

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Computer Equipment
Administered by the State of Minnesota (hereinafter “Lead State”)

MASTER AGREEMENT
Master Agreement No: MNWNC-113
Hitachi
(hereinafter “Contractor”)
And
State of Tennessee
(hereinafter “Participating State/Entity”)

(Participating State Contract #51226)

1. Scope: This addendum allows for purchase of the following Computer Equipment/Services: Band 4 – Server; and, Band 5 - Storage led by the State of Minnesota along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State/Entity that is authorized by that state’s statutes to utilize state /entity contracts, and which receives prior written approval of the state’s chief procurement official.

The original solicitation contains the requirements and definitions establishing the Product Bands allowed on the Master Agreement. The Master Agreement identifies the bands awarded to the Contractor. The configuration limits and restrictions for the Master Agreement are provided with revisions identified by the Participating State in this Participating Addendum (See Attachment A).

2. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state’s statutes to use **state/entity** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Order of Precedence:

1. A Participating Entity’s Participating Addendum (“PA”); A Participating Entity’s Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State’s contractual relationship with the Contractor under the Terms of Minnesota NASPO ValuePoint Master Agreement;
2. Minnesota NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions)
3. The Solicitation including all Addendums; and
4. Contractor’s response to the Solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contractor’s response to the Solicitation, or terms listed or referenced on the Contractor’s website, in the Contractor quotation/sales order or in similar documents subsequently provided by the Contractor. The language in this PA prevails unless a mutually agreed exception has been negotiated and signed by the Participating Entity and the Contractor.

4. Participating State Modifications or Additions to Master Agreement:

The State of Tennessee Participating Addendum includes Modifications to the Master Agreement as well as additional Terms and Conditions. See Attachments A and B. In this PA as well as the Attachments, references to “the State” shall mean the Purchasing Entity (as defined in the Master Agreement) unless the reference is to the “State of Tennessee” or the “Participating Entity”, in which case the provision is limited to the State of Tennessee and not a Participating Entity or Purchasing Entity. References to “Partners” or “partners” shall have the meaning assigned in the Master Agreement. References to “goods” shall mean “Products” as defined in the Master

Agreement. References to the “Contract” shall mean this PA, while references to a “contract” shall mean an Order. Any other capitalized term that is not defined in this PA shall have the meaning assigned to it in the Master Agreement.

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

<u>Contractor</u>	
Name	Chris Minassian
Address	2845 Lafayette Street, Santa Clara, CA 95050
Telephone	630-875-4370
Fax	
E-mail	hds-wsca@hds.com

<u>Participating Entity</u>	
Name	Josh Gaddy, Category Specialist
Address	312 Rosa L. Parks Avenue Nashville, TN 37243
Telephone	615-741-1402
Fax	615-741-0684
E-mail	Josh.gaddy@tn.gov

6. Partner Utilization: Each state represented by NASPO ValuePoint participating in this Master Agreement independently has the option of utilizing partners. Only partners approved by this Participating State may be deployed. The Participating State/Entity chooses to utilize the following Contractor’s partners to perform under this Participating Addendum.

ViON Corporation
196 Van Buren Street, Suite 300
Herndon, VA 20170

OnX USA LLC
5910 Landerbrook Drive
Corporate Center II, Suite 300
Mayfield Heights, OH 44124

Data Science Technologies, LLC
dba Silex Data Solutions
725 Cool Springs Blvd, Suite 600
Franklin, TN 37067

The Participating State will define the process to add and remove partners and may define the partner’s role in their participating addendum. Upon recommendation by the Contractor the Participating State/Entity reserves the right to add and/or remove Partners, without the need for an amendment to the Participating Addendum, throughout the term of the Participating Addendum.

The Contractors’ Authorized Partners’ participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement and this Participating Addendum. Additionally, in accordance with the Master Agreement, the Contractor shall be fully responsible as the prime Contractor for its Partners’ performance under this Participating Addendum and shall be responsible for any terms and conditions with its Partners. Each Contractor’s approved Partners are shown on the Contractor’s dedicated website for the Participating Entity and its respective eligible Purchasing Entities.

7. Terms: The Participating State/Entity is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with this Participating Addendum, Tennessee State Constitution, and State law.

8. Orders: Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order. Orders shall be placed as described in the Special Terms and Conditions of Attachment B.

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

Participating State: State of Tenn	Contractor: Hitachi Data Systems Corporation
By:	By:
Name: Michael F. Per	Name: K. L. Barnes
Title: Michael F. Per	Title: Division Sales Controller
Date: August 17, 2016	Date: August 15, 2016

State of Tennessee

2015-2020 MN NASPO ValuePoint Computer Equipment

Modifications

Master Award Summary:

Page 3, Section 4. Configuration Dollar Limits:

This section is modified by the State of Tennessee as follows:

The State of Tennessee will not have a maximum single configuration limit for either Servers or Storage.

Page 4, Section 5.a. Software:

This section is modified by the State of Tennessee as follows:

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software.
5. Any software available under any other Tennessee Statewide Contract is excluded from purchase through this PA except when applicable to initial procurement of equipment.

Page 4, Section 5.b. Services:

This section is modified by adding as a new subpart 5.b.6 the following language:

6. The State of Tennessee will only allow manufacturer based services. No reseller professional services will be accepted under this contract.

Page 9, Section 7. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF, NEGOTIATED.

This term in the Master Agreement is modified by deleting it in its entirety, and substituting in its place Special Term and Condition #29, Confidentiality of Records in the Participating Addendum.

Page 13 Section 28. Acceptance and Acceptance Testing subpart a.:

This section is modified by adding/deleting the following in subpart a:

- a. Acceptance. Purchasing Entity (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) shall determine whether all Products and Services delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor/Partner within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor/Partner has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.

Page 13, Section 29. System Failure or Damage. Negotiated.

This section is modified by adding the following language as the last sentence in this paragraph:

“Operational Capacity” shall mean that capacity, capability and/or performance available to the State immediately prior to the system failure or damage.

Page 37, Appendix A Software License Terms.

Contractor agrees that Appendix A is replaced by the State’s Special Term and Condition #20 as revised by HDS’ proposed language in its email to the State dated April 28, 2016, titled “License Grant”.

State of Tennessee

2015-2020 MN NASPO ValuePoint Computer Equipment

Additional Terms and Conditions



Standard Terms and Conditions

1. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. Notwithstanding anything else herein, the State's total liability under this Contract (including without limitation any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.

2. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Estimated Liability amount detailed in Special Terms and Conditions number 10, Page 15 and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for:

- (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights;
- (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

3. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

4. Taxes: Purchases of goods by the State of Tennessee are exempt from Tennessee sales and use tax pursuant to Tenn. Code Ann. 67-6-329(a) (4), and the state is generally exempt from Federal excise tax. Contractors are subject to Tennessee sales and use tax on all materials and supplies used in the performance of an Order, whether such materials and supplies are purchased by the contractor, produced by the contractor, or provided to the contractor by the State, pursuant to Tenn. Code Ann. 67-6-209. The contractor agrees to pay all taxes incurred in the performance

of an awarded contract upon request, so long as, the Purchasing Entity shall provide documentation of tax exemption to Contractor.

5. Delivery. Unless otherwise stated, all goods called for by a purchase order must be tendered in a single delivery in compliance with the delivery time, if any, and payment is due only on such tender. Partial shipments and/or back orders will only be accepted with Purchasing Entity's prior written authorization.

6. All products, materials, supplies and equipment offered and furnished must be new or warranted as new.

7. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The contractor agrees that it will be subject to the exclusive jurisdiction of the courts of Tennessee in actions that may arise under this contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Section 9-8-101 through 9-8-407.

8. **State and Federal Compliance:** The contractor shall comply with all applicable state and federal laws and regulations in the performance of this contract.

9. **Prohibition of Illegal Immigrants.** The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment C, semi-annually during the Term. If the Contractor is a party to more than one Contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon not less than thirty (30) days' written notice to Contractor by the Participating State. For the avoidance of doubt, the records that will be made available will be limited to ensuring that personnel deployed by Contractor do not meet the definition of illegal immigrant as set forth in Paragraph 9(e), and any other information that would reasonably be considered confidential, such as salary data, performance reviews, personally identifiable information or personal details will be excluded. Notwithstanding anything above to the contrary, the State is subject to and will comply with the Tennessee Public Records Act, Tenn. Code Ann. §10-7-501 et seq.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not a United States citizen and is: (i) not a lawful permanent resident of the United States; (ii) a person whose physical presence in the United States is authorized; (iii) allowed by the federal Department of Homeland Security

and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) otherwise authorized to provide services under the Contract.

10. Modifications and Amendments: This Contract may be modified only by a written amendment signed by all parties hereto and approved by both parties and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Chief Procurement Officer, the Commissioner of Human Resources, and the Comptroller of the Treasury).

11. Records: The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

12. Monitoring: The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

13. HIPAA Compliance: The State and Contractor shall comply with its respective applicable obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules").

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver such information without entering into a business associate agreement or signing another such document.
 - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

Special Terms and Conditions

1. F.O.B. Destination (Statewide Contract)

All Products will be delivered F.O.B. Destination. Contractor and/or its licensors shall always retain ownership of Software that is delivered to the Purchasing Entity.

