

Participating Addendum Number: 1
for
Facilities MRO and Industrial Supplies
Administered by the State of Kentucky
between
W W Grainger Inc
and

State of Oklahoma by and through the Office of Management and Enterprise Services
(OK SW Contract No. 0817NVP-Facilities Maintenance Repair and Operations (MRO))

This Participating Addendum ("Addendum") is entered into by the State of Oklahoma by and through the Office of Management and Enterprise Services ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number MA 758 2500000413, executed by Contractor and the State of Kentucky ("Lead State") for Facilities MRO and Industrial Supplies ("Master Agreement"):

Contractor Name: W.W. Grainger, Inc.

Contractor Address: 4314 Will Rogers Parkway, Oklahoma City, Oklahoma 73108, United States

PARTICIPATING ADDENDUM CONTACTS:

Contractor's contact for this Participating Addendum is:

Name: Bart Brown

Title: Government Sales Manager

Email: christopher.carroll@grainger.com

Phone: 918-200-5692

Participating Entity's contact for this Participating Addendum is:

Name: Darlene Saltzman

Title: Procurement Specialist CPO II

Email: Darlene.Saltzman@omes.ok.gov

Phone: 405-521-6667

- I. **TERM.** This Participating Addendum is effective as of the date of the last signature below, 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.
- II. **PARTICIPATION AND USAGE.** This Participating Addendum may be used by all state agencies, 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 entities are eligible to use this Participating Addendum. If Contractor becomes aware that an entity's use of this Participating Addendum is not authorized, Contractor will notify NASPO ValuePoint to initiate outreach to the appropriate parties.
- III. **GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Oklahoma's laws.



IV. 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 Contractor and Participating Entity and Purchasing Entities.

- a. Products.** All products available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
- b. Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
- c. Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum. Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum.

Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum. The terms of this Participating Addendum, including those modifying or adding to the terms of the Master Agreement, apply only to the Parties and shall have no effect on Contractor's participating addenda with other participating entities or Contractor's Master Agreement with the Lead State.

V. ORDERS. Purchasing Entities may place orders under this Participating Addendum by referencing the Participating Addendum Number and/or a Statewide contract 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.

VI. PARTICIPATING ENTITY REPORTING REQUIREMENTS AND ADMINISTRATIVE FEE.

- a.** See Attachment A, Section 3; Oklahoma Specific Terms and Conditions

VII. FEDERAL FUNDING REQUIREMENTS. Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. By accepting the Order, Contractor agrees to comply with the requirements set forth therein.

VIII. ATTACHMENTS. This Participating Addendum includes the following attachments:

- a.** Attachment A: Oklahoma Specific Terms and Conditions.

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



For Contractor:

Name: Bart Brown

Title: Government Sales Manager

Email: christopher.carroll@grainger.com

Phone: 918-200-5692

For Participating Entity:

Name: Darlene Saltzman

Title: Procurement Specialist CPO II

Email: Darlene.Saltzman@omes.ok.gov

Phone: 405-521-6667

- X. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT.** Upon execution, Contractor shall promptly email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. The Parties acknowledge and agree that the 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:

**STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES:**

Signature: Bart Brown
Bart Brown (Oct 1, 2024 10:24 CDT)

Name: Bart Brown

Title: Government Sales Manager

Date: Oct 1, 2024

Signature: Amanda Otis
Amanda Otis (Oct 1, 2024 10:40 CDT)

Name: Amanda Otis

Title: State Purchasing Director

Date: Oct 1, 2024



Attachment A

OKLAHOMA SPECIFIC TERMS AND CONDITIONS

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 the terms of the Addendum, and to the extent the terms are not in conflict with applicable Oklahoma law. In the event of conflict among the terms and conditions, the Addendum shall take precedence.

1. Definitions: The parties agree that, when used in the Addendum, 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, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act.

B. Contract Document

The term ("Contract Document") means this Addendum, any statement of work, work order, or other similar ordering document related hereto and executed by the Contractor and the State of Oklahoma, as applicable; any purchase order related hereto; other mutually agreed documents; and any amendment 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, 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.

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 Purchasing Entities, and/or their officers, agents, employees, representatives, contractors, assignees and/or designees.



