

Participating Addendum

NASPO ValuePoint DATA COMMUNICATIONS PRODUCTS AND SERVICES 2019 - 2026

Master Agreement No: AR3189 (“Master Agreement”)

Cradlepoint, Inc. and

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

State of Oregon Statewide Price Agreement Number: 1623

This Participating Addendum to the above referenced Master Agreement (“Participating Addendum”) is made and entered into by and between the State of Oregon (“State”) acting by and through its Department of Administrative Services, Procurement Services (“DAS PS”) and Cradlepoint, Inc., a Delaware corporation (“Contractor”) and is dated and effective as of the date of last party signature below.

SECTION 1: SCOPE AND ORDER OF PRECEDENCE

- 1.1 Scope and Purpose.** This Participating Addendum establishes a price agreement between Contractor and DAS PS pursuant to ORS 279A.200 et seq. for the benefit of state agencies and members of the Oregon Cooperative Purchasing Program (“Purchasing Entities”) for the acquisition of Data Communication Products and Services (“Products” and “Services”).
- 1.2 Products and Services.** The Data Communication Products and Services offered under this Participating Addendum and any related pricing are described in Exhibit A attached hereto.
- 1.3 Contracts.** From time to time, Purchasing Entities may submit Purchase Orders to Contractor to purchase the Data Communication Products and Services available under this Participating Addendum as specified in the Purchase Order. Each such Purchase Order, in combination with the terms and conditions set forth or referenced herein and in the Master Agreement, will form a contract between the Purchasing Entity submitting the Purchase Order and Contractor to provide the Data Communication Products and Services described in the Purchase Order (each, a “Contract”), separate and distinct from other Contracts entered into by the same or other Purchasing Entities. 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.

If Purchasing Entity enters into a Contract that includes the purchase of Services, the Contract may also include a Statement of Work describing those Services. Such a Statement of Work will, when attached to the applicable Purchase Order, become part of the Contract for the Data Communication Products and Services, described in the Purchase Order.

- 1.4 State of Oregon Contract 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 Purchasing Entities. As set forth in Section 12 of the

Master Agreement and subject to the provisions of Exhibit B attached to this Participating Addendum, the provisions of the Master Agreement apply to this Participating Addendum and each Contact, and Purchasing Entities are entitled to rely upon all the representations and warranties and shall have the same rights, responsibilities and benefits under their Contracts as the Lead State has in the Master Agreement, including but not limited to , any indemnity or right to recover any costs as such rights are defined in the Master Agreement and this Participating Addendum.

- 1.5 Lease Agreements and Alternative Financing Methods.** Section 45 of the Master Agreement permits leasing and alternative financing methods. Leasing and alternative financing methods are approved for use under this Participating Addendum. The terms and conditions of the lease or financing arrangement will be separately negotiated and set forth in an agreement between the Contractor and Purchasing Entity.
- 1.6 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 will terminate as of the date that the Master Agreement terminates. The expiration or termination of this Participating Addendum will not affect any then current Contract, which will have the term set forth therein.
- 1.7 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 and any preprinted Contractor forms, product guides or descriptions, terms and conditions on Contractor’s website, browse-wrap, shrink-wrap, click-wrap or any other non-negotiated terms or conditions, the following order of precedence applies:
- 1.7.1 This Participating Addendum, less its exhibits;
 - 1.7.2 Exhibit H – Federal Terms and Conditions;
 - 1.7.3 Exhibit B - Contract Terms and Conditions;
 - 1.7.4 Exhibit F - State of Oregon Information Security Terms;
 - 1.7.5 Exhibit A – Products and Services; Pricing
 - 1.7.6 The Master Agreement, including its attachments;
 - 1.7.7 Exhibit C – Additional Required Insurance;
 - 1.7.8 Exhibit E – Vendor Management Performance Standards and Metrics;
 - 1.7.9 Exhibit D – Volume Sales Report and Vendor Collected Administrative Fee;
 - 1.7.10 Exhibit G – Independent Contractor Certification
 - 1.7.11 Any preprinted Contractor forms, product guides or descriptions, terms and conditions on Contractor’s website, browse-wrap, shrink-wrap, click-wrap or any other non-negotiated terms or conditions
- 1.8 Not Exclusive.** The Participating Addendum is not exclusive. Purchasing Entities may purchase products and services that are the same or similar to those described in the Participating Addendum from any other source, and Contractor may furnish such products or services to any

third party, provided Contractor may not sacrifice the quality or availability of the Data Communication Products and Services provided to Purchasing Entities pursuant to this Participating Addendum for the benefit of another customer of Contractor.

1.9 Subcontractors. The State of Oregon at its sole discretion reserves the right to select the Subcontractors/Fulfillment Partner(s) to include into the Participating Addendum. The State of Oregon may require Subcontractors/Fulfillment Partner(s) to submit business information as part of their inclusion in the Participating Addendum.

1.9.1 Contractor's Fulfillment Partners, as defined in the Master Agreement, authorized in the State of Oregon, as shown on the dedicated Contractor's Fulfillment Partner Matrix, are approved to provide sales and service support to the State of Oregon, e.g. for direct order taking, processing, fulfillment or provisioning. The Fulfillment Partners' participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement and this Participating Addendum.

1.9.2 The State of Oregon will look solely to the Contractor for the performance of all contractual obligations, and the Contractor shall not be relieved for the nonperformance of any Subcontractors including Fulfillment Partners. Contract requirements such as websites, reporting, etc. are the responsibility of the Contractor. Contractor must provide Subcontractors including Fulfillment Partners education and guidance on use of the Master Agreement and Participating Addendums.

1.9.3 Subject to approval of the State of Oregon, Contractor may propose to add or remove Fulfillment Partners at any time during the term of this Participating Addendum to provide sales and services support upon thirty (30) business days advance written notice. Contractor will be the sole point of contract responsibility.

SECTION 2: PARTICIPATION

2.1 Eligible Entities. The following entities are authorized to acquire Products and Services pursuant to this Participating Addendum:

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.

ORCPP MEMBERS. 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 that are members of the Oregon Cooperative Purchasing Program ("ORCPP").

2.2 Sales to UnPurchasing Entities. 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 eligible entity,

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: <https://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx>

2.4 Liability for Non-State Purchasing Entities. Contractor acknowledges and agrees that the State shall bear no liability with respect to Contracts entered into between Contractor and Purchasing Entities that are not State Agencies; the State expressly disclaims any liability for non-state Purchasing Entities. With regard to Purchasing Entities 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 Data Communication Products and Services and the resulting contractual relationship, if any, with each such contracting party.

SECTION 3: SELECTING PROVIDER; ORDERS.

3.1 Selecting a Contractor. DAS PS has awarded multiple Participating Addenda under this Data Communication Products and Services solicitation. If a Purchasing Entity wishes to acquire Products and Services that are offered by more than one contractor currently a party to a Participating Addendum with the State of Oregon, then the Purchasing Entity may issue a request for quotes to each contractor that provides the Products and Services sought by the Purchasing Entity. Each such request for quotes will: (i) identify the Products and Services Purchasing Entity seeks to purchase; (ii) the time period for responses; (iii) the evaluation criteria the Purchasing Entity will use to select a contractor; and (iv) any other matters particular to the Purchasing Entity's current needs.

The Purchasing Entity 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 Purchasing Entity given the needs of the Purchasing Entity in the particular circumstance. If the Purchasing Entity chooses to purchase any Products and Services based on the request for quotes and responses received, the Purchasing Entity shall issue a notice of intent to award and will advise all contractors of how and when an Affected Offeror may protest the award. After the protest period has expired, the Purchasing Entity may enter into a Contract as set forth in this Participating Addendum.

3.1.1 Purchasing Entities may place orders directly and only through Contractor's approved Fulfillment Partners or through Contractor for Products or Services as authorized under this Participating Addendum. Contractor must be signature party on any Authorized Purchaser orders executed through authorized Fulfillment Partners. Only those Fulfillment Partners approved and listed during the term of Participating Addendum on Contractor's Fulfillment Partner Matrix are authorized to directly provide quotes, receive Purchase Orders or Contracts, invoice Customers, and receive payment from Purchasing Entities on Contractor's behalf.

3.1.2 Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for an Authorized Purchaser. The approved Fulfillment

Partners will not offer less favorable pricing discounts than the contract discounts established by Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to Authorized Purchaser, and such additional discounts if offered, may be provided in the discretion and as the sole legal obligation of the approved Fulfillment Partner to the Authorized Purchaser. Contractor is not responsible for any discount promised by a Fulfillment Partner, nor is Contractor liable for any damages arising from the failure of a Fulfillment Partner to honor any promised discount, beyond the base level discounts set forth in the Master Agreement.