2. Term of Contract

This Contract shall be effective on the date of final signature ("Effective Date") and extend through March 31, 2017 ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

3. Renewal Options

This Contract may be renewed upon satisfactory completion of the Term. If the Master Agreement is renewed by the Lead State, the State reserves the right to execute up to the same number of renewals under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

4. Debarment and Suspension

The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors/partners and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant 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;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the Participating State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors/partners are excluded or disqualified.

5. Delivery Time (Days)

All Products must be delivered within approximately 30 days after receipt of a purchase order, unless Contractor advises the Purchasing Entity that delivery will occur later than that and provide the Purchasing Entity with the reason for the delay. The Purchasing Entity will have the option upon such notification from Contractor to accept the Order at the later date or cancel the Order. Any Order cancellations must be received by Contractor not less than two (2) business days prior to the Product's estimated shipment date or commencement of a service.

6. Vendor Reporting

Usage Report

Not less than thirty (30) days following the end of each calendar quarter, the Contractor shall furnish a usage report to the Participating State delineating the acquisition activity under the Contract. The format of the report shall be approved by the State and shall disclose, at a minimum, the following for the Participating State and non-Participating State governmental entities and all others authorized to use this Contract:

- Purchase Order (PO) Number
- PO Date

- Customer Name (State Agency/Municipality/Other)
- Customer number
- Billing Address & Shipping Address
- Product Type (Server, Storage, Etc.)
- Total Price per PO
- For Hardware
 - Manufacturer catalog part number
 - Manufacturer name
 - Product Description
 - Catalog Name and Effective Dates for Items Purchased, as applicable
 - Invoiced amounts
 - Reporting period by State fiscal year - annual/quarter
 - Model Number
 - Serial Number
 - Support Expiration Date (if applicable)
 - Invoice number
 - Invoice Date
 - List Price
 - State unit price (as stated on invoice)
 - Quantity

Reporting formats must be submitted to the Participating State for approval within 10 business days after the Contract start date. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the Contract.

Inventory Report

Within one hundred twenty (120) days of the Contract start date, the Contractor shall provide a current inventory of all server and/or storage equipment, including start and end dates of associated maintenance agreements including the level of support response time to the Participating State. Every quarter, the Contractor shall submit a list of server and/or storage equipment purchased, server and/or storage equipment renewed under support agreements, server and/or storage equipment deactivated, and training credit balance. The format of Inventory reports shall be approved by the Participating State.

Hardware Support Expiration Report

The Contractor must provide the Participating State with a quarterly report showing all server and/or storage support that expires within 90 days, along with the Customer Name, Number, Expiration Date, and whether the customer has renewed the support. The format of the Hardware Support Expiration Report shall be approved by the Participating State. In the event a piece of equipment is replaced prior to the expiration its purchased warranty/support, the Contractor will provide the Participating State with documentation reflecting the unused warranty/support and, provided that the warranty/support purchased is not non-cancellable, will provide the State with a credit calculated on a pro-rated basis. If a piece of equipment is replaced as part of the product warranty and such replacement occurs prior to the expiration date of its purchased warranty/support, the unused warranty/support for the replaced equipment shall transfer to the replacement equipment.

Technical Support Report

The Contractor will provide the Participating State with an annual report that documents all support cases with severity, current status, problem, description, case number, duration, and name of Participating State or Purchasing Entity employee that initiated the request.

This report also needs to signify that if a piece of equipment is replaced the old serial number is removed from support contract and replaced with the new serial number.

Ad Hoc Reports

The Participating State may on occasion request ad hoc reports in writing from the Contractor regarding performance under this contract, including but not limited to: orders, support, and/or hardware. Contractor shall advise the Participating State if a report requested under this provision will incur a charge, and will secure the Participating State's concurrence before proceeding. Contractor shall endeavor to provide the Participating State with the ad hoc report within 5 business days of the later of: (a) the Participating State's request, or (b) if applicable, the Participating State's order for a chargeable report.

7. Department of Revenue Registration

The contractor/partners shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

8. Insurance Required

The Contractor shall procure and maintain for the duration of the contract, at their own cost and expense insurance against claims for injuries to persons or damages to property including contractual liability which, may arise in connection with the performance of the work performed by the contractor, his agents, representatives, employees or subcontractors/partners under the contract.

The insurance carrier(s) must be licensed to conduct business in the State of Tennessee. The insurance will be evidenced by an original or .pdf format document certificate of insurance. The certificate shall list the State of Tennessee as the certificate holder and must list the company name and address on file with the State. Should any of the policy coverage(s) provided have a major change, expire, or be canceled before the expiration date the Contractor shall fax or email vendor.insurance@tn.gov, a copy of their insurer's cancellation notice within two (2) business days of receipt. The State of Tennessee shall be held harmless for any injuries, claims or judgments against the contractor/partners.

Certificates for liability coverages shall name the State of Tennessee Central Procurement Office as an additional insured. The following Insurance Coverages are required:

Workers' Compensation Insurance: a certificate shall be provided which indicates the contractor provides workers' compensation coverage in compliance with the state laws of Tennessee., and Employer's Liability with the following limits:

E.L. Each Accident	\$1,000,000
E.L. Disease- Each Employee	\$1,000,000
E.L. Disease - Policy Limit	\$1,000,000

General Liability and Property Damage Insurance: Comprehensive General Liability Insurance, including but not limited to, bodily injury, property damage, contractual liability, products liability, with combined single limits of \$1,000,000 per occurrence with a minimum aggregate of \$2,000,000.

The Contractor shall provide the Central Procurement Office with an original certificate of insurance or .pdf format document as proof of insurance coverage, as stated above, naming the State of Tennessee, Central Procurement Office as additional insured, within ten (10) business days after request. If the certificate of insurance is in .pdf format, it must be received directly from the insurance company.

Failure to maintain insurance coverage for the duration of the Contract period may result in cancellation of the contract. In the event that the insurance policy on file in the Central Procurement Office expires or is canceled, the contractor/partners will be required to cease work until proof of insurance is presented.

9. Purchase Order Release (Statewide)

Orders for products or services that are included on statewide contracts shall be prepared by agencies on departmental purchase orders and forwarded directly to the email address HDS-WSCA@hds.com and the contractor's authorized partner. These purchase orders, when received by the vendor/contractor or the contractor's authorized partner, serve as authorization for shipment of product(s) or start of service.

Purchase orders must reflect the following:

- a. The party to whom the Order should be made should be the party who issued the quote to the Purchasing Entity (Contractor, if Contractor issued the quote; Partner, if Partner issued the quote);
- b. A reference to the PA number;
- c. The quote number as issued by either Contractor or Partner;
- d. Account name, procuring agency and division name;
- e. The email address to which invoices should be sent
- f. The address to which the Products and Services should be delivered;
- g. The price as reflected on the quote, net of any taxes;
- h. A description of the Products and Services being purchased.

Local government agencies or authorized corporations, where applicable, will issue their purchase order releases directly to the hds-wsca@hds.com and their authorized partner.

Billing Instructions:

The vendor/contractor or the contractor's authorized partner shall invoice the state only after product has been delivered to the Purchasing Entity as described in Section 1 of these Special Terms and Conditions, and for Services, as or agreed in the purchase order/contract or Statement of Work. All invoices will be issued by electronic means and sent to the email address included in the Order or Statement of Work.

The contractor or the contractor's authorized partner shall submit an invoice, with all necessary supporting documentation, to the state agency billing address. Such invoice shall clearly and accurately detail the following required information:

1. Invoice/reference number; (assigned by the contractor or the contractor's authorized partner);
2. Invoice date;
3. Contract and/or purchase order number; (assigned by the state);
4. Account name;
5. Procuring state agency and division name;
6. Account/customer number (uniquely assigned by the vendor/contractor or the contractor's authorized partner);
7. To the above-referenced account name;
8. Contractor/Partner name;
9. Contractor/Partner Identification Number; (as referenced in the contract);
10. Contractor/Partner contact (name, phone, and/or fax for the person to contact with billing questions);
11. Contractor/Partner remittance address;
12. Description of delivered product(s) or service;
13. List Price;
14. Discount %; and
15. Total amount due for delivered product(s) or service.

The vendor/contractor understands and agrees that the invoice shall;

- Include only charges for service described in contract or Purchase Order and in accordance with payment terms and conditions set forth in the contract or purchase order;
- Not include any future work but will only be submitted for completed service, unless otherwise authorized in writing by the user agency; and
- Not include sales tax or shipping charges (unless otherwise stipulated in the contract or purchase order).

Payment: The Contractor/Partner agrees that timeframe for payment (and any discounts) begins when the state is in receipt of a correct invoice meeting the minimum requirements above. It shall be the responsibility of the "bill to" agency to make payment in accordance with the Prompt Payment Act of 1985. Any questions concerning payment should be addressed to the "bill to" agency and not to the Central Procurement Office.

10. Estimated Liability

The total purchases of any goods or services under the Contract are not known. The State estimates the purchases during the Term shall be Seven Million Five Hundred Thousand dollars per year (\$7,500,000) ("Estimated Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor/Partner will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor/Partner by the State or as otherwise specified by this Contract.

11. Prerequisite Documentation

The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation. At the State's option, it may make payments to Contractor by automated clearing house ("ACH") or the State Purchasing Card ("P-Card").

a. The Contractor shall complete, sign, and present to the State:

- (1) An "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- (2) An "Authorization to Receive Payments by Purchasing Card Form" provided by the State. By doing so, the Contractor agrees that payments to the Contractor under this Contract may be made using the State P-Card and Contractor will provide level III data reporting information.

b. The Contractor shall complete, sign, and return to the Participating State a W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number.

