

COOPERATIVE PURCHASING AGREEMENT

STATE OF TENNESSEE
PARTICIPATING ADDENDUM
NJPA MASTER CONTRACT 062916-GPC
AUTO AND TRUCK PARTS WITH RELATED AUTO
AND TRUCK EQUIPMENT, SUPPLIES AND SERVICES
WITH
GENUINE PARTS COMPANY (d/b/a NAPA AUTO PARTS)

This Participating Addendum ("Addendum") is entered into this 17th day of April, 2017, pursuant to the National Joint Powers Alliance ("NJPA") for Auto and Truck Parts with Related Auto and Truck Equipment, Supplies and Services Cooperative Master Contract #062916-GPC ("Master Contract") between NJPA and Genuine Parts Company d/b/a NAPA Auto Parts ("Contractor"). The parties to this Addendum hereby create a separate contract between the Contractor and the State of Tennessee acting through the Department of General Services, Central Procurement Office (the "State").

WHEREAS, NJPA entered into the Master Contract with the Contractor, pursuant to which the Contractor provides auto and truck parts with related auto and truck equipment excluding tires, supplies and services as in the Master Contract; and

WHEREAS, the State desires to participate in the Master Contract as an additional contracting party to procure auto and truck parts with related auto and truck equipment, supplies and services from the Contractor under the Master Contract; and

WHEREAS, the Master Contract permits the State to participate in the resulting contract by signing a Participating Addendum with the awarded Contractor; and

WHEREAS, the State is authorized under Tenn. Code Ann. §12-3-512, to undertake and make this type of contractual arrangement;

NOW THEREFORE, intending to be legally bound hereby, the State and the Contractor agree as follows:

1. The State and Contractor agree to be bound by the terms and conditions as stated in the Master Contract, which is made a part of this Addendum and incorporated by reference;
2. The State and Contractor agree to be bound by the Special Terms and Conditions attached hereto as Attachment A and made part of this Addendum; and
3. To the extent that there is a conflict between the Master Contract and Special Terms and Conditions set forth in Attachment A, including its exhibits thereto, the order of precedence shall be the Special Terms and Conditions and then the Master Contract.

IN WITNESS WHEREOF, the parties have signed this Addendum.

State of Tennessee
Department of General Services
Central Procurement Office

By: Michael F. Perry

Michael F. Perry
Chief Procurement Officer

Genuine Parts Company
(d/b/a NAPA Auto Parts)
Contractor

By: Jim P. Tolivar

Dennis P. Tolivar 4/18/17
Printed Name/Date

58-0254510
Federal I.D. Number

ATTACHMENT A
PARTICIPATING ADDENDUM

For: The State of Tennessee
Under the
NJPA Master Contract 062916-GPC
with
Genuine Parts Company (d/b/a NAPA Auto Parts)

SPECIAL TERMS AND CONDITIONS

1. **SCOPE**

These SPECIAL TERMS AND CONDITIONS shall be a part of the Participating Addendum ("Addendum") between the State of Tennessee, acting through the Department of General Services, Central Procurement Office ("State") and Genuine Parts Company (d/b/a NAPA Auto Parts) ("Contractor") regarding the procurement of auto and truck parts with related auto and truck equipment, supplies and services. Unless otherwise defined, all capitalized terms in this Addendum shall have the meanings ascribed to them in the NJPA Master Contract 062916-GPC Contract ("Master Contract").

2. **TERM OF PARTICIPATING ADDENDUM**

This Addendum shall become effective on the date of execution by the Chief Procurement Officer subsequent to the approval of the Tennessee Comptroller of the Treasury for the State of Tennessee. The Addendum shall terminate or expire upon the earlier of (a) expiration or termination of the Master Contract, or (b) termination of the Addendum in accordance with its terms or the terms of the Master Contract.

3. **STATE OF TENNESSEE ADDENDUM PARTICIPANTS**

Once awarded by the State, the resulting contract may be used by all State of Tennessee agencies pursuant to Tenn. Code Ann. §12-3-305, and by all local governmental units of the State, as the term is used in Tenn. Code Ann. §12-3-1201.

4. **GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.