3.1.3 In the event a Fulfillment Partner refuses to honor any promises, negotiations, or representations made to Participating State, Contractor shall cooperate with and assist Participating State to the extent it is able in its reasonable efforts to enforce the promises, negotiations, or representations of the Fulfillment Partner.

3.2 Purchase Order Form. Purchasing Entities 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 3.4.

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 Purchasing Entity and its authorized representative; itemization of the Products and Services ordered under the terms of the Participating Addendum; delivery schedules in accordance with the terms of the Participating Addendum; and service location and invoicing address. State Agencies also may attach Statements of Work to the Purchase Order(s) describing Services to be provided by the Contractor pursuant to Section 1.3.

3.3.1 **Threshold.** Purchasing Entities that are agencies of the State of Oregon under DAS procurement authority may issue ordering instruments under this Participating Addendum for any amount without further delegation of procurement authority from DAS PS, provided the ordering instrument does not change the terms and conditions of this Participating Addendum. If, however, the ordering instrument contains a Statement of Work or in any way changes the terms and conditions set forth in this Participating Addendum and the value of such Products and/or Services exceeds \$150,000, then the state agency Purchasing Entity must either obtain delegation from DAS PS or submit the ordering instrument to DAS PS for review and approval.

3.3.2 Notwithstanding the foregoing DAS delegation, Purchasing Entities that are agencies of the State of Oregon must obtain all other necessary approvals, including but not limited to legal sufficiency approval, as may be required.

- 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 3.4 must be on the front page of each Purchase Order submitted to Contractor by an ORCPP Purchasing Entity for Products and Services ordered under the Participating Addendum.

Mandatory ORCPP Purchase Order Language:

THIS PURCHASE IS PLACED AGAINST STATE OF OREGON PARTICIPATING ADDENDUM # 1623. 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: PRICING; VOLUME SALES REPORT; VENDOR COLLECTED ADMINISTRATIVE FEE.

- 4.1 Pricing.** The pricing or mechanism for establishing the price for the Data Communication Products and Services available under this Participating Addendum is set forth in Exhibit A.
- 4.2 Cost Savings.** Contractor shall pass on to Purchasing Entities the benefit of any cost savings realized through, for example, lower transport and storage costs, energy savings, and increased use of automation. Nothing in this Section 4.2 shall limit DAS PS' ability to negotiate with the Contractor with respect to other cost saving options that may be realized for Purchasing Entities.
- 4.3 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 5: ACCOUNT TEAM; PRIMARY CONTACTS; OREGON VENDOR MANAGEMENT PROGRAM

- 5.1 Account Team and Regular Meetings.** Contractor will provide an account team located within the Pacific Northwest and capable of being in Salem, Oregon, for on-site meetings (or as otherwise agreed) 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 who 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 Data Communication Products and 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.

5.2 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.

5.3 Authorized Representatives. The parties will keep and maintain current at all times an authorized representative for administration of this Participating addendum. The authorized representatives for this Participating Addendum are as follows:

Contractor Contact:

Name	Stephanie Wildman, NIGP-CPP, CPPB
Address	1111 W. Jefferson St, Suite 400
	Boise, ID 83702
Telephone	(208) 493-5040
E-mail	stephanie.wildman@cradlepoint.com

State of Oregon Participating Addendum Administrator:

Name	Debbie Davis, State Procurement Analyst
Address	1225 Ferry Street, U140
	Salem, OR 97301-4285
Telephone	(971) 707-1100
E-mail	debbie.m.davis@oregon.gov

5.4 Oregon Vendor Management Program. This Participating Addendum is a State of Oregon Basecamp contract and subject to the oversight of the State's Vendor Management Program. The State values relationships with vendors and its purchasing partners and believes that through interaction and collaboration government and the IT sector can make a meaningful difference. The Vendor Management Program provides tools and information to help users make better- informed decisions on what they buy, and who they buy it from. The Vendor Management Program was designed to ensure that the products and services provided meet the quality the State's stakeholders expect. The Vendor Management Program monitors and manages performance within the following areas:

- **Data Transparency.** Includes public posting (i.e. on Oregon.gov website) of performance, pricing, market share, customer reviews, contract information, vendor contacts, and announcements.
- **Performance Measurement.** Measure performance on a regular basis in relation to agreed upon quality levels of key outcome areas. These areas include: Cost Management, Technology Management, Compliance and Risk Management, Relationship Management and Strategic Partnership. Measurements may be calculated based on data collected from the successful vendor, customer survey developed by the Office of the State Chief Information Officer, internal data collection measures, third party tools, or a combination of any of the foregoing.
- **Due Diligence Review.** Review and analysis of vendor answers on Due Diligence Worksheet to determine overall risk. Successful vendors provide updates of key indicators and proof of compliance or achievement to demonstrate continual progress towards risk mitigation.

- **Performance Management.** Successful vendors engage in regularly recurring business and performance reviews in which a balanced scorecard is reviewed, and any necessary performance improvement plans are drafted. Successful vendors also engage with vendor management to discuss opportunities for greater alignment of operations to improve core outcomes.
- **Issue Resolution.** When issues arise, parties will follow the issue resolution process, which may include the development and implementation of a performance improvement plan, overseen by the Vendor Management Program.

During the term of this Participating Addendum and each Contract entered into hereunder, Contractor shall, at all times, comply with:

- 5.4.1 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:
https://www.oregon.gov/basecamp/Documents/Basecamp_New_Contractor_Onboarding_Guide.pdf ; and
- 5.4.2 The performance requirements set forth in Exhibit E.

SECTION 6: PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT

Attached hereto as Exhibits B, C, D, E, F, G, and H are additional State of Oregon Specific Terms and Conditions applicable to the Products and Services. And, as necessary, Purchasing Entities may include additional terms and conditions in their individual Statements of Work for Services, provided, however, that any such additional terms and conditions in a Statement of Work will not modify the provisions of this Participating Addendum.

SECTION 7: OREGON INFORMATION SECURITY; DATA PROTECTION

All purchases of Products and Services under this Addendum are subject to the provisions of Exhibit F, State of Oregon Information Standards, to the extent those provisions are applicable, and to any other data privacy or security provisions designated by the Purchasing Entity.

Contractor's data retention policy is found at:

<https://customer.cradlepoint.com/s/article/Business-Practices>. Contractor shall send DAS PS written notice of any change to the policy. If the change materially adversely affects Purchasing Entity's use of the Products or Services, Purchasing Entity may terminate any Contract without incurring any early termination charge.

SECTION 8: PARTICIPATING ADDENDUM REPRESENTATIONS AND WARRANTIES:

- 8.1 Authority; Binding Obligation.** Contractor represents and warrants that Contractor has the power and authority to enter into and provide the Products 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. To the

extent Contractor provides any third-party Products or has subcontractors provide Services under this Addendum, Contractor shall make all agreements between Contractor and such third-party providers or subcontractors subject to the terms and conditions of this Addendum and shall ensure that such third-party providers or subcontractors adopt and agree to the terms and conditions set forth in this Addendum.

- 8.2 Authority in Oregon.** 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.
- 8.3 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.
- 8.4 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.
- 8.5 Liquidated Debt.** Contractor represents and warrants that it has no undisclosed liquidated and delinquent debt owed to the State or any agency, board, commission, department or division of the State.
- 8.6 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:
- 8.6.1 All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - 8.6.2 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;
 - 8.6.3 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
 - 8.6.4 Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- 8.7 Intellectual Property Non-Infringement.** Contractor represents and warrants that Products and Services 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 Purchasing Entity'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.

- 8.8 Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Master Agreement. All warranties provided in the Master Agreement, this Participating Addendum and a Contract are cumulative, and will be interpreted expansively so as to afford DAS PS and each Purchasing Entity the broadest warranty protection available.

SECTION 9: RECORDS AND AUDITS

- 9.1 Access to Records.** Contractor shall maintain all fiscal records relating to 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"). DAS PS and its duly authorized representatives shall have 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 ten (10) years, 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.
- 9.2 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) the Products and Services, (2) the business of Contractor relating to the Products and 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.
- 9.3 Fee Audits.** State Auditors may audit the charges and fees charged to Purchasing Entities ("Charges") to determine if such Charges are accurate and in accordance with this Participating Addendum and each Contract. Upon 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 a Purchasing Entity, DAS PS will notify Contractor of the amount of such overcharge and Contractor will promptly pay to the Purchasing Entity 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

Purchasing Entity.

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 Products and Services and to ensure 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 used to provide the Products and 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 an Purchasing Entity's receipt of the Products and 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.

9.5 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.

9.6 Cooperation with Audits. Contractor shall cooperate at its own expense with any entity, including Governmental Authorities, conducting audits of DAS PS or any Purchasing Entity related to the Data Communication Products and Services provided under this Participating Addendum that are conducted pursuant to law.