12. Intellectual Property

The Contractor/Partner agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, Purchasing Entities and employees from ("Indemnitees") and against any and all claims or suits which may be brought against an Indemnitee concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against an Indemnitee, the Contractor/Partner shall satisfy and indemnify the Indemnitee(s) for the amount of any settlement or final judgment, and the Contractor/Partner shall be responsible for all legal or other fees or expenses incurred by the Indemnitee arising from any such claim. The Indemnitee shall give the Contractor/Partner prompt notice of any such claim or suit, however, the failure of the Indemnitee to give such notice shall only relieve Contractor/Partner of its obligations under this Section to the extent Contractor/Partner can demonstrate actual prejudice arising from the Indemnitee's failure to give notice. This Section shall not grant the Contractor/Partner, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106, however the parties shall work cooperatively in defending any such claim.

The preceding paragraph supersedes any provision in Exhibit C, Section 17.c. of the Master Agreement with which it directly conflicts. For the avoidance of doubt, the provisions contained in the foregoing section of the Master Agreement that are not in conflict with the preceding paragraph remain in full force and effect.

13. Travel Compensation

The Contractor/Partner shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

14. Subcontracting

The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without obtaining the prior written approval of the Central Procurement Office or the Purchasing Entity, which approval will not be unreasonably withheld or delayed. Notwithstanding any use of approved subcontractors/resellers/partners, the Contractor shall be the prime contractor and shall be responsible for all work provided and the Contractor shall be responsible for any agreements with the partners, resellers or subcontractors. The State of Tennessee shall not agree to and shall not be responsible for any terms and conditions with a subcontractor/reseller/partner.

15. Purchases by Local Government and Authorized Non-Profit Agencies (SWC)

Authorized Users: Local Governments, Private Non-Profit Institutions of Higher Education and Eligible Non-Profit Agencies

The purpose of this Participation Addendum is to establish a source or sources of supply for all state agencies, local governmental units within the geographic limits of the State of Tennessee, any private nonprofit institution of higher education chartered in Tennessee, and any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3) as amended and which contracts with the Department of Mental Health and Mental Retardation to provide services to the public (T.C.A. 33-2-401et seq.).

Purchases by local governmental units, private institutions of higher education, and authorized corporations are encouraged but are optional with those agencies, private institutions of higher education, and corporations.

16. Bill of Materials. Contractor's standard bill of materials (BOM) issued with its quotes shall be the BOM that is used to transact business with the State of Tennessee and/or a Purchasing Entity. This BOM may not be modified or altered by a Partner except as relates to pricing, if applicable.

The BOM must list the NASPO ValuePoint current manufacturer catalog part number.

17. Contract User Agency

This is a Restricted Statewide Contract to Finance and Administration (F&A), Strategic Technology Solutions (STS). All executive branch agency purchase orders will be submitted by Strategic Technology Solutions, Business Unit 31701. Executive branch agency purchase orders from any other business unit will not be accepted by the Contractor/Partners. Purchases by local governmental units, private institutions of higher education, and authorized corporations do not have to follow these restrictions.

18. Hardware, Software, Updates, Etc.

Hardware and/or software maintenance/upgrade maintenance and maintenance renewals thereof must include all updates, hardware and/or software corrections, or enhancement (including patches/fixes) to the state agency's embedded hardware and/or software at no additional cost to the State over and beyond the payment for annual maintenance. All updates, hardware and/or software corrections, or enhancements (including patches/fixes), support releases and/or documentation deemed necessary by the State of Tennessee and/or recommended by hardware and/or software manufacturer must be received within twenty (20) working days from the manufacturer's date of release. Contractor's provision of maintenance and support services and provision of the aforementioned updates will be as set forth in Contractor's Warranty and Maintenance and Support Services ("WMS Terms") referenced in the Master Agreement and attached hereto as Attachment D.

19. Emergency Response Plans/Preparedness

In a declared state of emergency where the State's hardware and/or software used in critical applications are at risk, Contractor/Partner may be asked to supply the Participating State with the commodities and/or services under this Master Agreement on a priority basis. Contractor's/Partner's responsibilities will be limited to the provision of additional purchased Product on an expedited basis. "Expedited basis" in this context shall mean Contractor's reasonable grant to the State of preferential priority with respect to Products subject to allocation over Contractor's commercial end user customers. Contractor shall also provide to the State of Tennessee a list of Contractor/Partner emergency contact and escalation information including name(s), position(s)/title(s), phone, email and cell phone numbers.

20. Software License Warranty.

a. License Grant

- (1) Except as otherwise expressly agreed in this Section 24 or in an Order, Contractor grants the State a personal, non-transferable, non-exclusive license:
 - (i) To use the Software solely on the Contractor Equipment with which it shipped, to enable the Equipment to function;
 - (ii) To use the Software solely for the State's internal business purposes, subject to the restrictions specified on any Equipment used in conjunction with the Software. For capacity-based Software, the State may use the Software up to the specified capacity purchased in an Order on the relevant equipment, network or CPU. If the State wishes to exceed capacity, it must first pay Contractor any additional license fees.
 - (iii) If the State is provided with Work Product under a Statement of Work, to use, reproduce, copy and display the Work Product solely for the State's internal business purposes.
- (2) Contractor-Owned Software and Third-Party Software may only be used in machine-readable object code form or machine-compressed form (and the related documentation may only be used in printed or electronic form). All use must be in accordance with the manufacturer's Specifications and in accordance with all applicable laws.

b. Third Party Software

- (1) Third Party Software may be embedded in the Contractor-Owned Software that is branded as Contractor's software and sublicensed directly to the State under this license grant. Other Third Party Software is provided to the State subject to Third Party Software end user license agreements ("EULA's"), which are available from Contractor at the State's request. Such EULA's may be in the form of shrink-wrap or click-through license agreements.
- (2) The State will have no recourse against Contractor with respect to any Third Party Software, unless Contractor is the stated licensor and then, only to the extent expressly provided for in such license. The State is responsible to do

whatever is necessary or required by the Third Party Software licensor for the licenses and related terms to take effect (e.g., online registration).

- (3) The inclusion of Third Party Software or Open Source Software in the Products and the State's acceptance of any Third Party Software EULA's or Open Source Software licenses (or other similar agreements presented by Third Party licensors) will not adversely affect the State's use of the Product as contemplated under this PA or the Master Agreement.
- (4) Notwithstanding anything above to the contrary, the Contractor agrees to provide to the State a copy of any and all required Third Party Software EULA's that are or may be in the form of shrink-wrap or click-through license agreements, prior to, or at least contemporaneously with, the delivery of any product to the State. Contractor acknowledges that the State may negotiate the terms of those agreements directly with the Third Party Software Providers and if other terms are reached with applicable Third Party Providers the State will provide a copy of such terms to Contractor prior to the placement of an Order. For the avoidance of doubt, Contractor shall have no obligations to the State with regard to such negotiated terms, and any matters contained in the negotiated terms that are not licensing, warranty and support terms shall not be applicable to Contractor.
- (5) Notwithstanding anything in this part b. titled "Third Party Software" to the contrary, any provision or provisions of this part will not apply to the extent they are finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or Constitution of the State of Tennessee.

c. Open Source Software

- (1) The Software may include Open Source Software. The State can access a complete list of the licenses for the Open Source Software provided with the Contractor-Owned Software from the website located at <http://www.hds.com/corporate/legal> ("**Open Source License Website**"). The State is responsible to read the terms of, and adhere to all licenses but only to the extent not in conflict with Tennessee State law and Constitution for Open Source Software.
- (2) As part of this license grant, the State accepts the terms and conditions of the licenses applicable to any Third Party Software (including any Open Source Software) included with the Software but only to the extent not in conflict with Tennessee State law and Constitution. The Open Source License Website does not include Third Party Related OSS. The Purchasing Entity must refer to the

applicable Third Party EULA or the file directory located in the Software for those terms.