2. Limitation of Authority

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

3. Administrative Fees

- A.** 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 statewide 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.
- B.** 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 of whether this Addendum has been used during the applicable quarterly reporting period.
 - c) Quarterly reporting periods
 - a. January 01 through March 31, due April 30
 - b. April 01 through June 30, due July 31
 - c. July 01 through September 30, due October 31
 - d. October 01 through December 31, due January 31
- C.** All Contract Usage Reports shall be delivered to:
- E-mail: strategic.sourcing@omes.ok.gov
- D.** 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").
- E.** 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 the Office of Management and Enterprise Services ("OMES") within forty-five (45) calendar days from the completion of the applicable quarterly reporting period set forth above.

Contractor agrees to notify OMES Procurement via the email address set forth below twenty-four (24) hours in advance of Contractor's submitting payment of the Oklahoma Admin Fee. If Contractor is interested in electronic payment they may send inquires to the email address below.



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.

Strategic.Sourcing@omes.ok.gov

Oklahoma Admin Fees shall be mailed to:
Office of Management and Enterprise Services
P.O. Box 248984
Oklahoma City, OK 73124-8984

4. Pricing

- A.** Pursuant to 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, Purchasing Entities under the Addendum that are Oklahoma state agencies are exempt from the assessment of State sales, use, and excise taxes. Further, such Purchasing Entities and Purchasing Entities that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Purchasing Entities will provide Contractor with a tax exemption certificate upon request. Any taxes of any nature whatsoever payable by the Contractor 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 Contractor shall prepay all shipping, packaging, delivery and handling fees. All Product deliveries will be Free on Board Customer's Destination.. Per section VIII of the Master Agreement – section 8 Shipping Terms. All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Additional shipping charges, as defined by the carrier, for oversized or overweight items that require special shipping are allowed but must be identified as part of the ordering process

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

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities, Participating Entity 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 Entity 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 Entity 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:

State Purchasing Director
2401 N. Lincoln Blvd., Second Floor
Oklahoma City, Oklahoma 73105

With a copy to:

Purchasing Division Deputy General Counsel
2401 N. Lincoln Blvd., Second Floor
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 Addendum, or any of the Contract Documents, shall be in Oklahoma County, Oklahoma. Further, notwithstanding any provision in the Addendum, 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. Conflict of Interest

In addition to any requirement of law or through a professional code of ethics or conduct, the Contractor, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Further, as long as the Contractor has an obligation under the Addendum, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State.



11. Force Majeure

Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. In the event that a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, a Purchasing Entity may terminate a purchase order if Contractor cannot cause delivery of Products or Services in a timely manner to meet the business needs of the Purchasing Entity.

12. Invalid Term or Condition

To the extent any term or condition in the Participating Addendum conflicts with an applicable Oklahoma and/or United States law or regulation, such Addendum term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, Purchasing Entity makes no representation or warranty regarding the enforceability of such term or condition and Purchasing Entity does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the Addendum term or condition.

13. Audits and Records Clause

- A.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Contractor agrees any pertinent federal or State agency or governing entity of a Purchasing Entity shall have the right to examine and audit all records relevant to the execution and performance of the Addendum except costs of Contractor that comprise pricing under the Addendum, unless otherwise agreed.
- B.** The Contractor is required to retain records relative to the Addendum for the duration of the Addendum and for a period of seven (7) years following completion or termination of an Acquisition. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

14. Compliance with Applicable Laws

- A.** As long as Contractor has an obligation under the terms of the Addendum and in connection with performance of its obligations, the Contractor shall comply with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- (i) Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. § 81.
 - (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;
 - (iv) 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;
 - (v) Anti-Lobbying Law set forth at 31 U.S.C. § 1325 and as implemented at 45 C.F.R. part 93;
 - (vi) Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Circular A-133 with approval and work paper examination rights of the applicable procuring entity;
 - (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; 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.** The Contractor shall maintain all applicable licenses and permits required in association with its obligations under the Addendum.
- C.** As applicable, Contractor agrees to comply with Governor's Executive Order 2012- 01, effective August 06, 2012, which prohibits the use of any tobacco product on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.