5. **DEFINITIONS AND GENERAL INFORMATION**

Definitions: The following words shall be defined as set forth below:

- "NJPA" means the National Joint Powers Alliance, which is a service cooperative organized under the Minnesota Statute § 123A.21 and which is authorized to provide cooperative purchasing services to its members.

6. **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.

7. 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.

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. Subject to Funds Availability.

The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

10. CONTRACT PRICING

Contract pricing shall be as per the NJPA Master Contract No. 062916-GPC agreed upon pricing and the Master Contract's pricing, terms, and conditions.

11. FIRM PRICE PERIOD

Percentage discounts quoted shall be firm for the term of this contract.

12. INSPECTION AND ACCEPTANCE

The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

13. WARRANTY

Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of twelve (12) months or the warranty period, if any, provided by the applicable manufacturer of the goods or provider of the services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract 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 represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or 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.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

14. FREIGHT F.O.B. STATE AND LOCAL GOVERNMENT AGENCIES (DOCK)

The term F.O.B. destination shall mean delivered and unloaded onto the receiving dock of any state agency and, when applicable, any local government agency or authorized corporation within the State of Tennessee, with all charges for transportation and unloading prepaid by the Contractor.

15. CONTRACT PURCHASE ORDER

State agencies and local governmental units may issue purchase orders against this Addendum directly to the Contractor. These orders constitute the Contractor's authority to make delivery to the ordering State agency or local governmental unit. Each purchase order will be deemed to incorporate the terms and conditions set forth in the Addendum. Orders may be entered electronically, transmitted through facsimile equipment or submitted on paper. The electronic transmission of a purchase order through the Contractor's website shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the purchase order shall constitute receipt of an order. Orders received by the Contractor after 4:00 P.M. (CST) will be considered the following business day.

16. ELECTRONIC ITEM/PRODUCT/SERVICE INFORMATION

Approximately six (6) months after receipt of final award of the contract, the Contractor shall provide a punch-out system that will interact with the State's Oracle/PeopleSoft system. The punch-out system shall be capable of providing the State agencies with their own account(s) on the Contractor's punch-out system and have the capability of on-line viewing and ordering. The punch-out software system shall include up to date contract pricing and other item/product purchasing related information. Information available on the State's account shall include, but is not limited to, the following data: Contractor name, Contractor item/part number(s), manufacturer name, a complete item/ product description, unit of measure and price and if available on Contractor's website pictures and/or images of item/product.

The electronic catalog will be used by state agencies and approved users to purchase the item/product contracted for by the State, under this contract.

The Contractor agrees to provide, upon request by the State, the information discussed above including pictures or images of item product in an electronic format acceptable to the State and, at no cost to the State or State approved users of this contract, to assist the State in the development of its electronic item/product catalog.

17. MINIMUM ORDER AND OTHER EXEMPTIONS

Items exempt from this contract may be purchased by applicable procurement procedures. The following items may be exempt:

- a. Individual orders for less than \$100.00.
- b. Pursuit Vehicles, Heavy Equipment, and Repairs Covered by Manufacturer's Warranty: The District or Regional TDOT Garage Supervisor or Foreman may opt to use O.E.M. parts and products as determined by application with justification and documentation on the purchase order; the following categories are included, but not limited to: Oil Filters, Fuel Filters, Transmission Filters, and Brake Pads.
- c. State agencies shall also be authorized to purchase from the Contractor or obtain quotes for purchases from the Contractor and other vendors for the following items: Oil (i.e. Hydraulic, Heavy Duty, Motor Oil, etc.) in sizes and amounts above a five (5) gallon container, custom made equipment and parts, and any other item that the state agency has received written permission from the Central Procurement Office

(CPO) to procure as a one-time purchase. The Contractor will be notified, in writing, of any item that the State has designated as permanently exempt. State agencies shall award to the low bidder meeting specifications using its Local Purchase Authority if under the current Local Purchase limit. If the amount exceeds the current Local Purchase limit, state agencies can elect to award to the Contractor or submit requisition(s) to the CPO for sealed bid sourcing.