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

SECTION 10: JURISDICTION AND VENUE

10.1 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.

10.2 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.

10.3 ORCPP Members Venue; Consent to Jurisdiction. Any Claims between Contractor and an ORCPP Purchasing Entity 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 Purchasing Entity resides, or at Purchasing Entity's option, within such other county as Purchasing Entity 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 Purchasing Entity'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 Purchasing Entity to the jurisdiction of any court.

SECTION 11: COMPLIANCE WITH LAWS

11.1 Compliance with Law Generally. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Participating Addendum and each Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the 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 Participating Addendum and each Contract and required by law to be so incorporated. Purchasing Entity'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.

11.2 Federal Terms and Conditions. In addition to the general provisions in Section 11.1, Contractor shall comply with the terms and conditions set forth in Exhibit H, as may be applicable to a Contract.

11.3 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 Purchasing Entity under this Participating Addendum, any Contract, or any other provision of law.

11.4 Compliance with Oregon Tax Laws. The obligations set forth in this Section 11.3 apply only with respect to this Participating Addendum, and Contracts to which a State Agency is a party.

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 as described in Section 8.6. Any violation of this section is a material breach of the Participating Addendum and each Contract, and entitles DAS PS or Purchasing Entity to terminate the Participating Addendum or the Contract, to pursue and recover any and all damages that arise from the breach and the termination of the Participating Addendum or Contract, and to pursue any or all of the remedies available under the Participating Addendum or Contract, at law, or in equity, including but not limited to:

- Termination of the Participating Addendum or Contract, in whole or in part;
- Garnish or exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Purchasing Entity's setoff right, without penalty; and
- Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Purchasing Entity shall be entitled to recover any and all damages suffered as the result of Contractor's breach of the Participating Addendum or 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 DAS PS or Purchasing Entity may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

11.5 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.

11.6 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 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 12: INSURANCE; LIABILITY; INDEMNITIES

12.1 Insurance. Contractor shall maintain, at a minimum, insurance coverages required by Exhibit C hereto. Purchasing Entity 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.

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

12.3 Limits on Indemnity; Defense.

12.3.1 Limits on DAS PS or Purchasing Entity Indemnification. To the extent DAS PS or Purchasing Entity is required under the Participating Addendum or a Contract 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.

12.3.2 Defense of Claims. To the extent Contractor is required under this Participating Addendum or a Contract (including under the terms of the Master Agreement) to defend, indemnify, or both, the State against claims asserted by third parties, DAS PS or the state agency Purchasing Entity 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 13: GENERAL:

13.1 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.

- 13.2 Survival.** The following provisions shall survive termination or expiration of the Participating Addendum: warranty, access to records, audits, indemnification, governing law, venue, consent to jurisdiction, and remedies.
- 13.3 Assignment; Subcontract; Successors.** Except that Contractor is authorized to utilize subcontractors to perform webhosting for that portion of the Product that is provided subject to a nonexclusive subscription license, 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. Further, no such written approval 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.
- 13.4 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 Purchasing Entity 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.
- 13.5 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.
- 13.6 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 Purchasing Entities subject to ORS 279.555.
- 13.7 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.
- 13.8 Notices.** All notices required under the Participating Addendum shall be in writing and addressed to the Party's authorized representative identified in Section 5.3 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.
- 13.9 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.

- 13.10 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 14: CERTIFICATIONS

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

- 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;
- 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;
- Certifies that the information provided on the attached Exhibit G, Independent Contractor Certification, is true and correct as of the Effective Date;
- 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 <https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>;

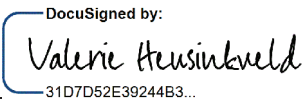
- Contractor is bound by and will comply with all requirements, terms and conditions contained in this Participating Addendum and each Contract; and
- Contractor is not a nonresident alien as defined in 26 USC § 7701(b) (1).

SECTION 15: SIGNATURES

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

AGREED:

Cradlepoint, Inc.

By:  _____
31D7D52E39244B3...
 Title: Chief Financial Officer
 Date: 5/26/2021

THE STATE OF OREGON, acting
 by and through the Department of
 Administrative Services, Procurement Services

By: Debbie Davis
 Title: State Procurement Analyst
 Date: 5/28/2021

THE STATE OF OREGON, acting by and through
 the Enterprise Information Services

By: Terrence Woods via email dated 5/28/2021
 Title: State Chief Information Officer
 Date: 5/28/2021

Approved pursuant to ORS 291.047

By: Karen Johnson via email dated 05/25/2021
 Senior Assistant Attorney General
 Matter No. 107090, GF 0601-20

Exhibit A - Products and Pricing

See NASPO Master Agreements: AR3189

Cradlepoint, Inc.

The Products and Services offered under the Master Agreement, as may be amended from time to time (the Master Agreement and amendment(s) to the Master Agreement referred to herein as “Master Agreement”) may be procured under this Participating Addendum.

<https://www.naspo.valuepoint.org/portfolio/data-communications-2019-2026/cradlepoint-inc/>

Exhibit B - Contract Terms and Conditions

This Exhibit sets forth the terms and conditions that apply to and are incorporated in each Contract between a Purchasing Entity and Contractor entered into under 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 a Purchasing Entity 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. TERM

1.1. Contract Term. Each Contract shall have the Contract Term set forth in the Contract (together with any Contract Extension Terms, the "Contract Term").

1.2. 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. PAYMENTS. All payments are subject to ORS 293.462.

3. SERVICE LEVELS; SERVICE LEVEL CREDITS.

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

4. DISPUTE RESOLUTION

4.1. 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.

4.2. ORCPP Members Venue; Consent to Jurisdiction. Any Claims between Contractor and an ORCPP Purchasing Entity 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 Purchasing Entity resides, or at Purchasing Entity's option, within such other county as Purchasing Entity 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 Purchasing Entity'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 Purchasing Entity to the jurisdiction of any court.

5. CONFIDENTIAL INFORMATION AND DISCLOSURE

- 5.1. 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 Purchasing Entity may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law. If Purchasing Entity 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 Purchasing Entity 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 Purchasing Entity 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 Purchasing Entity, disclosure shall only be made consistent with and to the extent allowable under law.
- 5.2. 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 Purchasing Entity.
- 5.3. Trade Secrets.** Contractor shall label the information and documentation qualifying as trade secrets under ORS 192.345(2) that it wishes to protect from disclosure to third parties with the following: "This data constitutes a trade secret under ORS 192.345(2) and is not to be disclosed except as required by law." Purchasing Entity will take reasonable measures to hold in confidence all such labeled information and documentation. Provided, however, Purchasing Entity 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 Purchasing Entity 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).

5.4. Requests for Disclosure. Contractor shall notify Purchasing Entity 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 Purchasing Entity Data. Contractor shall not respond to subpoenas, service of process, and other legal requests related to the Purchasing Entity without first notifying the affected party unless prohibited by law from providing such notice.

6. CONTRACT REPRESENTATIONS AND WARRANTIES

7. REMEDIES AND TERMINATION OF CONTRACT

7.1. Remedies for Default. In addition to any other remedies provided in the Master Agreement or Participating Addendum, including any rights of termination, the following remedies are available for a breach of the Contract:

7.1.1. Purchasing Entity Remedies.

7.1.1.1. In the event Contractor is in 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

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

7.1.2. **Contractor's Remedies.** In the event Purchasing Entity 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 Products and Services, the total fees earned for Products and 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 Purchasing Entity upon written demand.

7.2. Termination

7.2.1. **Termination by Purchasing Entity.** In addition to any other remedies available to Purchasing Entity, Purchasing Entity may terminate the Contract as follows:

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

- 7.2.1.2. **Convenience.** For convenience with ninety (90) calendar days written notice to the Contractor;
- 7.2.1.3. **Legal Prohibition.** If Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the performance of the Data Communication Products and Services under the Contract are prohibited, the Purchasing Entity is prohibited from paying for such Data Communication Products and Services from the planned funding source, or if otherwise directed by a regulatory authority;
- 7.2.1.4. **Breach.** If Contractor is otherwise in material breach of any provision of the Contract and such breach is not cured within fifteen (15) calendar days of the date of written notice of such breach to Contractor; or
- 7.2.1.5. **As Otherwise Set Forth in Contract.** Purchasing Entity may terminate the Contract as otherwise set forth in the Contract.

7.3. Termination by Contractor. In addition to any other remedies available to Contractor under the Contract, Contractor may terminate the Contract if Purchasing Entity is in default under Section 7.2, and fails to cure such breach within forty-five (45) calendar days of the effective date of its written notice to Purchasing Entity identifying the alleged default.

