

**Participating Addendum  
for  
COMPUTER EQUIPMENT, PERIPHERALS & RELATED SERVICES  
between  
State of Oklahoma  
and  
Apple Inc.**

This Participating Addendum is entered into by State of Oklahoma ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number 23003, executed by Contractor and the State of Minnesota for Computer Equipment, Peripherals & Related Services ("Master Agreement"):

Apple Inc. ("Contractor")  
One Apple Park Way  
Cupertino, CA 95014

**I. PARTICIPATING ADDENDUM CONTACTS.**

Contractor's contact for this Participating Addendum is:

Tim Lim  
Senior Contracts Negotiator  
tlim2@apple.com  
408-783-7379

Participating Entity's contact for this Participating Addendum is:

Chief Information Officer  
3115 N. Lincoln Blvd.,  
Oklahoma City, OK 73105

- II. TERM.** This Participating Addendum is effective as of the date of the last signature below or January 1, 2024, whichever is later, and will terminate upon termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- III. PARTICIPATION AND USAGE.** This Participating Addendum may be used by all state agencies, public or private educational institutions, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Participating Entity has sole authority to determine which additional entities authorized by state statute are eligible to use this Participating Addendum.
- IV. GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Participating Entity's laws and applicable federal laws.
- V. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to the Contractor and Participating Entity and Purchasing Entities. For the avoidance of doubt, the Master Agreement contains Minnesota statutory requirements applicable only to the Lead State. Such provisions are not applicable to any Participating Entity other than the Lead State.
- VI. SERVICES.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities. All services provided will be described in one or more of the following documents:
- a. "Services Descriptions" used to describe any services purchased by an entity;
  - b. any mutually agreed upon Statement of Work ("SOW") executed by the parties.
- VII. AMENDMENTS AND CONFLICTS.** Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto.

**Participating Addendum for  
COMPUTER EQUIPMENT, PERIPHERALS & RELATED SERVICES**

Between **State of Oklahoma** and  
**Apple Inc.**

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**Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.**

**Both Contractor and Purchasing Entity agree that Contractor is only subject to the terms in Exhibit No. 1 that: 1) are mandated by Oklahoma law, and 2) expressly contain the statutory section of such requirement. For avoidance of doubt, any terms in Exhibit No. 1 that do not contain statutory section numbers are not deemed to be mandatory by Oklahoma law.**

- VIII. ORDERS.** Purchasing Entities may place orders under this Participating Addendum by referencing the Participating Addendum Number on an Order. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to NASPO ValuePoint and Participating Entity, if applicable.

Purchasing Entities may provide with their Purchase Orders alternative or additional requirements or terms required to comply with the funding source being used by the Purchasing Entity, including requirements and terms related to the use of federal funds. If providing these additional requirements, a Purchasing Entity will clearly identify such alternative or additional requirements and terms in the Order or purchasing documentation. Contractor will evaluate such requirements and terms on a transactional basis, and may either provide its written acceptance to comply with the requirements and terms set forth therein or respond with its compliance with relevant federal requirements.

- IX. NOTICE.** Any notice required herein shall be sent to the following:

For Contractor:

Apple Inc.  
U.S. Contract Operations  
One Apple Park Way, MS/581-CNTR  
Cupertino, CA 95014  
contracts@apple.com

For Participating Entity:

Chief Information Officer  
3115 N. Lincoln Blvd.,  
Oklahoma City, OK 73105

- X. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT.** Upon execution, Contractor shall email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at [pa@naspovaluepoint.org](mailto:pa@naspovaluepoint.org). While Participating Entity will maintain the official record of this Participating Addendum, the Parties agree that this Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

## **SIGNATURE**

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

### **CONTRACTOR:**

Johnny Mendoza  
Signature  
\_\_\_\_\_  
Johnny Mendoza  
Printed Name  
\_\_\_\_\_  
Project Coordinator  
Title  
\_\_\_\_\_  
1/26/2024  
Date  
\_\_\_\_\_

### **PARTICIPATING ENTITY:**

Paul J. McIntosh  
Joe McIntosh (Jan 29, 2024 14:00 CST)  
Signature  
\_\_\_\_\_  
Paul J. McIntosh  
Printed Name  
\_\_\_\_\_  
Chief Information Officer  
Title  
\_\_\_\_\_  
01/29/2024  
Date  
\_\_\_\_\_

Any and all licensing, maintenance, or order-specific agreements referenced within the terms and conditions of the Master Agreement are agreed to only to the extent that the terms do not conflict with applicable Oklahoma law. In the event of conflict among the terms and conditions, the Participating Addendum shall take precedence.

