

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Computer Equipment
Administered by the State of Minnesota

MASTER AGREEMENT
Master Agreement No: MNWNC-119

Microsoft

And

State of Oklahoma by and through the Office of Management and Enterprise Services

THIS PARTICIPATING ADDENDUM (this "Addendum") is entered into effective as of August 13, 2015 (the "Effective Date") by and between the State of Oklahoma by and through the Office of Management and Enterprise Services (the "State of Oklahoma" or "Participating State/Entity") and Microsoft ("Contractor"). The State of Oklahoma and Contractor are sometimes collectively referred to herein as the "Parties." Capitalized terms used but not defined herein have the meanings ascribed to such terms in that certain Master Agreement Award among the State of Minnesota ("Lead State"), Contractor, and those states entering into a Participating Addendum thereto (the "Master Agreement").

WHEREAS, the Master Agreement is further identified as Master Agreement No. MNWNC-119 and is effective April 1, 2015 through March 31, 2017 (the Effective Date through March 31, 2017, is referred to herein as the "Effective Period");

WHEREAS, the Master Agreement contemplates that all authorized entities in any state are welcome to use the Master Agreement through WSCA-NASPO Cooperative Procurement Program (WSCA-NASPO) with the approval of such state's chief procurement official and provides that any such state reserves the right to add state-specific terms and conditions and modify the scope of the contract in such state's Participating Addendum as allowed by the Master Agreement; and

WHEREAS, this Addendum is the State of Oklahoma's Participating Addendum contemplated by the Master Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Scope:** This Addendum allows for the purchase of the following Computer Equipment/Services: Any and all Products and Services led by the Lead State along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State/Entity that are authorized by that state's statutes to utilize state/entity contracts, and which receive prior written approval of the state's chief procurement official.

The original solicitation contains the requirements and definitions establishing the following Product Bands allowed on the Master Agreement, and the Master Agreement identifies the bands awarded to the Contractor, i.e., Band 2: Laptop and Band 3: Tablet. The configuration limits and restrictions for the Master Agreement are provided with the revisions identified by the Participating State in this Participating Addendum.

2. **Participation:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state/entity contracts are subject to the prior approval of the respective state chief procurement official. Notwithstanding anything to the contrary in the Master Agreement, all issues of interpretation and eligibility for participation are solely within the authority of the state's chief procurement official.

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3. Participating State's Modifications and Additions to the Master Agreement:

Master Agreement Terms and Conditions Section A. Master Agreement Terms and Conditions, Sub-section 15. Notices is hereby modified to add the following provision:

If a party is to give notice under the Participating Addendum, all notices shall be addressed as follows:

If sent to the State of Oklahoma:

James L. Reese, II
Chief Information Officer
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

With a copy to:

ISD Deputy General Counsel
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 1. Administrative Fees is hereby modified to add the following provision:

For Oklahoma-based Purchasing Entities, Contractor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. "Contract Usage Report" shall include the following: (i) the applicable state contract number, (ii) report amount(s), (iii) reporting period covered, and (iv) the applicable state agency name(s). Contract Usage Reports shall also include usage of the Participating Addendum by any other governmental entities (i.e. county, city, etc.). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the Participating Addendum.

All Contract Usage Reports shall meet the following criteria:

- a) Must be submitted electronically in Microsoft Excel format.
- b) Reports shall be submitted quarterly regardless whether this Addendum has been used during the applicable quarterly reporting period.
- c) Must be submitted within forty-five (45) calendar days of the end of each quarterly reporting period.
- d) Quarterly reporting periods shall be as follows:
January 01 through March 31

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April 01 through June 30

July 01 through September 30

October 01 through December 31

All Contract Usage Reports shall be delivered to:

E-mail: strategic.sourcing@omes.ok.gov

For Oklahoma-based Purchasing Entities, the State of Oklahoma assesses an administrative fee in the sum of one percent (1%) on all sales transacted by any Purchasing Entity under the Participating Addendum (the "Oklahoma Admin Fee").

Contractor shall submit the Oklahoma Admin Fee on a quarterly basis. Failure to remit the Oklahoma Admin Fee quarterly may result in cancellation of the Participating Addendum. Oklahoma Admin Fees shall not be reflected as a separate line item in Contractor's billing to participating state agencies and authorized users.