- (3) If the Software includes certain software licensed under the GNU General Public License or other similar Open Source Software with a license that requires the licensor to make the source code publicly available (“**GPL Software**”) and the applicable source code was not included in the Software, then the State may obtain a copy of the applicable source code for the GPL Software by either: (i) requesting Contractor to mail the open source code to the State; or (ii) downloading the open source code by following the links on the website referenced in the Open Source License Website.
- (4) Notwithstanding anything in this part c. titled “Open Source Software” to the contrary, any provision or provisions of this part will not apply to the extent they are finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or Constitution of the State of Tennessee.

d. Use Restrictions

Except to the extent these restrictions are prohibited by applicable law, prohibited by the terms of any Open Source Software license or otherwise agreed to by Contractor in writing, the State must not, and must not allow any other person to:

- (1) disclose the results of testing or benchmarking the Software or Products to any third party without the prior written consent of Contractor;
- (2) translate, decompile, disassemble, reverse compile, reverse engineer, reduce in human readable form or otherwise attempt to discover, access or reconstruct the source code or underlying ideas, algorithms, file formats, programming or interoperability interfaces of the Software, or any files contained in, or generated using the Software by any means whatsoever;
- (3) modify, unbundle, enhance, supplement or create derivative works using the Software;
- (4) sub-license, rent, lease, transfer, loan, distribute, resell or grant any rights in and to the Software to a third party;
- (5) copy or reproduce the Software other than as expressly allowed in the PA, the Master Agreement, this license grant or as authorized by Contractor;
- (6) remove or otherwise tamper with any proprietary notices, labels or marks contained on or in the Software;

- (7) use or permit the Software, any Product or any Work Product to be used to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, other than as expressly allowed in the Agreement or as authorized by Contractor;
- (8) use the Software or any Product or allow their use for the purpose of: (i) developing, enhancing or marketing any product that is in any way competitive with the Software or any Product; or (ii) testing the Software or Product to derive data for any purpose which is competitive with the Software or any Product; (i) use the Software via any communications network or by means of remote access; or
- (9) use the Software in any manner other than as expressly provided herein.

e. Authorized Copies

Contractor will provide the State with one (1) copy of the media and documentation for the Software. If an Order for Software is licensed under an enterprise license, Contractor grants to the State the right to make copies of the Software solely for its own internal use, within the scope of the enterprise license. The State may also make one copy of back-up or archival copies of Software solely for its own internal use, provided that the State ensures that such copy bears Contractor's proprietary notices, labels or marks. The State must reproduce on all copies made, all proprietary and copyright notices contained on or in the Software.

f. Software Transfers

Except to the extent otherwise provided in any applicable Open Source Software license, the State must not transfer the Software to any other person or entity without Contractor's prior written consent. The State may, however, transfer the Operating Software to a third party ("*transferee*") solely with the related Contractor Equipment, but the State must ensure that the transferee agrees to the terms of these License Terms and all additional relevant license terms. The Operating Software is provided to the transferee on an "as is" basis, with no extension of any existing warranty or support arrangements. When the transfer is complete, the State must remove and destroy all copies of the Operating Software in its possession or under its control. The State must also permanently remove all Software from any media upon which it is stored prior to disposing of the media.

g. Location of Software

If the Equipment upon which the State is authorized to use the Software becomes temporarily inoperable, the State may load and use the Software on another of its computer systems located at the same premises, until the original Equipment becomes

operable. Otherwise, the State must always get Contractor's prior written consent before changing the Equipment on which the Software is to be used, or its location.

h. Verification Rights

Contractor or its independent auditor may, upon reasonable notice to the State, examine and audit its records and systems to ensure compliance with applicable software licenses. The audit will be performed during normal business hours in a manner which does not unduly interfere with the State's business operations. If the audit shows that the State is using more copies of the Software than permitted under its applicable license(s), Contractor may charge the State additional usage fees.

i. Termination of Licenses

The State's license in the Software will terminate: (i) when that Software is replaced with any upgrade, revision or replacement Software; (ii) when the license term ends, if any is expressly stated; (iii) if the State is in breach of this license grant, any license for Third Party Software, or the PA.

j. Notwithstanding anything in this Special Term and Condition #20 titled "License Grant" to the contrary, any provision or provisions of this term will not apply to the extent they are finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or Constitution of the State of Tennessee.

21. Software Support and Maintenance Warranty.

"Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that is provided to Contractor's other customers as a part of Contractor's normal Software Support Service ("Updates"). The State will be entitled to receive Updates during the warranty period for the Software and during any term of purchased Software Support Services. The provision of Updates and Contractor's Software Support Service is described in Contractor's Warranty and Maintenance and Support Terms that is Attachment D of the Participating Addendum."

22. Extraneous Terms and Conditions

Contractor/Partner shall fill all orders submitted by the State under this Contract, unless Contractor/Partner in good faith advises the State of the reason it cannot. Except as provided for in the PA or its Attachments, no purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the PA. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor/Partner to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor/Partner.

23. Warranty

Contractor represents and warrants that the term of the warranty ("Warranty Period") for a Product shall be the Warranty Period for the specific Product that is set forth in Contractor's WMS Terms. During the Warranty Period, any material nonconformance of the goods or services to the Specifications shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect at no additional charge. Contractor's provision of warranty services shall be as described in the WMS Terms.

Contractor represents and warrants that all services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

Contractor warrants that, as of the time a Product is delivered to a Purchasing Entity, the Product will not contain any code that will cause any of the following:

- Undisclosed device access methods, trap-door, Trojan horse, time-bomb or "backdoors"
- Any virus or other harmful code or instrumentality that will cause the software to cease to operate or fail to conform to its specifications
- Hardcoded or undocumented account credentials
- Covert communication channels
- Undocumented traffic diversion

24. Conflicts of Interest

The Contractor/Partner warrants that no part of the Contractor's/Partner's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor/Partner in connection with any work contemplated or performed under this Contract.

The Contractor/Partner acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor/Partner is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor/Partner is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

25. Trade-In of equipment

The Contractor/Partner agrees that the State, at its sole discretion, can trade-in its existing equipment toward the purchase of new equipment and may receive a reduction in the price of new equipment subject to the agreement of both parties.

26. Administrative Fee

The Contractor shall pay the State an Administrative Fee of one (1) and one half (0.5) percent (1.5% or 0.015) in accordance with the Terms and Conditions of the Master Agreement no later than 60 days following the end of each calendar quarter. The State's Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping).

Period End	Admin Fee Due
March 31	May 31
June 30	August 31
September 30	November 30
December 31	February 28

The administrative fee **shall** be submitted to the following address:

Ron Plumb, Director of Financial Management

Department of General Services
W.R. Snodgrass TN. Tower 24th Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

27. Prohibited Advertising or Marketing

The Contractor/Partner shall not suggest or imply in advertising or marketing materials that Contractor's/Partner's goods or services are endorsed by the State. The restrictions on Contractor/Partner advertising or marketing materials under this Section shall survive the termination of this Contract.

28. Quarterly Reviews – In Person

The Contractor/Partner shall meet with State representatives at the office of the Department of General Services, Central Procurement Office in Nashville, Tennessee. Contractor/Partner agrees that the in-person meetings will be held no less frequently than quarterly, throughout the life of this Participating Addendum. Contractor/Partner agrees that the first in-person meeting will be held within thirty (30) days of the date that the Participating Addendum is fully executed. The in-person meetings will be used to answer questions, review contractor's/partner's performance, and discuss current and future projects.

29. Confidentiality of Records

Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law. The obligations set forth in this Section shall survive the termination of this Contract.

**STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES
CENTRAL PROCUREMENT OFFICE**

EFFORTS TO ACHIEVE DIVERSITY BUSINESS ENTERPRISE PARTICIPATION

The Governor's Office of Diversity Business Enterprise (Go-DBE) is the state's central point of contact to attract and assist minority-owned, woman-owned, Tennessee service-disabled veteran owned, and small business enterprises interested in competing in the State of Tennessee's procurement and contracting activities. These diversity business enterprises are defined as follows:

Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE)

Businesses that are a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more individuals in the minority or woman category who were impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, ethnic background, or gender.

Service-Disabled Veteran Business Enterprise (SDVBE)

"Tennessee service disabled veteran owned business" means a service-disabled veteran owned business that is a continuing, independent, for profit business located in the state of Tennessee that performs a commercially useful function with at least a twenty percent (20%) disability that is service-connected meaning that such disability was incurred or aggravated in the line of duty in the active military, naval or air service.

Small Business Enterprise (SBE)

"Tennessee small business" means a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis".

For additional program eligibility information visit, http://www.tn.gov/businessopp/program_elig.html.

DIVERSITY INSTRUCTIONS

As part of this process, the Respondent should complete the Diversity Utilization Plan, which begins on the following page. To assist in your effort to seek and solicit the participation of diversity businesses on this solicitation, a directory of certified Diversity Business Enterprise firms may be found on the State's website at: <http://www.tn.gov/businessopp/regdivcomp.html> or by calling Go-DBE toll free at 866-894-5026.

**RESPONDENT'S
DIVERSITY UTILAZATION PLAN**

Respondent's Company Name:		
Solicitation Event Name:		Event Number:
Respondent's Contact Name:	Phone: ()	Email:

Does the Respondent qualify as the diversity business enterprise? Yes No

If yes, which designation does the Respondent qualify? MBE WBE SDVBE SBE

Certifying Agency: _____

Estimated level of participation by diversity businesses if awarded a contract:

Diversity Business Information (List all subcontractors, joint-ventures, and suppliers)	Percent of Contract	Estimated Amount	MBE/WBE/SDVBE/SBE Designation	Currently Certified (Yes or No)
Business Name: Contact Name: Contact Phone:				
Business Name: Contact Name: Contact Phone:				

If awarded a contract, we confirm our commitment to make reasonable business efforts to meet or exceed the commitment to diversity as represented in our Diversity Utilization Plan. We shall assist the State in monitoring our performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in

form and substance as required by said office. We further agree to request in writing and receive prior approval from the Central Procurement Office for any changes to the use of the above listed diversity businesses.

Authorized Signature: _____ Date: _____
 Printed Name and Title of Respondent Signatory (above) _____

ATTACHMENT C

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

If the attestation applies to more than one contract, modify this row accordingly. SUBJECT CONTRACT NUMBER:	Participating State Contract #51226
CONTRACTOR LEGAL ENTITY NAME:	Hitachi Data Systems Corporation
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	94-2603663

If the attestation applies to more than one contract, modify the following paragraph accordingly.