18. DELIVERY TIME (DAYS) – ALL AGENCIES EXCEPT TDOT

All items must be delivered within approximately 14 days after receipt of a purchase order (ARO).

19. DELIVERY TIME (HOURS) – TDOT SPECIFIC

All items must be delivered to the Tennessee Department of Transportation (TDOT) District Garage or Regional Garage within two (2) hours after receipt of an order notification. If the Contractor is unable to deliver within two (2) hours, TDOT may purchase outside of the contract using applicable procedures. Items ordered in bulk quantities, case lots or multiples of the same unit of measure to be stocked by the agency shall be delivered within forty-eight (48) hours after receiving an order notification. Listed below are the TDOT District and Regional Garages (which are subject to change throughout the contract period):

Dept. of Transportation - Region I 7345 Region Lane Knoxville, TN 37914 Attn: Roger Poole, 865-594-2697	Districts 11-16
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Dept. of Transportation - Region II 4005 Cromwell Road Chattanooga, TN 37421 Attn: Robert Kelly, 423-510-1231	Districts 21-25
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Dept. of Transportation - Region III 6601 Centennial Blvd. Nashville, TN 37243-0360 Attn: Richard Haliburton, 615-350-4423	Districts 31-36
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Dept. of Transportation - Region IV 300 Benchmark Place Jackson, TN 38302-0429 Attn: Ricky Wylie, 731-935-0265	Districts 41-45
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The following are TDOT's District Garages and the Shop Foremen:

Region I

11. Johnson City
Dillard Richmond
423-282-0651
Box 3518 CRS
Johnson City, TN 37602-3518
12. Morristown
Eric Wolfenbarger
423-587-7026
1825 State Street
Morristown, TN 37814
13. Newport
Jimmy Sauceman
423-623-1227

Box 28
Newport, TN 37822

14. Lafollette
Larry Robbins
423-566-9631
2841 General Carl W. Stiner Hwy.
Lafollette, TN 37766
15. Knoxville (No Garage)
16. Harriman
Doug McKissack
865-882-3618
1951 South Roane
Harriman, TN 37748

Region II

21. Chattanooga (No Garage)
22. Dunlap
Kerry Hollis
423-949-2128
P.O. Box 355
Dunlap, TN 37327
23. Crossville
Lynn Tollett
931-484-5041 (615-741-1140)
P.O. Box 1069
Crossville, TN 38557
24. Cookeville
David Webb
931-372-2341
P.O. Box 2929
Cookeville, TN 38502
25. Tullahoma
Flint Frame
931-454-1921
P.O. Box 98
Tullahoma, TN 37388

Region III

31. Nashville (No Garage)
32. Gallatin
Ray Horsley
615-451-5822
1215 Hartsville Pk.
Gallatin, TN 37066
33. Clarksville
Jeremy Perry
931-648-5570

1918 Wilma Rudolph Blvd.
Clarksville, TN 37040

34. Belfast
Rusty Poole
931-276-2219
2099 Fayetteville Hwy.
Belfast, TN 37019
35. McEwen
Mike Brown
931-582-6293
Rt. 3, Box 306B
McEwen, TN 37101
36. Lawrenceburg
Alan Staggs
931-766-1414
1213 N. Locust
Lawrenceburg, TN 38464

Region IV

41. Mckenzie
Scottie Rainey
731-352-5375
P.O. Box 637
Mckenzie, TN 38201
42. Newbern
Kenneth Holder
731-627-2503
Box 179
Newbern, TN 38059
43. Bethel Springs
David Dockery
731-934-7291
Box 2929
Bethel Springs, TN 38502
44. Jackson (No Garage)
45. Arlington
Bobby Sartain
901-867-2959
Box 126
Arlington, TN 38002

20. 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 \$10.2M ("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 will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

21. TRAVEL COMPENSATION

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

22. INVOICE REQUIREMENTS

The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than forty-five (45) days after goods or services have been provided to the ship-to address on the Purchase Order:

- 1) Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
 - a) Invoice number (assigned by the Contractor);
 - b) Invoice date;
 - c) Contract number (assigned by the State);
 - d) Customer account name;
 - e) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - f) Contractor name;
 - g) Contractor Tennessee Edison registration ID number;
 - h) Contractor contact for invoice questions (name, phone, or email);
 - i) Contractor remittance address;
 - j) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 - k) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 - l) Applicable payment methodology (as stipulated in Section 23.) of each good or service invoiced;
 - m) Amount due for each compensable unit of good or service; and
 - n) Total amount due for the invoice period.
- 2) Contractor's invoices shall:
 - a) Only include charges for goods delivered or services provided as described in the Master Contract and in accordance with payment terms and conditions set forth in Section 23;
 - b) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
 - c) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
 - d) Include shipping or delivery charges only as authorized in this Contract.
- 3) The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section 22.