Payment of the Oklahoma Admin Fee shall be made via company check payable to OMES within 60 days after the end of a quarter for Microsoft to pay the Oklahoma Admin Fee (45 days to compile and submit the report, plus 15 days thereafter to pay the Oklahoma Admin Fee).

Contractor agrees to notify OMES-ISD Procurement via the email address set forth below twenty-four (24) hours in advance of Contractor's submitting payment of the Oklahoma Admin Fee.

To ensure payment is properly accounted for, Contractor shall identify payment in the applicable Contract Usage Report as an "Administrative Fee" and shall include the following information: (i) the applicable state contract number, (ii) Oklahoma Admin Fee amount(s) paid, and (ii) the applicable quarterly reporting period.

Oklahoma Admin Fees shall be mailed to:

Office of Management and Enterprise Services

Attention: Accounts Receivable

5005 N. Lincoln Boulevard, Suite 200

Oklahoma City, OK 73105

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 5. Assignment/Subcontract is hereby modified to add the following provision:

For Oklahoma-based Purchasing Entities, Contractor shall provide written notice of any

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proposed assignment, subcontract, transfer, sublet, or delegation to the State of Oklahoma under the notice provisions contained herein (the "Notice"). The Notice shall include (i) the entity name, (ii) to the extent applicable, the employee name(s), and (iii) the nature of the products or services to be provided and/or performed by the proposed assignee, delegate, sublessee, or subcontractor. Contractor shall not assign, sell, transfer, subcontract, or sublet rights, or delegate responsibilities under the Participating Addendum to a Non-Affiliate without prior written approval of the State of Oklahoma. More specifically, with respect to subcontractors, prior to a subcontractor being utilized by Contractor in connection with provision of the products or services within its obligations herein, Contractor shall obtain written approval of the State of Oklahoma of such subcontractor, which approval shall be within the sole and absolute discretion of the applicable Purchasing Entity. The applicable Purchasing Entity further reserves the right to revoke approval of a subcontractor in instances of poor performance or misconduct, or for other similar reasons. Notwithstanding anything to the contrary herein, if Contractor is permitted to utilize subcontractors in support of this Master Agreement, Contractor shall remain solely responsible for its obligations under the terms of this Master Agreement and for its acts and omissions and those of its agents, employees and permitted subcontractors.

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 6. Cancellation is hereby modified to add the following provision:

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities, Participating State may terminate any order if funds sufficient to pay its obligations under the Participating Addendum are not appropriated by the applicable state legislature, federal government or other appropriate government entity or received from an intended third party funding source. In the event of such insufficiency, Participating State shall provide ten (10) calendar days' written notice of intent to terminate. Notwithstanding the foregoing, if a Purchasing Entity issues an order and has accepted the products and/or services under such order, the Purchasing Entity shall be obligated to pay for such products and/or services. In the event of termination of an order as provided in the foregoing, Participating State shall not be considered to be in default or breach under the Participating Addendum nor under the Master Agreement, nor shall it be liable for any further payments ordinarily due under, with respect to, related to, or arising out of such order, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 10. Delivery is hereby modified to add the following provision:

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing

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Entities, Contractor acknowledges and agrees that, pursuant to Okla. Stat. tit. 74, § 85.40, Oklahoma Purchasing Entities shall not pay Contractor any travel expenses in addition to the total price of the products and/or services purchased; therefore, Contractor shall not invoice Oklahoma-based Purchasing Entities for any travel expenses in addition to the total price of the products and/or services purchased hereunder.

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 11. Force Majeure is hereby modified to add the following provision:

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities as well as Contractor's obligations thereto, for the avoidance of doubt, the definition of force majeure shall not include, or be related to, the following occurrences:

- a. Late delivery of equipment, supplies, or materials or any oversold condition of the market; or
- b. Inability of either the Contractor or approved subcontractor to acquire or maintain any required insurance, bond, license, or permit.

If any party is delayed by an event of force majeure, said party shall promptly provide written notice of the onset of such event to the other party. The party claiming delay and/or non-performance due to such event of force majeure shall use its best efforts to continue performance to the extent possible during such event and shall resume full performance as soon as reasonably practicable..