**1. Definitions: The parties agree that, when used in the Agreement, the following terms are defined as set forth below:**

**A. Acquisition**

The term (“Acquisition”) means items, products, materials, supplies, services, and equipment a state agency acquires by purchase pursuant to the Oklahoma Central Purchasing Act.

**B. Contract Document**

The term (“Contract Document”) means this Participating Addendum, the Master Agreement, any Purchase Order and any mutually executed Addendum to any of the foregoing.

**C. Purchasing Entity**

The term (“Purchasing Entity”) shall include the State of Oklahoma (the “State”) 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 but 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; (c) entities authorized to utilize contracts awarded by the State of Oklahoma via a multistate or multi-governmental contract; and (d) public and private educational institutions.

**D. Destination**

The term (“Destination”) means delivered to the receiving dock or other point specified in the applicable Contract Document.

**E. Indemnified Parties**

The term (“Indemnified Parties”) means the State of Oklahoma and Customers, and/or their officers, agents, employees, representatives, contractors, assignees and/or designees.

**2. Limitation of Authority**

With respect to procurement transactions for Customers, Vendor shall have no authority to act for or on behalf of Customers or the State of Oklahoma, except as expressly provided for in this Agreement; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Customers or the State of Oklahoma.

### 3. Administrative Fees

Pursuant to 74 O.S. § 85.33A, 74 O.S. § 3004.1, OAC § 260:120-1-11 and OAC § 260:120-1-12, 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) Quarterly reporting periods
  - a. January through March, due April 30
  - b. April through June, due July 31
  - c. July through September, due October 31
  - d. October through December, due January 31

All Contract Usage Reports shall be delivered to:

E-mail: [strategic.sourcing@omes.ok.gov](mailto: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 net sales transacted by any Purchasing Entity under the Participating Addendum (the "Oklahoma Admin Fee"). If a lower administrative fee is agreed to in future Oklahoma Office of Management & Enterprise Services procurement agreements, (i) Oklahoma Office of Management & Enterprise Services will immediately notify Contractor of the lower administrative fee, and (ii) the administrative fee in this Participating Addendum shall be adjusted for the subsequent calendar quarters to match the lower administrative 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 provided that Contractor has been provided notice and a thirty (30) day good faith opportunity to cure such delay or failure. Oklahoma Admin Fees shall not be reflected as a separate line item in Contractor's billing to Oklahoma-based Purchasing Entities.

Payment of the Oklahoma Admin Fee shall be made via company check payable to OMES within sixty (60) calendar days from the completion of the applicable quarterly reporting period set forth above.

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  
2401 N. Lincoln, Room 206  
Oklahoma City, OK 73105

#### **4. Pricing**

- A. Pursuant to 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, Customers under the Contract that are Oklahoma state agencies are exempt from the assessment of State sales, use, and excise taxes. Further, such Customers and Customers that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Customers will provide Vendor with a tax exemption certificate upon request. Pursuant to 1978 OK 256, any taxes of any nature whatsoever payable by the Vendor shall not be reimbursed by the Customer.
- B. 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.
- C. The price to the Customer under the Participating Addendum shall include and Vendor shall prepay all shipping, packaging, delivery and handling fees. All Product deliveries will be Free on-Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

#### **5. Invoices and Payment**

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 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.

#### **6. Termination for Non-appropriation**

Pursuant to OK Const. Art. 10 § 26 and 1979 OK AG 99, of the Oklahoma Constitution, 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 fifteen (15) 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.

#### **7. Notices**

If a party is to give notice under the Participating Addendum, all notices to the State of Oklahoma shall be address as follows:

**If sent to the State of Oklahoma:**

Chief Information Officer  
3115 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

**With a copy to:**

OMES-IS Deputy General Counsel  
3115 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

#### **8. Choice of Law**

Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of the Contract Documents shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

#### **9. Choice of Venue**

Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of the Agreement, or any of the Contract Documents, shall be in Oklahoma County, Oklahoma. Further, notwithstanding any provision in the Agreement, the State does not waive the doctrine of sovereign immunity and immunity from suit to the extent authorized by the Constitution and laws of the State of Oklahoma nor any other right or defense available to the State.