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

K. L. Barnes, Division Sales Controller

PRINTED NAME AND TITLE OF SIGNATORY

August 15, 2016

DATE OF ATTESTATION

ATTACHMENT D

Warranty and Maintenance and Support Terms

These Warranty and Maintenance and Support Terms (“WMS Terms”) must be read together with any additional terms and conditions in the Minnesota WSCA-NASPO Master Agreement (“Agreement”) between Hitachi Data Systems Corporation (“HDS” or “We”) and the Minnesota Materials Management Division. Capitalized terms in these WMS Terms have the same meaning as defined in the Agreement or Section 14 of these WMS Terms. References to “You” and “Your” shall mean the Purchasing Entity. If there is any inconsistency between these WMS Terms and the Agreement, these WMS Terms will be the controlling document.

WARRANTY TERMS

1. Warranty Period and Remedy.

- (a) HDS warrants to You that, during the Warranty Period, the Products will function in accordance with the Published Specifications. To make a valid warranty claim, it must be in accordance with the following sections. **The Warranty Period begins upon delivery of the Product.**
- (b) HDS warrants the Products for the “**Warranty Period**” specified in Attachment A; except that if your order included any equipment or software supplied to HDS by any party other than Hitachi Ltd. for direct or indirect distribution to end users. (“Third Party Products”) they may be warranted by the third party licensor under separate license terms provided to You with the Third Party Product.
- (c) During the Warranty Period, HDS will provide “**Warranty Services**” as defined in Attachment A and Attachment C to correct any failure of the Products to comply with the above warranties and will replace any defective Software media. The Warranty Services will be provided in accordance with and are governed by the Maintenance and Support Terms set out below. You must submit any warranty claim in writing to HDS during the Warranty Period or contact the local HDS support contact center. Your order may have included additional product maintenance and support services, which HDS will deliver in accordance with the Maintenance and Support Terms.
- (d) If HDS does not provide the Warranty Services in a workmanlike manner in accordance with generally accepted industry standards, HDS will promptly re-perform the Services at no additional charge to you. You must submit any Service claim in writing within 90 calendar days of the performance of the Services giving rise to the claim.

EXCEPT AS SPECIFIED IN THESE TERMS, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OR CONDITION OF MERCHANTABILITY,

SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW. WE DO NOT WARRANT THAT ANY PRODUCT OR SERVICE WILL OPERATE UNINTERRUPTED OR ERROR FREE.

2. *Warranty Exclusions; Components.*

- (a) HDS' warranties exclude any Products damaged by accident, neglect, or abuse by any party other than HDS or its subcontractors, or by natural disaster, or subjected to an unsuitable physical operating environment, not properly installed or maintained by any party other than HDS, its subcontractors or its authorized service providers, used in a manner not contemplated by the Published Specifications or in a manner which is outside the scope of Your licensed rights in the Software or modified without HDS' prior written consent.
- (b) Equipment may include components which are used or remanufactured, regardless, HDS' warranties apply. All components removed in the course of performing Warranty Service or any Maintenance and Support Services will be the property of HDS. Any removed components not returned to HDS within 60 calendar days, which are not covered by a currently valid retention option, will be charged to the customer at then current spares list prices.
- (c) Breaking the factory seal on a Field Replaceable Unit (FRU) by any party other than HDS or a HDS ASP will void the warranty in its entirety.

MAINTENANCE AND SUPPORT TERMS

3. *Selecting Your Maintenance and Support Plan*

In addition to the warranties, You will receive Maintenance and Support Services under the plan specified in the relevant Order or Attachment under the Agreement, or as You may separately order from HDS, and as further detailed in Attachment C. Maintenance and Support Services may not be available in certain locations, and plans may vary between locations or subject to additional fees. Additionally, Maintenance and Support Services may vary by Equipment, Product type or family as noted in Attachment C.

4. *Scope of Self-Service Maintenance*

Self-service Equipment maintenance comprises the following:

- (a) access to an online self-service support portal providing technical information and documentation to facilitate the repair of a malfunction or issue with Equipment operation.
- (b) parts ordering processing to replace a malfunctioning or defective component via the online self-service support portal.
- (c) Software and firmware Updates via the online self-service portal.
- (d) remote telephone technical assistance to assist with fault isolation, installation, configuration, interoperability or other Equipment issues.

5. *Scope of Onsite Maintenance Services on Equipment*

HDS Equipment onsite maintenance comprises the following:

- (a) supervision and installation of engineering changes impacting the reliability of the Equipment, which HDS determines to be applicable to the Equipment;
- (b) preventive maintenance for Equipment including necessary lubrication, adjustment or replacement of unserviceable parts; and
- (c) unscheduled maintenance for Equipment, including repair, adjustment or replacement of unserviceable parts as deemed necessary by HDS during the applicable on-call hours of coverage.

The following items are excluded from the scope of onsite Equipment maintenance:

- (a) Engineering changes other than those described in section 5(a) above
- (b) Providing and maintaining a suitable environment for the Equipment, as specified by HDS
- (c) The availability and performance of any electrical work external to an item of Equipment or the maintenance of accessories, attachments, Equipment, or other devices not listed hereto
- (d) The painting, refinishing, or other refurbishment of Equipment
- (e) Repair of damage resulting from accident, natural disaster, transportation, neglect or misuse, improper maintenance, failure to continually provide a suitable installation environment (including but not limited to failure of electrical power, air conditioning or humidity control), or from causes other than ordinary use
- (f) Repair of Field Replacement Units (FRU) if the factory seal of the FRU has been broken
- (g) The movement, rearrangement or reconfiguration of Equipment or cables, additional wiring, or repair to a previously prepared site to make it operational
- (h) The installation or removal of accessories, attachments or other devices, or the furnishing of supplies
- (i) Maintenance or other Services on HDS provided host bus adaptor ("HBA") Equipment not installed and utilized with HDS storage Equipment
- (j) Physical installation, de-installation and replacement of HBAs within Your environment
- (k) Any Maintenance Service which is impractical for HDS' service personnel or representatives to render because of alterations in the Equipment or their connection by mechanical or electrical means to another machine or device.

6. Scope of Support Services for Software

HDS Software support is the support required in connection with ordinary use of the Software in accordance with its Published Specifications, through:

- (a) remote telephone support to (i) identify the problem, and its source and assist in resolving the problem; (ii) advise on installation of Updates; and (iii) respond to minor "ad hoc" Software information queries;
- (b) on-site intervention where necessary and provision of Patches and Fixes where necessary, to be performed at HDS' sole discretion; and
- (c) access to Updates free-of-charge.

Software support services exclude the following events:

- (a) support of other software, accessories, attachments, machines, systems or other devices not supplied by HDS;
- (b) support rendered more difficult because of any alterations, additions, modifications or variations to the Software, the Equipment or Your system or operating environment;
- (c) diagnosis and/or rectification of problems not associated with the Software;
- (d) Professional Services and training, which are scoped and delivered by HDS Global Solution Services;
- (e) Software installation services described in Section 8(b).

7. Remote Monitoring Services.

Maintenance and Support Services include remote diagnostic and monitoring services on eligible Equipment, using HDS' proprietary Hi-Track[®] hardware, software, microcode and documentation ("**Hi-Track Services**"). This material will always remain HDS' sole and exclusive property as Hitachi IP as defined in the Agreement, and You do not get any licensed rights in this material. You must provide

and maintain, at your cost, all telecommunications lines, monitor, PC, modem and access required for HDS to implement and provide the Hi-Track Services. If the Agreement (or the supply of Maintenance and Support Services under it) or Your separate services contract is terminated, You will allow HDS to disable the Hi-Track Services and de-install and remove all material on your premises used by HDS to provide these services. HDS warrants that in providing Hi-Track Services, HDS does not access your data. HDS will maintain the confidence of all passwords that you provide to HDS in connection with its supply of Hi-Track Services. Remote monitoring services other than Hi-Track may be provided for certain self-serviceable, eligible Equipment which does not prompt HDS Service activity or call logging.

8. Installation Services

- (a) HDS will provide installation services as specified in the Agreement or relevant Order, and as further described in Attachment B.
- (b) HDS may provide on-site Software installation services (where HDS advises that the Software has to be installed by HDS) for an additional fee. Installation does not result in production ready implementation of the Software; production ready software implementation is a Professional Service. If You require a production ready implementation or additional capabilities, You will pay an additional fee based on your requirements, and the Software and/or Equipment. HDS will advise You of the Professional Services fee in advance.
- (c) Installation services do not include:
 - i. Physical siting of the Equipment
 - ii. All electrical work, including connection of the Equipment power supply to Your power supplies
 - iii. Any operating system development and testing
 - iv. Computer room planning services
 - v. Performance tuning
 - vi. Advanced operator training
 - vii. Moves of any non-HDS equipment
 - viii. Onsite standby beyond the storage system test phase
 - ix. De-installation of displaced equipment
 - x. Attendance at Your meetings
 - xi. SAN design, integration and implementation
 - xii. Software production-ready implementation

9. Services for Additional Fees

If You request HDS to perform:

- (a) any of the “excluded” services in Sections 2,5 or 6; or
- (b) any Maintenance and Support Services outside the coverage hours or support zone for your support plan; or
- (c) any other Services which HDS reasonably determines to be “out of scope” of these WMS Terms,

HDS may perform the relevant Services at HDS' then current rates or on a quoted fixed fee basis (“**Billable Services**”). If You allow someone other than HDS' authorized service personnel or representatives to move, relocate, perform maintenance or support, or repair Equipment or Software, or otherwise the Maintenance and Support Services have been terminated under section 10 and You wish to reinstate the Maintenance and Support Services for all or part of the Equipment, You must re-certify the relevant Equipment in order to have HDS' commitments under these Online Support Terms continue to apply to that Equipment. HDS may charge its then current rates for recertification and further repair necessary to restore the Equipment or Software to good operating condition.