7.4. Transition Upon Termination or Expiration of Contract. Upon termination or expiration of any Contract, at the sole request of Purchasing Entity and upon the parties' execution of an amendment to the Contract, Contractor will continue to provide the Data Communication Products and 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 shall remain in effect during a Transition Period. There shall be no minimum usage or volume commitments during any such Transition Period.

7.5. 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, each party will (i) cease referring to the other party and any of its Data Communication Products and Services in public oral or written communications, (ii) do such things as are necessary to disable Contractor's direct and indirect connectivity to Purchasing Entity 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 Purchasing Entity all information of any kind concerning Purchasing Entity.

Exhibit C – Insurance

Contractor shall obtain, at Contractor's expense the insurance specified in this Exhibit C prior to performing under this Participating Addendum, and shall maintain it in full force and at its own expense throughout the duration of this Participating Addendum, 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 DAS PS. 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. Purchasing Entities may request additional coverage, as necessary.

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 Participating Addendum. 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 Purchasing Entity 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 \$3,000,000 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 Participating Addendum 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 Participating Addendum. 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 twenty-four (24) 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 Participating Addendum, for a minimum of twenty-four (24) months following the later of (i) Contractor's completion and DAS PS' and each Purchasing Entity's acceptance of all Services required under this Participating Addendum, or, (ii) The expiration of all Warranty Periods provided under this Participating Addendum.

4. CERTIFICATE(S) AND PROOF OF INSURANCE.

Contractor shall provide to DAS PS Certificate(s) of Insurance for all required insurance before delivering any goods or performing any Services required under this Participating Addendum. 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 DAS PS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Participating Addendum.

5. NOTICE OF CHANGE OR CANCELLATION.

Contractor or its insurer must endeavor to provide at least 30 (thirty) calendar days' written notice to DAS PS 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 DAS PS under this Participating Addendum and to meet updated requirements as agreed upon by Contractor and DAS PS.

Exhibit D

VOLUME SALES REPORT AND VENDOR COLLECTED ADMINISTRATIVE FEE

SECTION 1: Volume Sales Report (“VSR”)

1.1 DAS VOLUME SALES REPORT (VSR)

Pursuant to the process defined by DAS PS found at:

<https://www.oregon.gov/das/Procurement/Documents/VSRandVCAFIInstructions.docx>

Contractor shall submit a Volume Sales Report (VSR) to DAS PS on a quarterly basis; the quarterly report is due no later than thirty (30) calendar days from the end of the quarter. (For purposes of this Addendum, quarters end March 31, June 30, September 30 and December 31.) Upon written notice from DAS PS, **Contractor shall submit the VSR on a monthly basis no later than five (5) business days from the end of the preceding month, as directed by DAS PS.** The VSR will contain:

- Complete and accurate details of all receipts (sales and refunds) for the reported period; and
- Such other information as DAS may reasonably request.

Contractor is responsible for timely reporting and shall submit a VSR whether or not there are sales. When no sales have been recorded for the reporting period, a report must be submitted stating “**No Sales for the Reporting Period**”.

1.2 VENDOR COLLECTED ADMINISTRATIVE FEE (VCAF)

1.2.1 Pursuant to the process defined by DAS PS and published at <https://www.oregon.gov/das/Procurement/Documents/VSRandVCAFIInstructions.docx>. Contractor shall submit a Vendor Collected Administrative Fee (VCAF), as directed by DAS PS. The VCAF is a charge equal to Two Percent (2.0%) of Contractor’s Gross total sales, less any credits, made to Purchasing Entities during the reporting period.

1.2.2 Contractor may not reflect the VCAF fee as a separate line item charge to Purchasing Entities Contractor’s prices must reflect all Contractor’s charges to Purchasing Entities.

1.2.3 Contractor is responsible for timely payment of the VCAF, regardless of entity that actually reports or makes VCAF payment to DAS. The form of payment must be specifically approved by the Contract Administrator. Late payments from Contractor will accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full.

1.3 AUDIT

DAS PS, as its own expense (except as provided herein), shall have the right during regular business hours, at Contractor's premises, and upon reasonable notice, by itself or by a person authorized by it, to audit Contractor's Records, as defined herein, and other pertinent data, to determine and verify the figures reported in any VSRs furnished by Contractor. In the event that any such audit reveals underpayment of administrative fees, Contractor shall immediately pay the amount of deficiency, together with interest thereon at the rate provided in Section 1.2.3. At DAS PS' request, Contractor shall pay the reasonable cost of an audit, but only if such audit reveals that an underpayment may exist as determined by DAS PS.

EXHIBIT E

VENDOR MANAGEMENT PERFORMANCE STANDARDS AND METRICS

Contractor shall, at all times, comply with all performance requirements and expectations specified in the Vendor Management Program’s Contractor Onboarding Guide and the Performance Standards and Metrics set forth in this Participating Addendum, Exhibit E, or in any Contract. The Onboarding Guide is found at:

https://www.oregon.gov/basecamp/Documents/Basecamp_New_Contractor_Onboarding_Guide.pdf

Contractor shall ensure that the performance of any of its Fulfillment Partners that make sales under this Participating Addendum is consistent with the Performance Standards and Metrics outlined in Exhibit E. Contractor shall communicate steps taken to return Fulfillment Partners not in compliance with said performance requirements to compliant status to the Basecamp Program, as requested.

Subject to the provisions and procedures set forth in the Onboarding Guide, below are the general and specific performance standards and metrics applicable to Contractor’s performance under this Participating Addendum.

Performance Objective	Performance Standard	Performance Levels	Method Of Measurement
GENERAL PERFORMANCE METRICS AND STANDARDS:			
PM#3301: The State of Oregon desires to work with Contractors who support the State’s and Purchasing Entity’s data initiatives and operational practices.	Contractor 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	Contractor 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 Contractor receives four concurrent Satisfactory statuses Contractor is upgraded to Exceeds Expectations.
PM#4101: The State of Oregon desires its Purchasing Entities to have positive experiences when working with Basecamp Contractors.	Contractors 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> Where: A Promoter is a respondent who responded with a score of 9 or 10

			<p>A Detractor is a respondent who responded with a score between 1 and 6.</p> <p>Sample Survey Question: “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 Purchasing Entities to see the Basecamp Catalog and its price agreements are of the highest quality.</p>	<p>Contractors maintain a mean score of 3 out of 5</p>	<p>Exceeds Expectations: $x > 4.0$ Satisfactory: $3.0 \geq x < 4.0$ Unsatisfactory: $x < 3.0$</p>	<p>Calculation: $Y = \text{Mean response value over a rolling 4 periods}$ <i>Figures are rounded to the nearest single decimal place.</i></p> <p>Sample Survey Question: “In thinking about your most recent purchase with [Contractor], 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 Contractors who are able to respond to and react to Purchasing Entity requests.</p>	<p>More than 80% of issues raised to the Basecamp program are resolved in a manner that is acceptable to the Purchasing Entity.</p>	<p>Exceeds Expectations: $x \geq 90\%$ Satisfactory: $80\% \leq x < 90\%$ Unsatisfactory: $x < 80\%$</p>	<p>Calculation: $Y = \text{Percent of responses that are greater than or equal to 3} - \text{Percent of responses that are less than 3}$ <i>Figures are rounded to the nearest whole percentage point.</i></p> <p>Sample Survey Question: “Thinking about your recent issue, please indicate your level of acceptability as it relates to the resolution?” using a 5 point semantic differential scale (1: Unacceptable through 5: Acceptable)</p>
<p>PM#1303: The State of Oregon desires an agreement in which Purchasing Entities are given upfront and transparent prices, both before the engagement begins and on the invoice before they make payment.</p>	<p>All (100%) reviewed invoices detail prices, quantities, and total by line-item. For services this includes rates, positions, and hours as applicable.</p>	<p>Exceeds Expectations: $x = 100\%$ Satisfactory: $95\% \leq x < 100\%$ Unsatisfactory: $x < 95\%$</p>	<p>Calculation: Percent of quotes with corresponding invoices that detail costs broken down by item or service including all deliverables.</p> <p><i>Figures are rounded to the nearest whole percentage point.</i></p>