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 Contractor'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

Contractor acknowledges and agrees that the existence of the Addendum 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 Contractor in any advertising or publicity materials. Contractor 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. Contractor 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

Contractor acknowledges that Purchasing Entity are subject to the Oklahoma Open Records Act. Contractor 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 Addendum specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act, no Addendum provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

18. Confidentiality

- A.** The Contractor shall maintain strict security of all State data and records entrusted to it or to which the Contractor gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as needed by Contractor for performance of its obligations under the Addendum. The Contractor further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. If Contractor utilizes a subcontractor, Contractor shall obtain specific written assurance, and provide a copy to the State, that the subcontractor shall maintain this same level of security of all data and records entrusted to or accessed by the subcontractor and agree to the same obligations as Contractor, to the extent applicable. Such written assurance may be set forth in the required subcontractor agreement referenced herein.
- B.** No State data or records shall be provided, or the contents thereof, disclosed to a third party unless specifically authorized in advance to do so in writing by the State Purchasing Director, the individual with administrative control over a Customer or in compliance with a valid court order. The Contractor shall immediately forward to the State and the State Purchasing Director any request by a third party for data or records in the possession of the Contractor or any subcontractor or to which the Contractor or subcontractor has access and Contractor shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

19. Assignment and Permitted Subcontractors



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- A. Contractor's obligations under the Addendum may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Contractor assign its rights to payment, in whole or in part, under the Addendum, Contractor shall provide the State 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. If the Contractor is permitted to utilize subcontractors in support of the Addendum, the Contractor shall remain solely responsible for its obligations under the terms of the Addendum and for its actions and omissions and those of its agents, employees and subcontractors. Any proposed subcontractor shall be identified by entity name, and by employee name if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by the Contractor, the Contractor shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Contractor. Such approval is within the sole discretion of the State. As part of the approval request, the Contractor shall provide a copy of a written agreement executed by the Contractor and subcontractor setting forth that such subcontractor is bound by and agrees to perform, as applicable, the same covenants and be subject to the same conditions, and make identical certifications to the same facts and criteria, as the Contractor under the terms of all applicable Contract Documents. Contractor agrees that maintaining such agreement with any subcontractor and obtaining prior approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State of Oklahoma further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
 - C. All payments under the Addendum shall be made directly to the Contractor, except as provided in Section A above regarding the Contractor's assignment of payment. No payment shall be made to the Contractor for performance by unapproved or disapproved employees of the Contractor or a subcontractor.

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 Contractor 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 Contractor 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 Contractor shall reasonably cooperate with each other and any contractor to which Products and/or Services under the Addendum may be transitioned after termination or expiration of the Addendum.
- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by either Customer, the State or the Contractor is required under the Addendum, such action shall not be unreasonably delayed or withheld.

22. Indemnification

A. Acts or Omissions

Contractor shall indemnify and hold harmless the Indemnified Parties, as applicable, from any and all liability, including costs, expenses and attorney fees, for actions, claims, demands and suits arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct of the Contractor or its agents, employees, or subcontractors in the execution or performance of the Addendum.

B. Coordination of Defense

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; PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, CONTRACTOR SHALL CONTINUE TO BE OBLIGATED TO INDEMNIFY THE PARTICIPATING ENTITY AND, TO THE EXTENT APPLICABLE, ANY AND ALL PURCHASING ENTITIES, IN ACCORDANCE WITH AND TO THE EXTENT CONTRACTOR PROVIDES SUCH INDEMNITY UNDER THE MASTER AGREEMENT.

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

As applicable, performance under all license, subscription, service agreements and other similar Contract Documents entered into between Contractor and any Customer under the terms of the Addendum shall survive expiration or termination of the contract. Additionally, rights and obligations under the Addendum which by their nature should survive including, but not limited to, payment obligations invoiced prior to expiration or termination; confidentiality obligations and indemnification remain in effect after expiration or termination of the Addendum.

E. Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between a Customer 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. Compliance and Electronic and Information Technology Accessibility

Contractor shall comply with federal and State laws, rules and regulations related to information technology accessibility, as applicable, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at <https://oklahoma.gov/omes/divisions/information-services/about-information-services/policy-and-standards/information-and-communication-technology-accessibility-standards.html> and shall provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If Products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Contractor. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. Accordingly, in each statement of work or similar document issued pursuant to the 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.



25. 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.