10. Termination and Expiration of Maintenance and Support Services

- (a) Without limiting any other rights of HDS, HDS reserves the right to terminate all or any of its Maintenance and Support Services at any time by written notice to You when You (i) transfer your Equipment to another person or entity or otherwise You relocate the Equipment in any way and You don't first obtain the written consent of HDS (ii) where the Equipment is damaged by accident, neglect or abuse by any party other than HDS or its subcontractors, or by natural disaster, or subjected to an unsuitable operating environment, not properly installed or maintained by any party other than HDS, its sub-contractors or authorized service providers (iii) where the Equipment used in a manner not contemplated by the Published Specifications or in a manner which is outside the scope of Your licensed rights in the Software; (iv) where You have modified the Equipment in any way (including any unauthorized attachments or additions to the Equipment) without the prior written consent of HDS; or (v) where you have infringed any rights of HDS in any Maintenance Material. Either party may terminate Maintenance and Support Services for cause in accordance with Section 8 of the Agreement.
- (b) Without limiting your rights elsewhere in the Agreement, following expiration of the Initial Service Period, You may terminate the Maintenance and Support Service for one or more items of Equipment and/or Software by giving HDS 90 day's prior written notice. The reinstatement of any Maintenance and Support Services so terminated will be subject to a reinstatement fee in addition to the then current monthly charge for such Services. Any notice to terminate a single Maintenance and Support Service must identify the specific Service item to be terminated. If, in the reasonable opinion of HDS, the termination of a single Maintenance and Support Service adversely affects the ability of HDS to provide you other Services, then HDS may in its sole discretion terminate these other Services.
- (c) HDS' Maintenance and Support Service obligations for Equipment no longer manufactured will expire five (5) years from the last manufacturing date of the equipment, spare parts or accessories for the relevant Equipment model. HDS will use commercially reasonable efforts to provide You with at least three (3) months' notice prior to the end of sale of a particular Product and 12 months' notice prior to the expiration of any Maintenance and Support Services for that Product.

11. Current and Superseded Software Support

- (a) HDS will provide Normal Support (as defined below) for the Current Release and one prior version of the Software. If a release is older than one prior version from the Current Release, then HDS will provide Limited Support (as defined below) for a 12-month period following the general availability of the Current Release.
- (b) "Normal Support" means the development and provision of service packs, Updates and Patches and Fixes necessary to maintain the Software in substantial conformance with the Published Specifications.
- (c) "Limited Support" means the provision of existing service packs, and existing Patches and Fixes necessary to maintain the Software in substantial conformance with the Published Specifications. HDS does not provide support for Software releases that are older than two prior versions of the Current Release.
- (d) HDS may refuse to supply Patches and Fixes for Software if You could have solved the Problem or defect by upgrading to the latest Update. HDS does not support the Operating Software unless HDS is also maintaining the Equipment on which it is installed. You must have the proper effective Software license before HDS has an obligation to support Your Software. If Your license

is terminated for any reason (including due to the assignment or transfer of the license to another party) then HDS' Software support obligations will cease.

12. Maintenance Material

HDS may store Maintenance Material within the Products or elsewhere on your premises for convenience. Only HDS personnel will be authorized to use the Maintenance Material. Maintenance Material will always remain HDS' sole and exclusive property as Hitachi IP as defined under the Agreement, and You do not get any licensed rights. You must not use, access, modify, copy or relocate the Maintenance Material or allow any other person to do so and must return or allow HDS to de-install it upon demand by HDS or on termination of the Maintenance and Support Services. User manuals utilized for self-serviceable eligible Equipment are not considered Maintenance Materials.

13. Transferability of Services

You agree that:

- (a) HDS has no obligation to You for Product purchased from a source other than HDS or its authorized resellers.
- (b) You must not assign or transfer any warranty, maintenance and/or support arrangement with HDS to any Third Party without the prior written consent of HDS. Unless HDS otherwise so consents, HDS will have no obligation to perform any Maintenance and Support Services for the transferee.
- (c) In certain cases when HDS supplies Third Party Products to You, You will obtain maintenance services directly from the vendor of the Third Party Product and not HDS.

14. Defined Terms

Attachment: any of the signed documents attached to the Agreement that supplements or amends it.

Billable Services: Services outside or excluded from the scope of the Maintenance and Support Services described within these WMS Terms.

Current Release: the latest version of the Software released by HDS.

Engineering Changes: design modifications or micro code changes initiated to improve functionality and operational performance of the Equipment. Engineering Changes are normally developed and released by the Equipment manufacturer.

Equipment: The hardware component of any Product.

Field Replaceable Unit (FRU): a subassembly of components sealed at the factory and subject to replacement as a discrete unit at the customer site.

Maintenance and Support Services: The Equipment and Software support services described in more detail in these WMS Terms.

Maintenance Material: diagnostic and/or tracking tools, including without limitation Hi-Track[®] software, firmware and related documentation, personal computers or notebooks, maintenance manuals and other documentation.

Patches and Fixes: changes made to the Software by HDS that establish or restore substantial conformity with the applicable Published Specification.

Problem: an instance where a HDS Product does not substantially conform to the Published Specifications.

Product(s): Any Equipment and/or Software listed in HDS' standard Product price lists published from time to time.

Published Specifications: The specifications for Products that were valid at the time of acceptance of Your order.

Professional Services: Software enablement, data migration, implementation or other design services that may be provided by Us to You under as mutually agreed in a Statement of Work.

Software: The object code format of (i) programming firmware embedded in the Equipment to enable it to perform its basic functions (“**Operating Software**”) and (ii) software programs supplied by HDS (“**Programs**”) and (iii) any Updates, related documentation and specifications.

Software Support Services: The support required in connection with ordinary use of the Software in accordance with its published specifications.

Third Party Products: any equipment or software supplied by Us that are not manufactured by HDS or Hitachi Ltd.

Third Party Software: any software contained in or comprising Third Party Products.

Update: Subsequent releases and error corrections and/or minor functional enhancements for Software previously licensed by HDS.

For the purposes of these Additional Terms, “Local Service Jurisdiction” shall mean the jurisdiction of the state, province or country in which the HDS entity that sold You the Product is located.

ATTACHMENT A

Warranty Period Services

WARRANTY PERIOD SERVICES			
TYPE	PRODUCT NAME FAMILY	WARRANTY PERIOD	WARRANTY SERVICES
EQUIPMENT	<u>HSMS*</u> Hitachi Simple Modular Storage	36 MONTHS 3 YEARS	BASIC SELF SERVICE [REMOTE]
EQUIPMENT	<u>WMS*</u> Workgroup Modular Storage	12 MONTHS 1 YEAR	WEEK DAY BASIC
EQUIPMENT	<u>AMS*</u> Hitachi Adaptable Modular Storage	12 MONTHS 1 YEAR	WEEK DAY BASIC
EQUIPMENT	<u>AMS 2000</u> Hitachi Adaptable Modular Storage	12 MONTHS 1 YEAR	WEEK DAY BASIC
EQUIPMENT	<u>HUS</u> Hitachi Unified Storage	36 MONTHS 3 YEARS	REMOTE
EQUIPMENT	<u>HUS VM</u> Hitachi Unified Storage VM	36 MONTHS 3 YEARS	WEEK DAY BASIC
EQUIPMENT	<u>HNAS FILE</u> Hitachi Network Attached Storage	36 MONTHS 3 YEARS	WEEK DAY BASIC
EQUIPMENT	<u>NSC*</u> Hitachi Network Storage Controller	24 MONTHS 2 YEARS	STANDARD
EQUIPMENT	<u>USP VM*</u> Universal Storage Platform VM	24 MONTHS 2 YEARS	STANDARD
EQUIPMENT	<u>USP USP V*</u> Universal Storage Platform	36 MONTHS 3 YEARS	PREMIUM
EQUIPMENT	<u>VSP</u> Virtual Storage Platform	36 MONTHS 3 YEARS	WARRANTY [STANDARD]
EQUIPMENT	<u>VSP G1000</u> Virtual Storage Platform G1000	36 MONTHS 3 YEARS	STANDARD
EQUIPMENT	<u>COMPUTE BLADE</u> Hitachi Compute Blade	36 MONTHS 3 YEARS	REMOTE
EQUIPMENT	<u>COMPUTE RACK</u> Hitachi Compute Blade	12 MONTHS 1 YEAR	REMOTE
EQUIPMENT	<u>HDI REMOTE SERVER</u> Hitachi Data Ingestor RS	36 MONTHS 3 YEARS 60 MONTHS 5 YEARS	REMOTE
SOFTWARE	<u>SOFTWARE</u>	90 DAYS 3 MOS	MEDIA ONLY
EQUIPMENT	<u>CONVERGED SOLUTION</u>	Warranty Provided Via Embedded Subsystems Layered Highest Warranty Level & Coterminal Duration	
NOTES	* Denotes Legacy End-of-Life Sunset Products		