23. PAYMENT OF INVOICE

The State agrees to pay the entire amount of all undisputed invoices received from Contractor within forty five (45) days following receipt of any such invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

24. LOCAL GOVERNMENT PURCHASES AND PAYMENTS

The State reserves the right to extend the Contractor's services and pricing to local government entities such as city and county governments and special districts. Purchases made by these entities are to be paid by the

purchasing local government entity and are not the liability or responsibility of the State. Payment methods shall be determined between each participating local government entity and the Contractor.

25. DIVERSITY

It is the policy of the State to include diversity in its contractual relations with commercial firms. Firms who demonstrate and embrace diversity within its programs and policies are assisting the State in achieving its goals in building a more reflective marketplace for the community within this state. The Contractor will encourage and foster the participation of minority business enterprises, women business enterprises, small business enterprises and persons with military related disabilities. The Contractor will provide quarterly reports in its standard format on the amount of expenditures paid to diversity business firms. To assist you in your efforts to seek and solicit the participation of minority owned, women owned, service-disabled veteran owned or small businesses on this Contract, a directory of certified Diversity Business Enterprise firms may be found on the State's website at:

<https://tn.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=tn&XID=1215> or by calling the Governor's Office of Diversity Business Enterprise toll free at 866-894-5026.

26. REPORT - STATE'S USAGE - QUARTERLY

All reports shall be submitted electronically in Microsoft Excel format. Reports shall include the ability to sort or summarize data in accordance with the Contract Administrator's specifications. All reports shall be provided at no additional cost to the State.

Quarterly Reports: Contractor(s) will submit quarterly reports to the Contract Administrator no later than ten (10) days after the end of the State's quarter (e.g. a fiscal year quarter 2 report for October - December is due no later than January 10th). At the Contract Administrator's sole discretion, the State may extend the time allowed to complete quarterly reports. Quarterly reports shall provide statistical data on all purchases under this Contract by State Agencies, including State Agencies of the judicial or legislative branch, local governmental entities in the State of Tennessee, including but not limited to educational institutions, local governmental authorities, quasi-governmental bodies ("Other Governmental Bodies"), and certain not-for-profit entities under Tenn. Code Ann. § 33-2-1001. At minimum, the quarterly report's statistical data shall be detailed and broken down by line item to include:

1. Edison contract number
2. Contract line item number
3. Invoice date
4. Invoice number
5. Vendor part number
6. Item or bundle description
7. Quantity purchased
8. Unit of measure
9. Unit of measure description
10. Name of State Agency, Other Governmental Body or not-for-profit entity
11. Identity of purchaser: State entity or non-State entity
12. State Agency location
13. Unit/Contract price per line item
14. List price as listed in vendor's catalog if catalog item.
15. Sub-totals for each category above
16. Grand totals for each category above

Diversity Business and SubContractor Usage Reports: When requested by the State, the Contractor shall submit reports of returns, credits, savings, net purchases, and percent of net purchases by subContractors, small business enterprises, and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be submitted to the Contract Administrator.

Custom Reports: When requested by the State, the Contractor shall submit custom reports to the Contract Administrator within thirty (30) days of the request.

27. 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 that can be accessed and printed from the internet at http://tn.gov/generalserv/cpo/for_bidders.html, 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 reasonable notice by the State.
- 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: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) 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) is otherwise authorized to provide services under the Contract.

28. CONTRACT MANAGEMENT

The Contractor shall assign a Government Sales Manager and one or more individuals to the function as Customer Service Representative(s) within five (5) business days of execution of this Addendum. The Contractor shall provide contact information to the contract administrator.