<p>PM#4103: The State of Oregon desires Contractors to price their products and services competitively and show they provide value.</p>	<p>Contractors maintain a mean score of 3.5 out of 5</p>	<p>Exceeds Expectations: $x \geq 4.5$ Satisfactory: $3.5 \leq x < 4.5$ Unsatisfactory: $x < 3.5$</p>	<p>Calculation: Y = Mean response value over a rolling 4 periods <i>Figures are rounded to the nearest single decimal place.</i> Sample Survey Question: “Please rate your level of agreement when thinking about your most recent purchase with [CONTRACTOR]: 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 Contractors to provide high quality, skilled, and customer service oriented key persons to participate on Purchasing Entities contracts.</p>	<p>Contractors maintain a mean score of 3 out of 5</p>	<p>Exceeds Expectations: $x \geq 4.0$ Satisfactory: $3.0 \leq x < 4.0$ Unsatisfactory: $x < 3.0$</p>	<p>Calculation: Y = Mean response value over a rolling 4 periods <i>Figures are rounded to the nearest single decimal place.</i> Sample Survey Question: “In thinking about your most recent purchase with [CONTRACTOR], please rate the satisfaction with the persons employed by [CONTRACTOR]?” (1: Unsatisfied through 5: Satisfied)</p>
<p>PM#4302: The State of Oregon desires to work with Contractors who provide timely response to Purchasing Entities requests</p>	<p>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.</p>	<p>Exceeds Expectations: $x \geq 4.0$ Satisfactory: $3.0 < x < 4.0$ Unsatisfactory: $x \leq 3.0$</p>	<p>Calculation: Y = Mean response value over a rolling 4 periods <i>Figures are rounded to the nearest single decimal place.</i> Sample Survey Question: “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# 4303: The State of Oregon desires that Purchasing Entities have</p>	<p>Contractors notify Contract Administrator and Vendor Management</p>	<p>Monitored; not rated.</p>	<p>Contract Administrator and Vendor Management Program receive,</p>

<p>access to valid sales and account contact information at all times for Contractors and approved Fulfillment Partners. Contractors must maintain Account Contact information and Fulfillment Partner lists up-to-date.</p>	<p>Program of any changes to Account Contact or Fulfillment Partner contact information via email and confirm receipt of the communication to preempt reports of invalid contact information.</p>		<p>investigate and aggregate confirmed reports of unsuccessful attempts to contact Contractor or approved Fulfillment Partners, and facilitate issue resolution as needed.</p>
<p>PM# 5102: The State of Oregon desires that Contractors demonstrate the value generated from services purchased by Purchasing Entities.</p>	<p>Contractors work with Purchasing Entities to identify suitable Key Performance Metrics, performance reporting methods and deliverable cadence according to Purchasing Entities' business needs.</p>	<p>Monitored; not rated.</p>	<p>Contract Administrator and Vendor Management Program receive, investigate and aggregate confirmed reports from Purchasing Entities of challenges related to performance reporting practices, and facilitate issue resolution as needed.</p>
<p>PM# 9905: The State of Oregon desires that Contractors minimize disruptions to business activities related to mergers and acquisitions (M&A's) to ensure business continuity for Purchasing Entities.</p>	<p>Contractors notify affected Purchasing Entities, Contract Administrator and Vendor Management Program of impending M&A's via email and established communication methods with Purchasing Entities within 30 days of public announcement, and confirm receipt of communications. Contractors make reasonable effort to minimize impact to Purchasing Entities' business activities.</p>	<p>Monitored; not rated.</p>	<p>Contract Administrator and Vendor Management Program receive, investigate and aggregate confirmed reports of disruptions to Purchasing Entities' business activities related to M&A's, and facilitate issue resolution as needed.</p>

Exhibit F - Information Security

PART I-OREGON INFORMATION SECURITY POLICIES AND STANDARDS

Contractor shall comply with the following Information Security Policies and Standards as applicable to the Products and Services:

- State of Oregon Information Security Policies:
<http://www.oregon.gov/das/Pages/policies.aspx#IT>
- State of Oregon Statewide Security Standards:
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>
- The HIPAA Security Rule set forth at 45 CFR Part 160 and Subparts A and C of Part 164;
- 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;
- The Family Educational Rights and Privacy Act of 1974, as amended;
- 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
- The Oregon Consumer Information Protection Act (ORS 646A.620 et seq.);
and
- Any other laws, rules, regulations or other legal authority set forth elsewhere in this Participating Addendum or in a Contract.

PART II- STATE OF OREGON SECURITY PROVISIONS

Contractor shall comply with the following Security Provisions as applicable to the Products and Services:

1. DEFINITIONS

a. **Breach of Security.** Breach of Security has the same meaning as the term "Breach of Security" under the Oregon Consumer Information Protection Act and also includes: (i) any act or omission that compromises either the security, confidentiality, or integrity of Protected Purchasing Entity Information or the physical, technical, administrative, or organizational safeguards put in place by Provider (or put in place by the Purchasing Entity should Provider have access to the Purchasing Entity Network) that relate to the protection of the security, confidentiality, or integrity of Protected Purchasing Entity 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 Purchasing Entity Information.

b. **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.

c. **Oregon Consumer Information Protection Act.** The Oregon Consumer Information Protection Act at ORS 646A.600 et seq.

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

e. **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.

f. **PCI SSC.** The PCI (Payment Card Industry) Security Standards Council.

g. **Personal Information.** All information defined as “Personal Information” under the Oregon Consumer Information Protection Act or any other law of similar effect, and also including any information provided to Provider by or at the direction of the Purchasing Entity, information which is created or obtained by Provider on behalf of the Purchasing Entity, or information to which access was provided to Provider by or at the direction of the Purchasing Entity, in the course of Provider's performance under a 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.

h. **Purchasing Entity Network.** The Purchasing Entity'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 Purchasing Entity's customers, tenants and guests.

i. **Purchasing Entity Business Service.** Any service, including without limitation any transportation, merchandising, property, leasing, shipping, or trade service that the Purchasing Entity 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 Purchasing Entity.

j. **Protected Purchasing Entity 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 Purchasing Entity to the Provider or which the Provider obtains as a result of performing a Contract, including without limitation: (a) all proprietary information of the Purchasing Entity; (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 Purchasing Entity employee's compensation, benefits, employment history, performance, and other personally identifiable employee information; (f) PCI Data; (g) all information provided to the Purchasing Entity by third parties which the Purchasing Entity is obligated to keep confidential; (h) all information concerning the Purchasing Entity'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 Purchasing Entity Network and the operability and functionality of the Purchasing Entity Network; (j) all information that reflects use of or interactions with a Purchasing Entity 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 Purchasing Entity Business Service, including its web sites and any data submitted during the course of using a Purchasing Entity 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 Purchasing Entity treats as confidential; and (o) all information that Provider should reasonably know is confidential.

ii. Notwithstanding subsection (i) immediately above, Protected Purchasing Entity 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 Purchasing Entity may have in such information; or (c) has been independently developed by Provider, before or after the execution of a Contract, without violation of any rights which the Purchasing Entity may have in such information.

k. **Provider.** The vendor providing Services to the Purchasing Entity, whether termed "Contractor," Consultant," "Licensor," "Vendor" or otherwise in the Contract.

l. **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.

m. **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.

2. PROTECTED PURCHASING ENTITY INFORMATION

a. **Nondisclosure; Use; Security Precautions.** With respect to Protected Purchasing Entity Information, Provider shall: (i) not disclose, distribute, share, or otherwise transfer it, directly or indirectly, to any third party except as expressly provided in a Contract or as the Purchasing Entity may expressly consent in writing; (ii) use Protected Purchasing Entity Information only in compliance with: (1) a Contract; (2) the Purchasing Entity'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 Purchasing Entity Information only as required to perform a Contract; (iv) hold and maintain it in trust and confidence for the Purchasing Entity's benefit; (v) not copy, transmit, reproduce, summarize, quote or make any commercial or other use of it, except for the Purchasing Entity'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 a 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 Purchasing Entity 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 Purchasing Entity Information pursuant thereto, Provider will so notify the Purchasing Entity in writing and, if possible, Provider will provide the Purchasing Entity notice not less than five (5) business days prior to the required disclosure. Provider will use reasonable efforts not to release Protected Purchasing Entity Information pending the outcome of any measures taken by the Purchasing Entity to contest, otherwise oppose or seek to limit such disclosure by Provider and any subsequent disclosure or use of Protected Purchasing Entity Information that may result from such disclosure. Provider will cooperate with and provide assistance to the Purchasing Entity 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 Purchasing Entity Information so disclosed.

c. **Protection of Personal Information under the Oregon Consumer Information Protection Act**

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

1. ***File Transmission and Encryption.*** Provider shall use 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 Purchasing Entity or any other recipient. At minimum, the 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 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. Intentionally Omitted.