WARRANTY OVERVIEW				
PRODUCT NAME FAMILY	REMOTE	WEEK DAY BASIC	STANDARD	PREMIUM
<u>HSMS*</u> Hitachi Simple Modular Storage	✓ 3 YEARS			
<u>WMS*</u> Workgroup Modular Storage		✓ 1 YEAR		
<u>AMS*</u> Hitachi Adaptable Modular Storage		✓ 1 YEAR		
<u>AMS 2000</u> Hitachi Adaptable Modular Storage		✓ 1 YEAR		
<u>HUS</u> Hitachi Unified Storage	✓ 3 YEARS			
<u>HUS VM</u> Hitachi Unified Storage VM		✓ 3 YEARS		
<u>HNAS FILE</u> Hitachi Network Attached Storage		✓ 3 YEARS		
<u>NSC*</u> Hitachi Network Storage Controller			✓ 2 YEARS	
<u>USP VM*</u> Universal Storage Platform VM			✓ 2 YEARS	
<u>USP USP V*</u> Universal Storage Platform				✓ 3 YEARS
<u>VSP</u> Virtual Storage Platform			✓ 3 YEARS	
<u>VSP G1000</u> Virtual Storage Platform G1000			✓ 3 YEARS	
<u>COMPUTE BLADE</u> Hitachi Compute Blade	✓ 3 YEARS			
<u>COMPUTE RACK</u> Hitachi Compute Blade	✓ 1 YEAR			
<u>HDI REMOTE SERVER</u> Hitachi Data Ingestor R/S	✓ 3 OR 5 YEARS			
<u>SOFTWARE</u>	90 DAYS MEDIA ONLY			
<u>CONVERGED SOLUTIONS</u>	WARRANTY LAYERED @ EMBEDDED SUBSYSTEM SUBASSEMBLY			
NOTES	* Denotes Legacy End-of-Life Sunset Products			

ATTACHMENT B

Installation Services

INSTALLATION DESCRIPTION	
<ul style="list-style-type: none"> ▪ Telephone pre-delivery site survey conducted to confirm power, location of Equipment, access and expectations ▪ Telephone consultation to determine optimum configuration ▪ Physical inspection for shipment damage ▪ Physical connection of cable interfaces ▪ Installation of any additional features and options, including software enablement (functionality only) ▪ Installation of resource and configuration management program(s) using Your PC ▪ Consultation to determine optimum configuration and operation ▪ Full complete configuration of all logical units (LUN) to ensure accessibility from each host system <ul style="list-style-type: none"> - Maximum five (5) hosts/servers – five (5) LUNs per host/server ▪ Installation, configuration and testing of Hi-Track ▪ Confirmation of maintenance provisions and call handling procedures ▪ Training: Basic handling of Equipment and configuration ▪ Performance Period: Local Business Hours Monday – Friday <p>Note: Onsite pre-delivery survey and off-hours install available: Additional fee-based Billable Service</p> <p>Note: Physical installation of Host Bus Adapters (HBAs) is excluded</p>	
INSTALLATION AVAILABILITY MATRIX	
PRODUCT NAME FAMILY	AVAILABILITY
<u>HSMS*</u>	✓
<u>WMS*</u>	✓
<u>AMS*</u>	✓
<u>AMS 2000</u>	✓
<u>HUS</u>	✓
<u>HUS VM</u>	✓
<u>HNAS FILE</u>	✓
<u>NSC*</u>	✓
<u>USP VM*</u>	✓
<u>USP USP V*</u>	✓
<u>VSP</u>	✓
<u>VSP G1000</u>	✓
<u>COMPUTE BLADE</u>	✓
<u>COMPUTE RACK</u>	✓
<u>HDI REMOTE SERVER</u>	- NOT AVAILABLE -
<u>SOFTWARE</u>	- VARIOUS SELECT FEE-BASED IMPLEMENTATION SERVICES AVAILABLE -
<u>THIRD PARTY HW</u>	✓
<u>HBA HOST BUS ADAPTERS</u>	- NOT AVAILABLE -

<u>CONVERGED SOLUTIONS</u>	✓ SUBSYSTEM SUBASSEMBLY [EACH]
NOTES	* Denotes Legacy End-of-Life Sunset Products

ATTACHMENT C

Warranty Maintenance & Support Services

WARRANTY MAINTENANCE & SUPPORT SERVICES			
WMS SERVICE	DESCRIPTION	WTY	POST WTY
<u>REMOTE</u>	<ul style="list-style-type: none"> ▪ Period of Maintenance: Customer-Defined ▪ Targeted Response Time: Customer ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Customer Repairs ▪ Replacement Parts Target: Next Business Day ▪ Microcode Updates: Customer ▪ Engineering Field Changes: Customer ▪ Preventative Maintenance: Customer ▪ Hi-Track: Remote Electronic Monitoring ✓Check Local Availability 	✓	✓
<u>WEEK DAY BASIC</u>	<ul style="list-style-type: none"> ▪ Period of Maintenance: Local Business Hours, Mon - Fri ▪ Targeted Response Time: Next Business Day ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Repairs Local Business Hours: Mon-Fri ▪ Replacement Parts Target: Next Business Day ▪ Microcode Updates: Local Business Hours: Mon-Fri ▪ Engineering Field Changes: Local Business Hours: Mon-Fri ▪ Preventative Maintenance: Local Business Hours: Mon-Fri ▪ Hi-Track: Remote Electronic Monitoring ✓Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 	✓	✓
<u>STANDARD</u>	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Four (4) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Repairs 7X24 7 Days Per Week 24 Hrs Per Day ▪ Replacement Parts Target: Next Business Day Critical ASAP [4 Hrs] ▪ Microcode Updates: Local Business Hours: Mon-Fri ▪ Engineering Field Changes: Local Business Hours: Mon-Fri ▪ Preventative Maintenance: Local Business Hours: Mon-Fri ▪ Hi-Track: Remote Electronic Monitoring ✓Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 	✓	✓
WARRANTY MAINTENANCE & SUPPORT SERVICES [Continued]			
WMS SERVICE	DESCRIPTION	WTY	POST WTY
<u>PREMIUM</u>	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7X24 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Two (2) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Corrective Maintenance: Repairs 	✓	✓

	<ul style="list-style-type: none"> ▪ Replacement Parts Target: Next Business Day Critical ASAP [2 Hrs] ▪ Microcode Updates: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Engineering Field Changes: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Preventative Maintenance: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 		
<u>DISK RETENTION</u> <u>OPTION</u> [DRO]	<ul style="list-style-type: none"> ◆ <u>OPTION</u>: Any & All WMS Offerings or Services ◆ Requisite: WMS Offering or Service ◆ Forgives The Return Of Defective Media Billable Non-Returned Media ◆ WMS Terms 2.b [This Host Document] ◆ All Media: HDD SSD FMD Etc – All Platforms All Products 	✓	✓
<u>SOFTWARE</u> <u>SUPPORT</u>	<ul style="list-style-type: none"> ◆ Call Logging 7X24 7 Days Per Week 24 Hrs Per Day ◆ Telephone Support 7X24 7 Days Per Week 24 Hrs Per Day ◆ Updates Releases ◆ Severity Level Driven Response 	✓	✓
<u>BASIC*</u> <u>SELF SERVICE</u> [HSMS ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: Customer-Defined ▪ Targeted Response Time: Customer ▪ Call Logging: HDS ▪ Telephone Support: Local Business Hours Monday-Friday ▪ Corrective Maintenance: Customer Repairs ▪ Replacement Parts Target: Two (2) Business Days ▪ Microcode Updates: Customer ▪ Engineering Field Changes: Customer ▪ Preventative Maintenance: Customer ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Local Availability 	✓	✓
	BASIC SELF SERVICE = REMOTE Variation		
<u>ENHANCED*</u> <u>SELF SERVICE</u> [HSMS ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: Customer-Defined ▪ Targeted Response Time: Customer ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Customer Repairs ▪ Replacement Parts Target: Next Business Day ▪ Microcode Updates: Customer ▪ Engineering Field Changes: Customer ▪ Preventative Maintenance: Customer ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Local Availability 	✓	✓
	ENHANCED SELF SERVICE = REMOTE		

WARRANTY MAINTENANCE & SUPPORT SERVICES [Continued]			
WMS SERVICE	DESCRIPTION	WTY	POST WTY
<u>WARRANTY*</u> [VSP ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Four (4) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Repairs 7X24 7 Days Per Week 24 Hrs Per Day ▪ Replacement Parts Target: Next Business Day Critical ASAP [4 Hrs] ▪ Microcode Updates: Local Business Hours: Mon-Fri ▪ Engineering Field Changes: Local Business Hours: Mon-Fri ▪ Preventative Maintenance: Local Business Hours: Mon-Fri ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 	✓	
	WARRANTY = STANDARD		
<u>MAINTENANCE*</u> [VSP ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Four (4) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hours Per Day ▪ Corrective Maintenance: Repairs 7X24 7 Days Per Week 24 Hrs Per Day ▪ Replacement Parts Target: Next Business Day Critical ASAP [4 Hrs] ▪ Microcode Updates: Local Business Hours: Mon-Fri ▪ Engineering Field Changes: Local Business Hours: Mon-Fri ▪ Preventative Maintenance: Local Business Hours: Mon-Fri ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 		✓
	MAINTENANCE = STANDARD		
<u>WARRANTY PLUS*</u> [VSP ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7X24 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Two (2) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Corrective Maintenance: Repairs 7X24 7 Days Per Week 24 Hrs Per Day ▪ Replacement Parts Target: Next Business Day Critical ASAP [2 Hrs] ▪ Microcode Updates: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Engineering Field Changes: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Preventative Maintenance: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 	✓	
	WARRANTY PLUS = PREMIUM		
<u>MAINTENANCE PLUS*</u> [VSP ONLY]	<ul style="list-style-type: none"> ▪ Period of Maintenance: 7X24 7 Days Per Week 24 Hours Per Day ▪ Targeted Response Time: Two (2) Hours ▪ Call Logging: HDS ▪ Telephone Support: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Corrective Maintenance: Repairs 7X24 7 Days Per Week 24 Hrs Per Day ▪ Replacement Parts Target: Next Business Day Critical ASAP [2 Hrs] ▪ Microcode Updates: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Engineering Field Changes: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Preventative Maintenance: 7X24 7 Days Per Week 24 Hrs Per Day ▪ Hi-Track: Remote Electronic Monitoring ✓ Check Availability: Typically 50 Miles 80 Kilometers HDS Service Center 		✓
	MAINTENANCE PLUS = PREMIUM		

