



ADMINISTRATION AGREEMENT

THIS ADMINISTRATION AGREEMENT (this “**Agreement**”) is made this ___ day of _____ 20___, between OMNIA Partners, Public Sector, Inc., a Delaware corporation (“**OMNIA Partners**”), and _____ (“**Supplier**”).

RECITALS

WHEREAS, the _____ (the “**Lead Public Agency**” f/k/a a Principal Procurement Agency) has entered into a Master Agreement dated as of even date herewith, Agreement No. _____, by and between the Lead Public Agency and Supplier, (as may be amended from time to time in accordance with the terms thereof, the “**Master Agreement**”), as attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, for the purchase of _____ (the “**Product**”);

WHEREAS, said Master Agreement provides that any or all public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit (collectively, “**Public Agencies**”), that register (either via making purchases using a Master Agreement, registration on the OMNIA Partners website or execution of a Master Intergovernmental Cooperative Purchasing Agreement, attached hereto as Exhibit B) (each, hereinafter referred to as a “**Participating Public Agency**”) may purchase Product at prices stated in the Master Agreement;

WHEREAS, Participating Public Agencies may access the Master Agreement which is offered through OMNIA Partners to Public Agencies;

WHEREAS, OMNIA Partners serves as the cooperative contract administrator of the Master Agreement on behalf of Lead Public Agency;

WHEREAS, Lead Public Agency desires OMNIA Partners to proceed with administration of the Master Agreement; and

WHEREAS, OMNIA Partners and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies and to set forth certain terms and conditions governing the relationship between OMNIA Partners and Supplier.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, OMNIA Partners and Supplier hereby agree as follows:

DEFINITIONS

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings given to them in the Master Agreement.

TERMS AND CONDITIONS

2. The Master Agreement and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement. Supplier acknowledges and agrees that the covenants and agreements of Supplier set forth in the solicitation and Supplier's response thereto resulting in the Master Agreement are incorporated herein and are an integral part hereof.

3. OMNIA Partners shall be afforded all of the rights, privileges and indemnifications afforded to Lead Public Agency by or from Supplier under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to OMNIA Partners, its agents, employees, directors, and representatives under this Agreement including, but not limited to, Supplier's obligation to obtain appropriate insurance. Furthermore, OMNIA Partners shall not be responsible for Supplier's performance under the Master Agreement, and Supplier shall hold OMNIA Partners harmless from any liability that may arise from the acts or omissions of Supplier in connection with the Master Agreement.

4. OMNIA Partners shall perform all of its duties, responsibilities and obligations as the cooperative contract administrator of the Master Agreement on behalf of Lead Public Agency as set forth herein, and Supplier hereby acknowledges and agrees that all duties, responsibilities and obligations will be undertaken by OMNIA Partners solely in its capacity as the cooperative contract administrator under the Master Agreement.

5. With respect to any purchases by Lead Public Agency or any Participating Public Agency pursuant to the Master Agreement, OMNIA Partners shall not be: (i) construed as a supplier, dealer, re-marketer, representative, partner or agent of any type of the Supplier, Lead Public Agency or any Participating Public Agency; (ii) obligated, liable or responsible for any order for Product made by Lead Public Agency or any Participating Public Agency or any employee thereof under the Master Agreement or for any payment required to be made with respect to such order for Product; and (iii) obligated, liable or responsible for any failure by Lead Public Agency or any Participating Public Agency to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase under the Master Agreement. OMNIA Partners makes no representation or guaranty with respect to any minimum purchases by Lead Public Agency or any Participating Public Agency or any employee thereof under this Agreement or the Master Agreement.

6. OMNIA Partners may provide Supplier with access to OMNIA Partners database and other records with respect to Public Agencies that are registered with OMNIA Partners, including without limitation the OMNIA Connect portal. Supplier acknowledges that, in

connection with its access to OMNIA Partners confidential information and/or supply of data to OMNIA Partners, when applicable, it has complied with and shall continue to comply with all laws, regulations and standards that may apply to Supplier, including, without limitation: (a) United States federal and state information security and privacy statutes, regulations and/or best practices, including, without limitation, the Gramm-Leach-Bliley Act, the Massachusetts Data Security Regulations (201 C.M.R. 17.00 et. seq.), the Nevada encryption statute (N.R.S. § 603A), the California data security law (Cal. Civil Code § 1798.80 et. seq.) and California Consumer Privacy Act (Cal. Civil Code § 1798.100 et. seq.); and (b) applicable industry and regulatory standards and best practices (collectively, “**Data Regulations**”).