**10. Reserved.**

**11. Reserved.**

**12. Reserved.**

**13. Audits and Records Clause**

**A. Reserved.**

**B.** The Vendor is required to retain applicable purchase orders and invoices necessary to properly account for Contractor's performance directly related to payments made by a Purchasing or Participating Entity relative to this Master Agreement and the Participating Addendum for the duration of five (5) years from the invoice date of the transaction under this Participating Addendum. Vendor will use commercially reasonable efforts to provide the aforementioned documents for two (2) years beyond the five (5) years referenced above.

**14. Compliance with Applicable Laws**

**A.** As long as Vendor has an obligation under the terms of the Contract and in connection with performance of its obligations, the Vendor shall comply with all applicable federal, State and local laws and rules that are expressly applicable to Contractor's delivery of products and/or services under the Participating Addendum and the Master Agreement:

- i.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. § 81 to the extent applicable to Vendor.
- ii.** 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 of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
- iii.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with debarment, suspension and other responsibility matters; but "principal" as defined at 45 C.F.R. part 76 shall mean "officer or executive director";



- iv. 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 503 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
- v. Anti-Lobbying Law set forth at 31 U.S.C. § 1325 and as implemented at 45 C.F.R. part 93;
- vi. Reserved.
- vii. Be compliant with the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. § 1312, and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. § 1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify); and
- viii. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

B. Reserved.

C. Reserved.

## 15. Employment Relationship

The Addendum does not create an employment relationship. Individuals performing Services required by the Addendum are not employees of the Purchasing Entity. The Vendor's employees shall not be considered employees of the Purchasing Entity for any purpose, and accordingly shall not be eligible for rights or benefits accruing to such employees.

## 16. Publicity

Vendor acknowledges and agrees that the existence of the Contract or any Acquisition thereunder is not in any way an endorsement by the Purchasing Entity, the Products or the Services and shall not be so construed by Vendor in any advertising or publicity materials. Vendor agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Participating Addendum wherein the name of the Purchasing Entity is mentioned, or language used from which the connection of the Purchasing Entity therewith may, in the State's judgment, be inferred or implied as an endorsement. Vendor further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices without obtaining the prior written approval of the State.

## 17. Open Records Act

Vendor acknowledges that Purchasing Entity is subject to the Oklahoma Open Records Act, 51 O.S. § 24A.1. Vendor also acknowledges that such Purchasing Entity will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act, no Contract provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

**18. Reserved.**

**19. Assignment and Permitted Subcontractors**

- A. Should Vendor assign its rights to payment, in whole or in part, under the Addendum, Vendor shall provide the State of Oklahoma with written notice of the assignment. Such written notice shall contain details sufficient for the Participating Entity to perform its payment obligations without any delay caused by the assignment.
- B. Reserved.
- C. All payments under the Addendum shall be made directly to the Vendor, except as provided in Section A above regarding the Vendor's assignment of payment.

**20. Failure to Enforce**

Failure by the State or a Customer, as applicable, at any time to enforce a provision of, or exercise a right under, the Addendum shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Addendum at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Addendum.

**21. Mutual Responsibilities of the Parties**

- A. Neither the State nor the Vendor grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B. The Addendum is a non-exclusive contract, and each party is free to enter into similar agreements with others.
- C. The Customer and Vendor each grant the other only the licenses and rights specified in the Addendum and all other rights and interests are expressly reserved.
- D. The State and Vendor shall reasonably cooperate with each other.

- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by either Customer, the State or the Vendor is required under the Addendum, such action shall not be unreasonably delayed or withheld.

## **22. Reserved.**

## **23. Miscellaneous**

### **A. Severability**

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect.

### **B. Section Headings**

The headings used in any Contract Document are intended for convenience only and do not constitute terms of the contract.

### **C. Sovereign Immunity**

Notwithstanding any provision of any Contract Document, the State does not waive its sovereign immunity or immunity from suit.

### **D. Survival**

Rights and obligations under the Addendum which by their nature should survive remain in effect after expiration or termination of the contract.

### **E. Entire Agreement**

The Contract Documents taken together as a whole constitute the entire agreement between a Purchasing Entity and Contractor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid.

## **24. State Specific IT Terms**

### **A. Compliance and Electronic and Information Technology Accessibility**

Apple's VPATs identify how Apple products provided through this Master Agreement comply with Section 508 Standards. Apple's VPATs can be located at the following address: <https://support.apple.com/accessibility/vpat>.

**B. Offshore Services**

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. Notwithstanding, this section shall not prohibit Contractor from providing Order related administration and/or support services available from its global locations outside of the United States.