicity relating in any manner to any aspect of the Protected Authorized Purchaser Information, the Authorized Purchaser Network or premises, or any other Authorized Purchaser technology resource. Provider shall not use the Authorized Purchaser's name, trademark, service mark, or logo without the Authorized Purchaser's prior written consent.

f. **Injunctive Relief.** Provider acknowledges and agrees that due to the unique nature of Protected Authorized Purchaser Information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may injure the Authorized Purchaser or the individuals identified in the data, and therefore, that upon any such breach or any threat thereof, the Authorized Purchaser will be entitled to appropriate equitable and injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies the Authorized Purchaser might have at law or equity.

g. **Sanctions Control Compliance.** Provider warrants that it is not owned or controlled, directly or indirectly, by any person or government from countries that are subject to economic, trade, or transactional sanctions imposed by the United States Government, including without limitation Cuba, Iran, North Korea, Syria, or Sudan, and that neither Provider nor any of its owners, directors, officers, employees, or group companies appears on any lists of known or suspected terrorists, terrorist organizations or other prohibited persons made publicly available or published by any agency of the government of

the United States (see http://export.gov/ecr/eg_main_023148.asp) or any other jurisdiction in which the Authorized Purchaser or any of its group companies are doing business, including without limitation the List of Specially Designated Nationals and Denied Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury. Provider will notify the Authorized Purchaser immediately if these circumstances change.

h. **Revisions.** The Authorized Purchaser may revise these Information Security Provisions at its discretion, at any time on thirty (30) days advance written notice to Provider ("Notice Period"). Provider will comply with the new Information Security Provisions as revised. Provider will notify the Authorized Purchaser within the Notice Period if Provider cannot comply with the Information Security Provisions as revised, in which case the Authorized Purchaser may either: (i) terminate this Contract on thirty (30) days written notice to Provider, without incurring any penalty, early termination charge or other charges except that the Authorized Purchaser remains responsible to pay all fees due up to the effective date of the termination; or (ii) withdraw the revisions to the Information Security Provisions, in which case the last version of the Information Security Provisions before the revisions were proposed will continue to apply, and the parties will continue to perform the Contract.

Exhibit G - Independent Contractor Certification

Contractor certifies he/she meets the following standards:

1. I am registered under ORS chapter 701 to provide labor or services for which such registration is required.
2. I have filed federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, or expect to file federal and state income tax returns, for labor or services performed as an independent contractor in the previous year.
3. I will furnish the tools or equipment necessary for the contracted labor or services.
4. I have the authority to hire and fire employees who perform the labor or services.
5. I represent to the public that the labor or services are to be provided by my independently established business as four (4) or more of the following circumstances exist. **(Please check four or more of the following):**
 - A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.
 - B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership.
 - C. Telephone listing used for the business is separate from the personal residence listing.
 - D. Labor or services are performed only pursuant to written contracts.
 - E. Labor or services are performed for two or more different persons within a period of one year.
 - F. I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature: Priscilla Benavides Date: 02/07/2019