With regard to Personal Information that Supplier collects, receives, or otherwise processes under the Agreement or otherwise in connection with performance of the Agreement, Supplier agrees that it will not: (i) sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, such Personal Information to another business or third party for monetary or other valuable consideration; or (ii) retain, use, or disclose such Personal Information outside of the direct business relationship between Supplier and OMNIA Partners or for any purpose other than for the specific purpose of performance of the Agreement, including retaining, using, or disclosing such Personal Information for a commercial purpose other than for performance of the Agreement. By entering into the Agreement, Supplier certifies that it understands the specific restrictions contained in this Section 6 and will comply with them. For purposes hereof, “**Personal Information**” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household, and includes the specific elements of “personal information” as defined under Data Regulations, as defined herein. Supplier will reasonably assist OMNIA Partners in timely responding to any third party “request to know” or “request to delete” (as defined pursuant to Data Regulations) and will promptly provide OMNIA Partners with information reasonably necessary for OMNIA Partners to respond to such requests. Where Supplier collects Personal Information directly from Public Agencies or others on OMNIA Partners’ behalf, Supplier will maintain records and the means necessary to enable OMNIA Partners to respond to such requests to know and requests to delete.

7. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OMNIA PARTNERS EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING OMNIA PARTNERS’ PERFORMANCE AS A COOPERATIVE CONTRACT ADMINISTRATOR OF THE MASTER AGREEMENT. OMNIA PARTNERS SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF OMNIA PARTNERS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TERM OF AGREEMENT; TERMINATION⁸. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of Sections 3 – 7 and 10 – 21, hereof and the indemnifications afforded by the Supplier to OMNIA Partners in the Master Agreement, to the extent such provisions survive any expiration or termination of the Master Agreement, shall survive the expiration or termination of this Agreement.

NATIONAL PROMOTION9. OMNIA Partners and Supplier shall publicize and promote the availability of the Master Agreement's products and services to Public Agencies and such agencies' employees. Supplier shall confirm each Public Agency has registered its participation in the OMNIA Partners program by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector) or executing a Master Intergovernmental Cooperative Purchasing Agreement prior to processing the Participating Public Agency's first sales order. Upon request, Supplier shall make available to interested Public Agencies a copy of the Master Agreement and such price lists or quotes as may be necessary for such Public Agencies to evaluate potential purchases.

10. Supplier shall provide such marketing and administrative support as set forth in the solicitation resulting in the Master Agreement, including assisting in development of marketing materials as reasonably requested by Lead Public Agency and OMNIA Partners. Supplier shall be responsible for obtaining permission or license of use and payment of any license fees for all content and images Supplier provides to OMNIA Partners or posts on the OMNIA Partners website. Supplier shall indemnify, defend and hold harmless OMNIA Partners for use of all such content and images including copyright infringement claims. Supplier and OMNIA Partners each hereby grant to the other party a limited, revocable, non-transferable, non-sublicensable right to use such party's logo (each, the "**Logo**") solely for use in marketing the Master Agreement. Each party shall provide the other party with the standard terms of use of such party's Logo, and such party shall comply with such terms in all material respects. Both parties shall obtain approval from the other party prior to use of such party's Logo. Notwithstanding the foregoing, the parties understand and agree that except as provided herein neither party shall have any right, title or interest in the other party's Logo. Upon termination of this Agreement, each party shall immediately cease use of the other party's Logo.

ADMINISTRATIVE FEE, REPORTING & PAYMENT

11. An "**Administrative Fee**" shall be defined and due to OMNIA Partners from Supplier in the amount of __ percent (__%) ("**Administrative Fee Percentage**") multiplied by the total purchase amount paid to Supplier, less refunds and credits on returns, for the sale of products and/or services to Lead Public Agency and Participating Public Agencies pursuant to the Master Agreement (as amended from time to time and including any renewal thereof) ("**Contract Sales**"). From time to time the parties may mutually agree in writing to a lower Administrative Fee Percentage for a specifically identified Participating Public Agency's Contract Sales. Supplier acknowledges that OMNIA Partners is not a supplier or vendor of Supplier and shall not condition payment of Administrative Fees under this Agreement on any attestation or certification to Supplier's policies or procedures.