29. CONTRACT IMPLEMENTATION

The State will issue a contract to the Contractor after execution of this Addendum, by both parties. The State issued contract is the authority for state agencies to order products and to pay for Products, once received.

30. PRIMARY CONTACT/CONTRACT ADMINISTRATOR

The primary contact/Contract Administrator for the State on this Addendum is as follows:

Katherine Weaver, Category Specialist*
Department of General Services,
Central Procurement Office,
3rd Floor, WRS Tennessee Tower,
312 Rosa L. Parks Avenue

Nashville, Tennessee 37243
Phone: (615) 741-2173
Fax: (615) 741-0684
E-Mail: Katherine.Weaver@tn.gov

*The Contract Administrator is subject to change.

31. 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.

32. 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 Term and Condition 20 of this participating addendum 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.

33. 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.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

34. TERM OF CONTRACT - MULTI-YEAR

Total Number of Years if all options to renew are exercised: 4 Years and 4 Months.

Initial Contract Term One (1) year and Four (4) months with Three (3) renewal options:

Start Date:	04/13/2017
Initial End Date:	08/31/2018
Final End Date:	08/31/2021

The anticipated effective (start) date and expiration (end) dates of the contract with NAPA are shown above. If award has not been made by the anticipated effective date, then the contract shall become effective upon the date the contract is awarded by the State (note: the change of effective date may not result in a change of the anticipated expiration date.)

35. RENEWAL OPTIONS

This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to three (3) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, 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.

36. TERM EXTENSION

The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, 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.

37. TERMINATION FOR CONVENIENCE

The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

38. TERMINATION FOR CAUSE

If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

39. 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 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 offense 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 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 are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

40. PROFESSIONAL LICENSURE AND DEPARTMENT OF REVENUE REGISTRATION

The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

41. INSURANCE REQUIRED

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability). Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. Contractor will, during the term of the Agreement, maintain the insurance in the amounts listed below:

a) Commercial General Liability Insurance

1. The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form

providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract.

2. The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

b) Workers' Compensation and Employer Liability Insurance

1. For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount required by statute including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
2. If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 - 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c) Automobile Liability Insurance

1. The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
2. The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

42. DAMAGES

If state property is damaged, stolen or lost as a result of vendor/Contractor employees' negligence and that property has to be repaired or replaced by the State, the expense for such work or replacement will be deducted from the monies due the Contractor. In addition to the foregoing, the State reserves the right to pursue claims for damages through any and all legal remedies available to the State.

43. PREREQUISITE DOCUMENTATION

The contractor shall not invoice the State under this Participating Addendum 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 Tennessee State Purchasing Card ("P-Card").

- 1) The Contractor shall complete, sign, and present to Tennessee:
 - a) 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 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
 - b) An "Authorization to Receive Payments by Purchasing Card Form" provided by the Tennessee. By doing so, the Contractor agrees that payments to the Contractor under this Participating Addendum may be made using the Tennessee State P-Card and Contractor will provide level III data reporting information.
- 2) The Contractor shall complete, sign, and return to Tennessee the Tennessee-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

44. ASSIGNMENT AND 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 the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

45. OBLIGATIONS OWED TO THIRD PARTIES

The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Addendum are or will be fully satisfied by the Contractor so that the State will not have any obligations with respect thereto.

46. ENTIRE AGREEMENT

The Master Contract and this Participating Addendum, together with their exhibits and/or attachments if any, set forth the entire agreement between the parties concerning the State's procurement of auto and truck parts with related auto and truck equipment, supplies and services. No agent, representative, employee or officer of either the State or the Contractor has the authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the agreement, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No modifications, alterations, changes, or waiver to this agreement or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

47. FORCE MAJEURE

"Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, Contractors, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

48. IRAN DIVESTMENT ACT

The requirements of Tenn. Code Ann. § 12-12-101, et. seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

49. CONFLICT OF INTEREST

The Contractor warrants that no part of the Contractor'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 in connection with any work contemplated or performed under this PA.

The Contractor acknowledges, understands, and agrees that this PA shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor 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.