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 12. Governing Law is hereby modified to add the following provision:

With respect to Oklahoma-based transactions and Purchasing Entities, any claims, disputes, or litigation relating to or arising out of the Master Agreement, Purchasing Addendum, or any other document related thereto (collectively, the "Contract Documents"), singularly or in the aggregate, or the execution, interpretation, performance, or enforcement thereof shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

Venue for any action, claim, dispute, or litigation relating in any way to or arising out of the Contract Documents shall be in Oklahoma County, Oklahoma.

Notwithstanding anything to the contrary herein, the State of Oklahoma is solely responsible for rendering decisions in matters of interpretation on all terms and conditions in the

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Participating Addendum.

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 18 Laws and Regulations is hereby modified to add the following provision:

For Oklahoma-based transactions and Purchasing Entities, in connection with its performance of obligations under the terms of the Participating Addendum and this Master Agreement, the Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and orders, as amended, that are, by their terms, expressly applicable to Contractor's delivery of products and/or services under the Participating Addendum and this Master Agreement and impose obligations upon Contractor in its role as an information technology products and services provider, including, but not limited to, the following:

- a) Drug-Free Workplace Act of 1988 and as implemented at 45 C.F.R. part 76, Subpart F;
- b) Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities;
- c) Title VII of the 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 and Executive Orders 11246 and 11375; and
- d) Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93.

Without limiting the generality of the foregoing, the Contractor shall, at all times during the Effective Period, be registered as a business entity licensed to do business in the State of Oklahoma, have obtained and shall maintain a sales tax permit in the State of Oklahoma, and shall be current on all franchise- and/or other business-tax payments to the State of Oklahoma, as applicable.

Master Agreement Terms and Conditions Section B. WSCA-NASPO Terms and Conditions, Sub-section 24 Payment is hereby modified to add the following provision:

As applicable, the Parties shall comply with applicable Oklahoma law with respect to invoicing and making payments hereunder. Payments for goods and services are generally due thirty (30) days after receipt of a proper invoice; provided, however, Contractor acknowledges and agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days to pay Contractor shall not constitute default hereunder nor

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entitle Contractor to late payment fees or interest. Any applicable late fees or interest incurred after forty-five (45) days of nonpayment shall be paid only in accordance with Oklahoma law.

Master Agreement Terms and Conditions Section C. Minnesota Terms and Conditions, Sub-section 2 Accessibility Standards is hereby replaced with the following provision:

For Oklahoma-based Purchasing Entities, Contractor shall comply with federal and state laws, rules and regulations related to information technology accessibility, as applicable to Contractor as the provider of information technology products and services under the Participating Addendum and this Master Agreement. Contractor documents its level of compliance with Section 508 of the Rehabilitation Act and the Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf by providing a Voluntary Product Accessibility Template ("VPAT") at the following URL: <http://microsoft.com/en-us/government/products/section-508-vpats/default.aspx#fbid=vlbo3QfBtmi>. If the products will require development or customization, the Contractor shall provide a VPAT describing such compliance without additional request by the applicable Purchasing Entity. In such case, additional requirements and documentation may be required and compliance therewith shall be required of Contractor. Such requirements may be stated in appropriate documents, including, but not limited to, state bids, requests for proposals, statements of work, riders, agreements, purchase orders and amendments. Accordingly, in each statement of work or similar document issued pursuant to this Purchasing Addendum, Contractor shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

Contractor acknowledges and agrees that all representations contained in the VPAT provided by the Contractor will be relied upon by the Purchasing Entity for accessibility-compliance purposes.

Master Agreement Terms and Conditions Section C. Minnesota Terms and Conditions, Sub-section 13 Foreign Outsourcing of Work is hereby modified to add the following provision:

With respect to Oklahoma-based Purchasing Entities, Contractor shall not store, access, nor process outside of the United States of America any data belonging to any such Purchasing Entity without the prior written approval of the Participating State/Entity, which approval may be given or withheld at the sole and absolute discretion of the Participating State/Entity.

Master Agreement Terms and Conditions Section C. Minnesota Terms and Conditions,

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Sub-section 17 Indemnification is hereby modified to add the following provision:

IN CONNECTION WITH INDEMNIFICATION OF A PURCHASING ENTITY WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, CONTRACTOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR CONTRACTOR, CONTRACTOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION.