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

d. Breach of Security Reporting and Remediation

i. In the event of a Breach of Security that applies to Protected Purchasing Entity Information, Provider shall immediately report the Breach of Security to the Purchasing Entity project manager and cooperate closely with the Purchasing Entity in the investigation, reporting, remediation and resolution of the Breach of Security. Provider shall comply with the breach reporting obligations of the Oregon Consumer Information Protection Act and all applicable federal or state privacy or data protection statutes, rules, or regulations governing the Purchasing Entity and the Services; provided, however, that prior to giving notice under the Oregon Consumer Information Protection Act or any other applicable reporting requirement, Provider shall first notify the Purchasing Entity's point of contact under a Contract, and in any event, Provider's notice to the Purchasing Entity shall occur within 48 hours of Provider's discovery of the breach.

ii. Provider will also promptly report to the Purchasing Entity project manager (but in no event more than forty-eight (48) 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 Consumer Information Protection Act or any other applicable reporting requirement, and whether or not the breach resulted in the loss of Protected Purchasing Entity 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 Purchasing Entity Information or other breach of security or unauthorized access in a timely manner, and will deliver to the Purchasing Entity a root

cause assessment and future incident mitigation plan with regard to any such breaches or unauthorized access.

e. **No Retention.** Provider will not gather, store, log, archive, use or otherwise retain any Protected Purchasing Entity Information for any period longer than necessary for Provider to fulfill its obligations under a Contract. As soon as Provider no longer needs to retain Protected Purchasing Entity Information in order to perform its duties under a Contract, Provider will promptly return, destroy, or erase all originals and copies of such Protected Purchasing Entity Information in accordance with Provider's data retention policy and applicable law.

3. PREMISES SECURITY

a. **Authorized Personnel.** Provider shall provide to the Purchasing Entity a list of names and contact information for all authorized individuals who will enter on Purchasing Entity premises to perform any Services. Provider shall keep the list current and shall not direct any individual to perform Services on Purchasing Entity premises without first informing the Purchasing Entity and updating the authorization list.

b. **Safety; Compliance.** Provider and Provider Personnel shall, when providing Services on Purchasing Entity 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 Purchasing Entity premises. Provider Personnel shall comply in all respects with all workplace safety and security procedures or guidelines that the Purchasing Entity may designate from time to time. In the event that any individual Provider Personnel disregards such procedures or guidelines, or uses the Purchasing Entity premises for purposes other than providing the Services, the Purchasing Entity 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 Purchasing Entity premises.

c. **Electronic Protected Purchasing Entity Information.** The Purchasing Entity maintains electronic Protected Purchasing Entity Information under information security policies which include certain physical security measures when such data is removed from the premises or the Purchasing Entity's control. For that reason, all tests and use of electronic Protected Purchasing Entity Information must be performed using the Purchasing Entity Network and Purchasing Entity processes whenever possible. If Provider removes any electronic Protected Purchasing Entity Information for processing, storage, testing or other purposes under a 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 Purchasing Entity 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 Purchasing Entity.

d. **Investigations.** The Purchasing Entity may, at any time, conduct a background

investigation of any Provider Personnel where Provider Personnel are accessing Purchasing Entity's premises, 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 Purchasing Entity may, at any time and at the Purchasing Entity's sole expense, require Provider Personnel to be fingerprinted for purposes of conducting an FBI fingerprint check. The Purchasing Entity 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 Purchasing Entity to the extent permitted by applicable law. Provider shall provide reasonable cooperation and information to the Purchasing Entity, in connection with any such background investigation and fingerprint check. The Purchasing Entity shall treat the results of such background investigations and fingerprint checks as Provider's confidential information. Further, the Purchasing Entity 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 Purchasing Entity premises by Provider Personnel are subject to the Purchasing Entity's reasonable inspection at any time and without notice. Any property situated on the Purchasing Entity's premises and owned by the Purchasing Entity, including disks and other storage media, filing cabinets or other work areas, is also subject to the Purchasing Entity's inspection at any time with and without notice.

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

4. USE OF THE PURCHASING ENTITY'S NETWORK

a. **Access; Use.** All access by Provider to the Purchasing Entity Network, and all password and login information, is subject to the Purchasing Entity's access guidelines and may be set forth in a Purchasing Entity network access policy provided to Provider. The Purchasing Entity does not warrant that the Purchasing Entity Network will be operational, and the fact that the Purchasing Entity 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 Purchasing Entity Network is non-operational, to the extent that such delay was caused

solely by Provider's inability to access the Purchasing Entity Network. Provider releases and discharges the Purchasing Entity from all liability of any nature whatsoever arising out of Provider's use of or reliance on the Purchasing Entity Network.

b. **Notice to Terminate Network User Accounts.** For Provider Personnel who have access to Purchasing Entity's premises for purpose of providing support Services, Provider will notify the Purchasing Entity designated contact within 24 hours from any event after which an individual Provider Personnel no longer requires access to the Purchasing Entity 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 Purchasing Entity Network to enable the Purchasing Entity to timely terminate access to the Purchasing Entity Network by former users.

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

5. REMOTE ACCESS TO THE PURCHASING ENTITY NETWORK; OFF-SITE STORAGE OF PROTECTED Purchasing Entity INFORMATION

a. **Minimum Standards.** This Section 5 sets forth information security procedures to be established by Provider before the effective date of a 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 Purchasing Entity 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 Purchasing Entity, 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 Purchasing Entity Network or Protected Purchasing Entity Information.** Except as required to perform the Services for Purchasing Entity under this Agreement, Provider shall not access, and shall not permit Provider

Personnel, to access the Purchasing Entity Network or Protected Purchasing Entity Information without the Purchasing Entity's express written authorization. The Purchasing Entity 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 Purchasing Entity. All Purchasing Entity authorized connectivity or attempted connectivity to the Purchasing Entity Network or Protected Purchasing Entity Information shall be only through the Purchasing Entity's security gateways and/or firewalls, and in conformity with applicable Purchasing Entity 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 Purchasing Entity in writing, Provider shall institute strict administrative, physical and/or logical security controls to prevent transfer of Protected Purchasing Entity 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 Purchasing Entity Information: (i) may only be made available and accessible to those parties explicitly authorized under the Contract or otherwise expressly by the Purchasing Entity 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; and (iii) if transferred using Removable Media must be sent via a bonded courier or protected using cryptography designated or approved by the Purchasing Entity 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 Purchasing Entity 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 Purchasing Entity.

g. **Provider Facilities Security.** Provider facilities that process Protected Purchasing Entity 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 Purchasing Entity Information must be physically and logically secured by Provider to protect such Protected Purchasing Entity Information from modification, theft, misuse and destruction.

h. **Provider Systems Security -- Generally.** Provider is solely responsible for all systems Provider uses to access the Purchasing Entity Network or Protected Purchasing Entity 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 Purchasing Entity Network or Protected Purchasing Entity 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.** Except as required to provide support for the Services, Provider shall ensure that Provider Personnel do not use any virtual private network or other device (“VPN”) to simultaneously connect machines on the Purchasing Entity 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 Purchasing Entity; (ii) providing the Purchasing Entity 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 Purchasing Entity Network will not simultaneously access the internet or any other third-party network while connected to the Purchasing Entity Network.

- k. **Business Continuation.** Provider represents, warrants, and covenants to the Purchasing Entity 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 Purchasing

Entity's timely receipt of Services.

1. **Security Audits.** Upon thirty (30) days prior written notice, Provider shall provide such auditors and inspectors as the Purchasing Entity may 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 Purchasing Entity Information is being safeguarded in accordance with these Information Security Provisions. The Purchasing Entity may conduct one audit and verification review per twelve-month period and may be assisted by a third party organization. Any third party auditor retained by the Purchasing Entity 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 Purchasing Entity's audit results demonstrate Provider's failure to comply with these Information Security Provisions, the Purchasing Entity will provide Provider with written details of such failures and Provider shall correct all such failures in accordance with Provider's remediation policy as outlined in the below table 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 a Contract.

Criticality	Assessment
1 or Low	Informational with action being optional or none
2 or Medium	Minimal risk with remediation required within 90 days (default)
3 or High	Significant risk with remediation required within 30 days (default)
4 or Critical	Immediate remediation required within 10 days (default)

6. RETURN OR DESTRUCTION OF PROTECTED PURCHASING ENTITY INFORMATION AND OTHER PURCHASING ENTITY ASSETS

a. **Ownership of Protected Purchasing Entity Information.** As between the Purchasing Entity and Provider, Protected Purchasing Entity Information is and will remain the exclusive property of the Purchasing Entity and, as applicable, its third party providers and licensors. Nothing contained in a Contract shall be construed as granting or conferring any right, title or interest in any Protected Purchasing Entity Information, patent, trademark, copyright, other proprietary right, or asset that is now or subsequently owned by the Purchasing Entity, regardless of whether such information, proprietary right, or asset is transferred to, installed on, stored, or processed through Provider's equipment, hardware, or software. Notwithstanding anything to the contrary herein or in the Participating Addendum, Contractor shall own all right, title and interest in the anonymized and aggregated data pursuant to Section 22 of the Master Agreement.

b. **Return or Destruction of Protected Purchasing Entity Information and Other**