12. Supplier shall provide OMNIA Partners with an electronic accounting report monthly, in the format prescribed by OMNIA Partners, summarizing all sales under the Master Agreement for each calendar month. The Contract Sales reporting format is provided as Exhibit C ("**Contract Sales Report**"), attached hereto and incorporated herein by reference. Contract Sales Reports for each calendar month shall be provided by Supplier to OMNIA Partners by the

10th day of the following month. Failure to provide a Contract Sales Report within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Lead Public Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion.

13. Administrative Fee payments are to be paid by Supplier to OMNIA Partners at the frequency and on the due date stated in Section 12, above, for Supplier's submission of corresponding Contract Sales Reports. Administrative Fee payments are to be made via Automated Clearing House (ACH) to the OMNIA Partners designated financial institution identified in Exhibit D. Failure to provide a payment of the Administrative Fee within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Lead Public Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion. All Administrative Fees not paid when due shall bear interest at a rate equal to the lesser of one and one-half percent (1 1/2%) per month or the maximum rate permitted by law until paid in full.

14. Supplier shall maintain an accounting of all purchases made by Participating Public Agencies under the Master Agreement during the term of this Agreement and for a period of four (4) years after expiration of the term of this Agreement. OMNIA Partners, or its designee, in OMNIA Partners' sole discretion, reserves the right to compare Participating Public Agency records with Contract Sales Reports submitted by Supplier during such time period. In addition, during such time period, OMNIA Partners, in OMNIA Partners' sole discretion, may itself, or engage a third party to conduct an independent audit of Supplier's monthly reports and Supplier's sales records to Participating Public Agencies to verify Supplier's compliance with the terms of this Agreement. In the event of such an audit, Supplier shall cooperate and provide all materials reasonably requested relating to such audit, including without limitation all records relating to any purchases made by Participating Agencies from Supplier, at the location designated by OMNIA Partners. In the event an underreporting of Contract Sales and a resulting underpayment of Administrative Fees is revealed, OMNIA Partners will notify the Supplier in writing. Supplier will have thirty (30) days from the date of such notice to resolve the discrepancy to OMNIA Partners' reasonable satisfaction, including payment of any Administrative Fees due and owing, together with interest thereon in accordance with Section 13, and reimbursement of OMNIA Partners' costs and expenses related to such audit.

GENERAL PROVISIONS

15. This Agreement, the Master Agreement and the exhibits referenced herein supersede any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereto and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained or incorporated herein shall be valid or binding. In the event of any conflict between the provisions of this Agreement and the Master

Agreement, as between OMNIA Partners and Supplier, the provisions of this Agreement shall prevail.

16. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any Administrative Fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which it may be entitled.

17. This Agreement and OMNIA Partners' rights and obligations hereunder may be assigned at OMNIA Partners' sole discretion to an affiliate of OMNIA Partners, any purchaser of any or all or substantially all of the assets of OMNIA Partners, or the successor entity as a result of a merger, reorganization, consolidation, conversion or change of control, whether by operation of law or otherwise. Supplier may not assign its obligations hereunder without the prior written consent of OMNIA Partners.

18. All written communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery on receipt to the addresses as set forth below.

A. OMNIA Partners:

OMNIA Partners
5001 Aspen Grove
Franklin, TN 37067
Attention: Legal Department - Public Sector Contracting

B. Supplier:

19. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever, and this Agreement will be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

20. This Agreement may not be amended, changed, modified, or altered without the prior written consent of the parties hereto, and no provision of this Agreement may be discharged or waived, except by a writing signed by the parties. A waiver of any particular provision will not be deemed a waiver of any other provision, nor will a waiver given on one occasion be deemed to apply to any other occasion.

21. This Agreement shall inure to the benefit of and shall be binding upon OMNIA Partners, the Supplier and any respective successor and assign thereto; subject, however, to the limitations contained herein.

22. This Agreement will be construed under and governed by the laws of the State of Delaware, excluding its conflicts of law provisions and any action arising out of or related to this Agreement shall be commenced solely and exclusively in the state or federal courts in Williamson County Tennessee.

23. This Agreement may be executed in counterparts, each of which is an original but all of which, together, shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile, or by .pdf or similar electronic transmission, will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile, or by .pdf or similar electronic transmission, will be deemed to be their original signatures for any purpose whatsoever. Each party represents and warrants to the other party that: (i) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering; (ii) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder; (iii) the execution of this Agreement by its representatives whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party; and (iv) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.