Master Agreement Terms and Conditions Section C. Minnesota Terms and Conditions, Sub-section 18 Jurisdiction and Venue is hereby modified to replace references to "Minnesota" with "Oklahoma" and "Ramsey County" with "Oklahoma County".

Master Agreement Terms and Conditions Section C. Minnesota Terms and Conditions, Sub-section 32 State Audits is hereby modified to add the following provision:

For Oklahoma-based Purchasing Entities, as used in this clause, "records" includes invoices, statements of work, purchase order records, and such other relevant documents, regardless of whether such items are in written form, in the form of computer data, or in any other form. By accepting any purchase order from any Purchasing Entity hereunder, Contractor acknowledges and agrees that any pertinent state or federal agency shall have the right to examine and audit all records relevant to execution and performance of the Participating Addendum and this Master Agreement.

Contractor is required to retain records relative to the Participating Addendum and this Master Agreement for the duration of the Effective Period and for a period of seven (7) years following completion and/or termination of this Participating Addendum. If an audit, litigation, or other action involving such records is started before the end of such seven-year period, the records are required to be maintained for two (2) years from the date that all issues relating to or arising out of the action are resolved, or until the end of such seven (7) year retention period, whichever is later.

Master Agreement Terms and Conditions Exhibit G. Definitions is hereby modified to add the following paragraph to the end of the definition of "Purchasing Entity":

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With respect to the State of Oklahoma, the defined term "Purchasing Entity" shall include the State of Oklahoma and (a) any board, commission, committee, department or other instrumentality or entity designated to act on behalf of the State of Oklahoma or a political subdivision thereof; (b) any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act, including, without limitation, (i) any associated institution, instrumentality, board, commission, committee department, or other entity designated to act on behalf of the political subdivision; and (ii) a county or local governmental entity; and (c) entities authorized to utilize contracts awarded by the State of Oklahoma via a multistate or multi-governmental contract.

4. Primary Contacts: The primary contact individuals for this Addendum are as follows (or their named successors):

Contractor:

Name	Maria Stinson
Address	One Microsoft Way, Redmond, WA 98052
Telephone	425-538-2867
Fax	425-936-7329
E-mail	marstin@microsoft.com

Participating Entity:

Name	Jennifer McCaulla
Address	5005 N. Lincoln Blvd. Ste.200, Oklahoma City, OK 73105
Telephone	405-521-4772
Fax	
E-mail	purchasing@omes.ok.gov

5. Partner Utilization: Each state represented by NASPO ValuePoint participating in the Master Agreement independently has the option of utilizing partners. Only partners approved by this Participating State/Entity may be deployed. The Participating State/Entity will define the process to add and remove partners and may define the partner's role in this Participating Addendum. The Contractor's partners' participation will be in accordance with the terms and conditions set forth in the Master Agreement. Approved partners are allowed only upon written approval from the State of Oklahoma.

6. Terms: The Participating State/Entity agrees to the terms and conditions of the Master Agreement only to the extent the terms and conditions are not in conflict with this Addendum, applicable law, or both.

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7. Orders: Any order placed by Participating State/Entity or any Purchasing Entity for a product and/or service available through the Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions of) the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

8. Leasing: The Parties acknowledge and agree that (i) the Master Agreement provides that Participating State/Entity may enter into lease agreements if it has the authority to do so; and (ii) Participating State/Entity reserves the right, but has no obligation, to lease equipment under this Addendum and the Master Agreement upon terms and conditions mutually acceptable to the Parties.

9. Counterparts: This Addendum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Addendum. Delivery of an executed counterpart of this Addendum by electronic means, including, without limitation, by facsimile transaction or by electronic delivery in portable document format (".pdf") or tagged image file format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

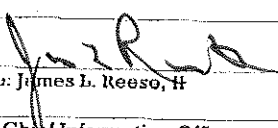
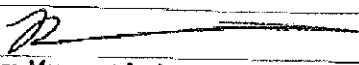
[Signature Page Follows]

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

Participating State: State of Oklahoma by and through the Office of Management and Enterprise Services	Contractor: Microsoft Corporation
By: 	By: 
Name: James L. Reeso, II	Name: Margaret Arakawa
Title: Chief Information Officer	Title: GM US M&O
Date: 8-13-15	Date: 8/7/15

For questions on executing a participating addendum, please contact:

NASPO ValuePoint	
Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@naspovaluepoint.org

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