Purchasing Entity Assets. At any time upon the Purchasing Entity's demand Provider will promptly return to the Purchasing Entity or destroy all Protected Purchasing Entity Information, files, records, documents, materials, and other items which contain any Protected Purchasing Entity Information, and all other Purchasing Entity assets in Provider's possession or control in accordance with Provider's data retention policy and applicable law. 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 Purchasing Entity Information and other Purchasing Entity assets upon the termination of the Contract in accordance with Provider's data retention policy and applicable law. Provider's failure to comply with this subsection shall be a material breach of the Contract.

c. **Hardware Return.** When returning hardware containing Protected Purchasing Entity Information to the Purchasing Entity, the Protected Purchasing Entity 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 Purchasing Entity otherwise directs. Prior to returning any hardware containing Protected Purchasing Entity Information to a third party, Provider must destroy all Protected Purchasing Entity Information on such hardware in accordance with Section 6a above, then send the Purchasing Entity 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 Purchasing Entity'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 Purchasing Entity Information, files, records, documents, materials, and other items which contain any Protected Purchasing Entity Information, and all other Purchasing Entity assets in Provider's possession or control, in accordance with Section 6(b) above. Provider's assignment of the Contract without the Purchasing Entity's prior written consent shall be a material breach of the Contract.

e. **Certification of Return or Destruction.** On the Purchasing Entity's written request, Provider will provide a notarized written statement to the Purchasing Entity certifying that all Protected Purchasing Entity Information, files, records, documents, materials, and other items which contain any Protected Purchasing Entity Information, and all other Purchasing Entity assets in Provider's possession or control have been delivered to the Purchasing Entity or destroyed, in accordance with Provider's data retention policy and applicable law.

f. **Destruction Standard.** When required pursuant to this Section 6 and in accordance with Provider's data retention policy and applicable law, Provider must destroy or erase Protected Purchasing Entity 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 Purchasing Entity.

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 Purchasing Entity Information.** Except in the provision of support services or with the Purchasing Entity's express written permission, the Services (including storage of Protected Purchasing Entity 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 Purchasing Entity's permission to perform some of the Services from outside the United States, Provider will comply with the Purchasing Entity'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 Purchasing Entity Information or the Purchasing Entity 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. TERMINATION

a. **Purchasing Entity's Discretionary Termination.** Notwithstanding any term to the contrary in the Contract or these Information Security Provisions, the Purchasing Entity may terminate a 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 Purchasing Entity's use of the Services and which are objectionable to the Purchasing Entity;

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

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

iv. Laws or regulations affecting the protection of Protected Purchasing Entity 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. **Purchasing Entity's Additional Rights to Terminate or Restrict Services.** The Purchasing Entity reserves the right (but shall have no obligation) to take additional action, up to and including termination, in the following limited circumstances:

i. The Purchasing Entity may modify or terminate any or all Services or restrict Provider's access to Protected Purchasing Entity Information, the Purchasing Entity Network, and Purchasing Entity premises in whole or in part if, in the Purchasing Entity'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 Purchasing Entity 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 Purchasing Entity will notify Provider of such order promptly so that Provider will have an opportunity to respond to the order. The Purchasing Entity also will notify Provider promptly of any security risks identified and any action taken by the Purchasing Entity 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 Purchasing Entity may modify or terminate any or all Services or restrict Provider's use and access to Protected Purchasing Entity Information, the Purchasing Entity Network, and Purchasing Entity premises in whole or in part if, in the Purchasing Entity'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 Purchasing Entity or a third party; (3) violates export control regulations of the United States or other applicable countries; or (4) otherwise violates any Purchasing Entity IT or information security policies.

c. **Effect of Termination.** Upon termination, all rights granted to Provider under the Contract terminate immediately. The Purchasing Entity will promptly deliver to Provider written instructions for disposition of all Protected Purchasing Entity Information, items and material which contain any Protected Purchasing Entity Information, and other Purchasing Entity assets.

9. OTHER

a. **Application Security.** Provider will maintain and enforce information security standards in any software applications provided to the Purchasing Entity under a Contract ("Applications") that, with respect to their interface with Protected Purchasing Entity Information and the Purchasing Entity 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 Purchasing Entity Information and the Purchasing Entity Network. Provider will allow the Purchasing Entity, if necessary in the Purchasing Entity's discretion, to implement reasonable measures to secure and defend Applications against unauthorized access to Protected Purchasing Entity Information or the

Purchasing Entity Network. Applications must allow the Purchasing Entity to change Provider's default administrator settings, including the default password provided upon delivery, to settings of the Purchasing Entity's designation. After acceptance, if security issues are discovered or reasonably suspected in the Applications, Provider will assist the Purchasing Entity in performing an investigation to determine the nature of the issue.

b. **Provider's Use of Purchasing Entity Assets.** Should the Purchasing Entity permit Provider to use any of the Purchasing Entity's assets such as equipment, tools, software, the Purchasing Entity 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 Purchasing Entity employees) or damage to property (including the Purchasing Entity'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 Purchasing Entity'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 Purchasing Entity and the Services. Provider further will comply with all Purchasing Entity data or information protection policies that the Purchasing Entity may provide to Provider from time to time.

d. **Compliance by Others.** Provider must ensure the privacy and security of Protected Purchasing Entity 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 Purchasing Entity'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 Purchasing Entity Information, the Purchasing Entity Network or premises, or any other Purchasing Entity technology resource. Provider shall not use the Purchasing Entity's name, trademark, service mark, or logo without the Purchasing Entity's prior written consent.

f. **Injunctive Relief.** Provider acknowledges and agrees that due to the unique nature of Protected Purchasing Entity 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 Purchasing Entity or the individuals identified in the data, and therefore, that upon any such breach or any threat thereof, the Purchasing Entity 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 Purchasing Entity 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 Purchasing Entity 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 Purchasing Entity immediately if these circumstances change.

h. **Revisions.** The Purchasing Entity 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 Purchasing Entity within the Notice Period if Provider cannot comply with the Information Security Provisions as revised, in which case the Purchasing Entity may either: (i) terminate a Contract on thirty (30) days written notice to Provider, without incurring any penalty, early termination charge or other charges except that the Purchasing Entity 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: _____ Date: _____

Exhibit H

PROVISIONS REQUIRED BY FEDERAL LAW

Without limiting the generality of the Compliance with Law sections in the Master Agreement and the Participating Addendum, Contractor shall comply with all federal law, regulations and executive orders, as indicated, and shall cause all subcontractors to comply with all federal law, regulations and executive orders including the following. For purposes of this Participating Addendum and all Contracts, all references to federal laws are references to federal laws as they may be amended from time to time.

1. Equal Employment Opportunity. If a Contract, including amendments, is for more than \$10,000, then Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Executive Order prohibits contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

During the performance under this Participating Addendum and a Contract, Contractor agrees as follows:

- 1.1** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 1.2** Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- 1.3** Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.
- 1.4** Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1.5** Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 1.6** Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 1.7** In the event of Contractor's noncompliance with the nondiscrimination clauses of a Contract or with any of the said rules, regulations, or orders, a Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction

contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 1.8 Contractor will include the portion of the sentence immediately preceding subsection 1.1 and the provisions of subsection 1.1 through subsection 1.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency Contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. Davis-Bacon Act.

- 2.1. All transactions under this Participating Addendum regarding a Contract will be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt.5 as may be applicable. Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2.2. Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 2.3. Additionally, Contractor shall pay wages not less than once a week.

3. Copeland "Anti-Kickback" Act.

- 3.1. Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. §3145, and the requirements of 29 C.F.R. pt.3 as may be applicable, which are incorporated by reference into this Participating Addendum and a Contract.
- 3.2. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Emergency Management Agency (FEMA) may be appropriate instruction require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontract with all of these contract clauses.
- 3.3. A breach of the contract clauses above may be grounds for termination of the Contract and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.

4. Contract Work Hours and Safety Standards Act.

- 4.1. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such workweek.
- 4.2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subsection 4.1, Contractor or subcontractor responsible therefor shall be liable for the unpaid wages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subsection 4.1, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by subsection 4.1.
- 4.3. Withholding for unpaid wages and liquidated damages. The Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under the Contract or any other Federal contract with Contractor or subcontractor or any other federally-assisted contract subject to the same Contract Work Hours and Safety Standards Act, which is held by Contractor or subcontractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in subsection 4.2.