PORTFOLIO WMS OFFERINGS OVERVIEW				
DELIVERABLE	WARRANTY MAINTENANCE SUPPORT OFFERINGS			
	REMOTE	WEEK DAY BASIC	STANDARD	PREMIUM
PERIOD OF MAINTENANCE	<u>CUSTOMER</u>	✓ LOCAL BUS HRS MON – FRI	✓ 7 X 24	✓ 7 X 24
ONSITE RESPONSE TIME -TARGETED-	<u>CUSTOMER</u>	✓ NEXT BUS DAY	✓ 4 HRS	✓ 2 HRS
HOTLINE CALL LOGGING	✓	✓	✓	✓
TELEPHONE SUPPORT -TARGETED-	✓ SEVERITY*	✓ SEVERITY*	✓ SEVERITY*	✓ SEVERITY*
CORRECTIVE MAINTENANCE	<u>CUSTOMER</u> -CRU-	✓	✓	✓
REPLACEMENT PARTS -TARGETED-	✓ NEXT BUS DAY	✓ NEXT BUS DAY	✓ NEXT BUS DAY CRITICAL ASAP	✓ NEXT BUS DAY CRITICAL ASAP
PREVENTATIVE MAINTENANCE	<u>CUSTOMER</u>	✓ LOCAL BUS HRS M-F	✓ LOCAL BUS HRS M-F	✓ 7 X 24
MICROCODE UPDATES	<u>CUSTOMER</u>	✓ LOCAL BUS HRS M-F	✓ LOCAL BUS HRS M-F	✓ 7 X 24
ENGINEERING FIELD CHANGES	<u>CUSTOMER</u>	✓ LOCAL BUS HRS M-F	✓ LOCAL BUS HRS M-F	✓ 7 X 24
REMOTE MONITORING -HI-TRACK-	✓	✓	✓	✓
SOFTWARE SUPPORT -HDS- -TARGETED-	✓ SEVERITY*			
DISK RETENTION OPTION -DRO-	✓	✓	✓	✓
DISK RETENTION OPTION DRO: Forgives Defective Media Return & Any Billable Subsystem Customer Non-Returned Media. All Media, All Products [HDD SSD FMD Etc] WMS Terms 2.b – This Host Document				
NOTES	<u>SMS Only</u> BASIC SS ENHANCED SS	Excludes Public Holidays	<u>VSP Only</u> WARRANTY MAINTENANCE	<u>VSP Only</u> WARRANTY PLUS MAINTENANCE PLUS
		<ul style="list-style-type: none"> ✓ Check Availability Typically 50 Miles 80 Kilometers : HDS Service Center ✓ Targeted deliverable response can vary by locations or geography ✓ Business hours /work week days can vary by locations or geography 		
*SEVERITY: Customer Business Impact [HDS-Defined Vetted] Targeted telephone technical support response varies by client impact classification [Sev Level]				

WMS AVAILABILITY MATRIX				
PRODUCT FAMILY	WARRANTY MAINTENANCE SUPPORT OFFERINGS			
	REMOTE	WEEK DAY BASIC	STANDARD	PREMIUM
<u>HSMS*</u> Hitachi Simple Modular Storage HSMS SMS	✓ <u>BASIC</u> <u>ENHANCED</u>	✓		
<u>WMS*</u> Workgroup Modular Storage WMS 100		✓	✓	✓
<u>AMS*</u> Hitachi Adaptable Modular Storage AMS 200 500 1000		✓	✓	✓
<u>AMS 2000</u> Hitachi Adaptable Modular Storage AMS 2100 2300 2500		✓	✓	✓
<u>HUS</u> Hitachi Unified Storage HUS 110 130 150	HUS 110 Special	✓	✓	✓
<u>HUS VM</u> Hitachi Unified Storage VM HUS VM		✓	✓	✓
<u>HNAS FILE</u> Hitachi Network Attached Storage HNAS FILE		✓	✓	✓
<u>NSC*</u> Hitachi Network Storage Controller NSC 55		Post Warranty Special	✓	✓
<u>USP USP V*</u> Universal Storage Platform USP USP V USP VM		Post Warranty Special	✓	✓
<u>VSP</u> Virtual Storage Platform VSP		Post Warranty Special	✓ <u>WARRANTY</u> <u>MAINTENANCE</u>	✓ <u>WARRANTY PLUS</u> <u>MAINTENANCE</u> <u>PLUS</u>
<u>VSP G1000</u> Virtual Storage Platform VSP G1000		Post Warranty Special	✓	✓
<u>COMPUTE BLADE</u> Hitachi Compute Blade CB XXXX	Post Warranty Special	✓	✓	✓
<u>COMPUTE RACK</u> Hitachi Compute Blade CR XXXX	Post Warranty Special	✓	✓	✓

WMS AVAILABILITY MATRIX [Continued]				
PRODUCT FAMILY	WARRANTY MAINTENANCE SUPPORT OFFERINGS			
	REMOTE	WEEK DAY BASIC	STANDARD	PREMIUM
HBA Host Bus Adapters Various HBA	✓ Return-to-Factory			
HDI Remote Server Hitachi Data Ingestor Remote Server HDI R/S	✓ Return-to-Factory Warranty Only			
SOFTWARE Various HDS Support All	✓ -Call Logging -Telephone Support -Updates Releases			
CONVERGED SOLUTIONS Various HDS UCP HCAP HCP HDI Etc.	- Warranty Maintenance & Support Provided Via Solution Embedded Components - Offerings & Terms: Embedded Solution Components [Each] - Aligned / Layered to the Highest Service Level & Coterminous Duration			
THIRD PARTY HW SW Various Brocade Cisco Etc.	- HDS Direct Pass-Thru Resell Vendor Defined Maintenance Support Offering & Terms - HDS Vendor- Partnered Support HDS Maintenance Support Offerings & Terms [This Host Document]			
DISK RETENTION OPTION DRO Various All HDD SSD FMD	✓ Optional Add-On WMS Service	✓ Optional Add-On WMS Service	✓ Optional Add-On WMS Service	✓ Optional Add-On WMS Service
NOTES	Product warranty conditions & durations defined in the Product Warranty Terms ▪ Denotes Legacy End-of-Life Sunset Product			
		- Targeted deliverable response can vary by location or geography - Business hours / work week days can vary by location or geography		

ATTACHMENT D

Remote Monitoring Service | Hi-Track®

HI-TRACK DESCRIPTION	
<ul style="list-style-type: none"> ▪ Remote Monitoring Service System ▪ Free-Of-Charge Support Feature / Facility – WMS Offerings ▪ Continuous Monitoring Round-The-Clock 24 Hours Per Day 7 Days Per Week ▪ Secure Controlled Access: Layered Encryption & Authentication ▪ Advanced Systems Diagnostics – Engineering Design Embedded ▪ Proactive Predictive Fault Isolation ▪ Reports System Incidents / Potential Problems ▪ Facilitates / Enables Real-Time Rapid-Action Expert Troubleshooting ▪ Integrated & Linked – HDS Support Services Management Systems ▪ Provides And Facilitates Trend Analysis And Analytics ▪ Customer System Site Installation / Implementation ▪ Customer Requisite: Access & Required Equipment Telecommunications, Etc. ▪ Hi-Track® – HDS Proprietary Property ▪ HDS Sole Discretionary Use 	
HI-TRACK AVAILABILITY MATRIX	
PRODUCT NAME FAMILY	AVAILABILITY
<u>HSMS*</u>	✓
<u>WMS*</u>	✓
<u>AMS*</u>	✓
<u>AMS 2000</u>	✓
<u>HUS</u>	✓
<u>HUS VM</u>	✓
<u>HNAS FILE</u>	✓
<u>NSC*</u>	✓
<u>USP VM*</u>	✓
<u>USP USP V*</u>	✓
<u>VSP</u>	✓
<u>VSP G1000</u>	✓
<u>COMPUTE BLADE</u>	✓
<u>COMPUTE RACK</u>	✓
<u>HDI REMOTE SERVER</u>	
<u>SOFTWARE</u>	
<u>THIRD PARTY HW</u>	✓
<u>HBA HOST BUS ADAPTERS</u>	
<u>CONVERGED SOLUTIONS</u>	✓
	SUBSYSTEM SUBASSEMBLY [EACH]
NOTES	* Denotes Legacy End-of-Life Sunset Products