- 4.4. Subcontracts.** Contractor or subcontractor shall insert in any subcontract the clauses set forth in subsections 4.1 through 4.4 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor with these provisions.
- 5. Clean Air Regulations.** Contractor shall comply with all applicable standards, orders, or requirements issued pursuant to the Clean Air Act (42 U.S.C. §7401 et. seq.). The Act provides, in part:
- 5.1.** No agency may enter into any contract with any person who is convicted of any offense under the Act for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under the Act, the condition giving rise to the conviction also shall be considered to include any substantive violation of the Act associated with the violation of the Act.
- 5.2.** The Administrator may extend this prohibition to other facilities owned or operated by the convicted person. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
- 5.3.** In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- 5.4.** The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- 5.5.** The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]
- 5.6.** Contractor shall report each violation to Agency and understands that Agency will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.
- 5.7.** Contractor shall include these provisions in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- 6. Clean Water Regulations.** Contractor shall comply with all applicable standards, orders, or requirements issued under the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387).
- 6.1.** No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- 6.2.** The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
- 6.2.1.** Requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
- 6.2.2.** Setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

- 6.3. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- 6.4. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.
 - 6.4.1. No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
 - 6.4.2. In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).
- 6.5. Contractor shall report each violation to Agency and understands that Agency will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.
- 6.6. Contractor shall include these provisions in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7. Solid Waste Disposal Act. Contractor shall comply with all applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. EPA Regulations. Contractor shall comply with all applicable standards, orders, or requirements under Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the State, HHS and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000 in Federal Funds, language requiring the subcontractor to comply with the federal laws identified in this section.

9. Resource Conservation and Recovery. Contractor shall comply and cause all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

10. Recycled Materials. In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (i) competitively within a timeframe providing for compliance with the Contract performance schedule, (ii) meeting Contract performance requirements, or (iii) at a reasonable price.

11. Energy Efficiency. Contractor shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163).

12. Byrd Anti-Lobbying Amendment; Truth in Lobbying. This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110. Contractor certifies, to the best of the Contractor's knowledge and belief that:

12.1. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any

federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

- 12.2.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 12.3.** Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Participating Addendum and a Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Participating Addendum and a Contract imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure.

13. HIPAA Compliance. If the work performed under this Participating Addendum and a Contract is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to perform the work in compliance with HIPAA. Without limiting the generality of the foregoing, work performed under this Participating Addendum and a Contract is covered by HIPAA. Contractor shall comply and cause all subcontractors to comply with the following:

- 13.1. Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and the State for purposes directly related to the provision of services to clients which are funded in whole or in part under this Participating Addendum and a Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the State's Privacy Rules, OAR 407-014-0000 et. seq., or the State's Notice of Privacy Practices, if done by DAS PS or Agency. A copy of the most recent State Notice of Privacy Practices is posted on the State web site at: <http://www.oregon.gov/OHA>, or may be obtained from DAS PS or Agency.
- 13.2. Data Transactions Systems.** If Contractor intends to exchange electronic data transactions with DAS PS or Agency in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDI Trading Partner Agreement with the State and shall comply with the State's EDI Rules.
- 13.3. Consultation and Testing.** If Contractor reasonably believes that the Contractor's or the State's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the State's HIPAA officer. Contractor or State may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the State's testing schedule.
- 13.4. If Contractor is deemed to be a business associate of State under HIPAA's Privacy Rule, 45 CFR Parts 160 and 164, Contractor hereby provides the State with satisfactory assurances that if it receives from the State or any trading partner any protected health information of any individual, it shall maintain the security and confidentiality of such information as required by the HIPAA's Privacy Rule, and other applicable laws and regulations. Without limiting the foregoing, Contractor agrees that:**
- 13.4.1. Contractor will not use or further disclose Protected Health Information otherwise than as permitted or required by this Participating Addendum or a Contract or as required by law;

- 13.4.2. Contractor will use appropriate safeguards to prevent use or disclosure of PHI otherwise than as provided for by this Participating Addendum or a Contract;
- 13.4.3. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Contract;
- 13.4.4. Contractor will report to Agency any use or disclosure of PHI not provided for by this Participating Addendum or a Contract of which Contractor becomes aware;
- 13.4.5. Contractor agrees to ensure that any agents, including subcontractors, to whom it provides PHI, agree to the same restrictions and conditions that apply to Contractor with respect to such information;
- 13.4.6. Contractor shall make available to Agency such information as they may require to fulfill their obligations to account for disclosures of such information;
- 13.4.7. Contractor shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the State or trading partner (or created or received by Contractor on behalf of the State or trading partner) available to the State and to the Secretary of the United States Department of Health and Human Services, for purposes of determining the State's or trading partners' compliance with HIPAA; and
- 13.4.8. If feasible, upon termination of a Contract, Contractor shall return or destroy all PHI received from the State or trading partners (or created or received by Contractor on behalf of the State or trading partners) that Contractor still maintains in any form, and shall retain no copies of such information or, if return or destruction is not feasible, Contractor shall continue to extend the protections of this Participating Addendum and a Contract to such information, and limit further use of the information to those purposes that make the return or destruction of the information infeasible.

Subject to the foregoing restrictions, Agency agrees that Contractor may use such PHI in the process of providing transaction mapping, trading partner profiling and training and mentoring services for Agency and trading partners under this Participating Addendum and a Contract.

14. Medicaid Compliance. To the extent Contractor performs any work whose costs are paid in whole or in part by Medicaid, Contractor shall comply with and cause its subcontractors to comply with the federal and State Medicaid statutes and regulations applicable to the work, including but not limited to:

- 14.1.1. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to DAS PS or Agency, the Medicaid Fraud Control Unit of the Oregon Department of Justice and the Secretary of Health and Human Services;
- 14.1.2. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;
- 14.1.3. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4); and
- 14.1.4. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19.
- 14.1.5. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

15. Substance Abuse Prevention and Treatment and Drug Free Workplace. Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 USC 300x through 300x-64). In addition, the Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, Contractor acknowledges the following:

- 15.1. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
- 15.2. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- 15.3. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- 15.4. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the State of Oregon that abuse of this drug will also not be tolerated in the workplace.

Contractor certifies that will provide drug-free workplaces for their employees.

16. Funding Agreements. If Contractor is a small business firm or nonprofit organization and the Contract provides for the performance of experimental, developmental or research work funded in whole or in part by the Federal government, Agency shall comply with the provisions of 37 C.F.R. pt.401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements) and any implementing regulations issued by FEMA. See 2 C.F.R. pt. 200, Appendix II ¶F.

17. Access to Records; Audits. Contractor shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations." Contractor shall provide the State of Oregon, Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives' access to any books, documents, papers, and records of Contractor which are directly pertinent to this Participating Addendum or a Contract for the purpose of making audits, examinations, excerpts and transcripts. Contractor shall permit the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. If applicable, Contractor shall provide the FEMA Administrator or his authorized representatives' access to construction sites pertaining to the work being completed under the Contract. Contractor and Agency acknowledge and agree that no language in this Participating Addendum or a Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

18. Debarment and Suspension. Contractor shall comply and shall cause its subcontractors to comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, Contractor principles as defined in 2 C.F.R. §180.995 or its affiliates, as defined in 2 C.F.R. §180.905.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549 (excluded as defined in 2 C.F.R. §180.940 or disqualified as defined in 2 C.F.R. §180.935). Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor certifies:

- 18.1. Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- 18.2. Contractor has not within a three-year period preceding the Effective Date of this Participating Addendum and any Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 18.3. Contractor is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in subsection, 16.2 of this certification; and
- 18.4. Contractor has not within a three-year period preceding the Effective Date of this Participating Addendum and any Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

19. Americans with Disabilities Act. Contractor shall comply and cause all subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the performance of work. This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

20. Pro-Children Act. Contractor shall comply and cause all subcontractors to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

21. Federal Tax Information. Contractor shall comply with the provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. §552a et. seq. related to federal tax information.

22. Educational Records. Contractor shall comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq) and the implementing regulations at 6 CFR Part 17 and 44 CFR Part 19.

23. Whistleblower Protection Act. Contractor shall comply with the requirements for whistleblower protections (if applicable) at 10 U.S.C. Section 2409, 10 U.S.C. Section 4712, 10 U.S.C. 2324, 41 U.S.C. Sections 4304 and 4310.

24. US Patriot Act of 2001. Contractor shall comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (US PATRIOT Act), which amends 18 U.S.C. section 175-175c.

25. Rehabilitation Act of 1973. Contractor shall comply with requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794, as amended.

26. Trafficking Victims Protection Act of 2000. Contractor shall comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking of Victims Protection Act of 2000 (TVA), as amended by 22 U.S.C. section 7104.

27. Age Discrimination Act. Contractor shall comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. C. section 6101 et. seq.).

28. Buy American and Hire American. Contractor shall comply with any applicable provisions of the Buy American Act (41 U.S.C. section 83-1 through 8305 and any other applicable statutes, regulations or rules that require, or provide a preference for, the purchase or acquisition of goods, products, or material produced in the United States.

29. Use of Logos. Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

30. False Statements. Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Participating Addendum or a Contract.

31. General Provisions. The Federal government is not a party to this Participating Addendum or a Contract and is not subject to any obligations or liabilities to Agency, Contractor or any other party pertaining to any matter resulting from the Contract.