

EO 87621

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RECEIVED

**Amendment to Contract  
Commercial Off the Shelf (COTS) Software and Related Services  
State of Nebraska Contract 13093 OC  
WSCA Master Price Agreement ADSPO11-00000358-1  
City of Lincoln/Lancaster County  
SECOND RENEWAL**

OCT 30 2014

LANCASTER COUNTY  
CLERK

This Amendment is hereby entered into by and between En Pointe Technologies Sales, Inc., 18701 S. Figueroa Street, Gardena, CA 90248 (hereinafter "Contractor") and Lancaster County and the City of Lincoln (hereinafter "Owners"), for the purpose of renewing the Contract C-11-0745, dated December 20, 2011, and Resolution No. A-86681, dated January 26, 2012, (the "Contract"), for Commercial Off the Shelf (COTS) Software and Related Services, WSCA Master Price Agreement ADSPO11-00000358-1, which is made a part of this amendment by this reference.

WHEREAS, the original term of the Contract is November 21, 2011 through June 2, 2013, with the option to renew on a yearly basis upon mutual written consent by both parties, not to exceed the State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSPO11-00000358-1; and

WHEREAS, the Contract was amended by the County Contract C-13-0531, executed by the County Board on October 29, 2013 and by the City E.O. 86565, executed by the City on October 21, 2013, to renew the Contract from June 3, 2013 through June 2, 2014.

WHEREAS, the parties wish to renew the Contract beginning June 3, 2014 through June 2, 2015; and

WHEREAS, the estimated expenditures for Lancaster County Departments for the term of this renewal shall not exceed \$2,000.00 without prior approval of the Lancaster County Board of Commissioners; and

WHEREAS, the estimated expenditures for City Departments for the term of this renewal shall not exceed \$194,000.00 without prior approval by the City of Lincoln.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in the Contract, under County Contract C-11-0745 and City Resolution No. A-86681, all amendments thereto, and as stated herein, the parties agree as follows:

1. The Contract shall be renewed for an additional one (1) year term beginning June 3, 2014 through June 2, 2015.
2. The estimated expenditures for Lancaster County Departments for the term of this renewal shall not exceed \$2,000.00 without prior approval of the Lancaster County Board of Commissioners.
3. The estimated expenditures for City Departments for the term of this renewal shall not exceed \$194,000.00 without prior approval by the City of Lincoln.
4. All other terms of the Contract, not in conflict with this Amendment, shall remain in full force and effect.

The Parties do hereby agree to all the terms and conditions of this Amendment. This Amendment shall be binding upon the parties, their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Parties do hereby execute this Amendment.

Lancaster County Board of Commissioners Signatures

Executed this 4 day of November 2014

[Signature]  
[Signature]  
[Signature]  
[Signature]  
 Raybould Absent

City of Lincoln 4

Executed this 20 day of Oct., 2014

[Signature]  
 Chris Beutler, Mayor

Approved by Executive Order No. \_\_\_\_\_

[Signature]  
 Richard L. Lohow  
 Per Lancaster County Attorney

Supplier, please sign and date. Mail back to our office; a faxed copy is not acceptable.

Company Name: (PLEASE PRINT)	EN POINTE TECHNOLOGIES SALES, INC.
By:	<u>[Signature]</u>
By:	WASI AHMED YOUSAF
Title:	DIR. of OPS.
Company Address:	18701 S. FIGUERCA ST., GARDENA CA
Company Phone & Fax:	310-337 5200
E-Mail Address:	
Contact Person for Orders or Service:	
Phone Number:	

9024!

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-6500  
Fax: (402) 471-2088

**CONTRACT NUMBER**  
**13093 OC**

PAGE 1 of 2	ORDER DATE 05/21/14
BUSINESS UNIT 9000	BUYER NANCY STORANT (AS)
VENDOR NUMBER: 520422	
VENDOR ADDRESS:  EN POINTE TECHNOLOGIES SALES INC 18701 S FIGUEROA ST GARDENA CALIFORNIA 90248-4506	

AN AWARD HAS BEEN MADE TO THE VENDOR NAMED ABOVE FOR THE FURNISHING OF EQUIPMENT, MATERIAL, OR SUPPLIES AS LISTED BELOW FOR THE PERIOD:

**JUNE 03, 2014 THROUGH JUNE 02, 2015**

NO ACTION ON THE PART OF THE VENDOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE EQUIPMENT OR SUPPLIES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE EQUIPMENT OR SUPPLIES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR ITEMS FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR AND THE STATE OF NEBRASKA.

Supply and deliver Commercial Off The Shelf (COTS) Software and Related Services, FOB destination, to the State of Nebraska per the following Contract Information and attached Participating Addendum, Master Price Agreement and NE Exempt Sale Certificate for a period effective June 3, 2014 through June 2, 2015 with one (1) additional one (1) year period.

EnPointe Technologies Sales, Inc. WSCA website: <http://www.enpointe.com/Nebraska>

The WSCA website will assist you with contact information, software publishers, pricing, and ordering information.

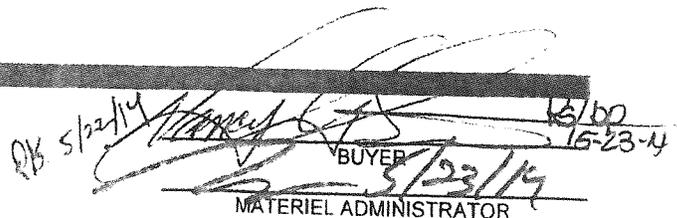
The State Purchasing Bureau encourages agencies to contact the designated Account Executive or Inside Sales Representative as shown on the website address above for general questions, licensing information, quote requests, order status, and returns.

The Purchase Order must include the State of Nebraska WSCA Contract #13093 OC and the EnPointe Technologies Sales, Inc. WSCA Master Price Agreement Number ADSP011-00000358-1.

Leasing is outside the scope of the WSCA/NASPO Agreement and this contract.

THIS IS THE SECOND RENEWAL OF THE CONTRACT AS AMENDED. (05/21/2014 ked)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	ENPOINTE TECHNOLOGIES SALES INC SOFTWARE LICENSES AND MAINTENANCE AGREEMENTS	7,000,000.0000	\$	1.0000


  
 RB 5/22/14  
 BUYER  
 5/23/14  
 MATERIEL ADMINISTRATOR  
 15/60  
 15-23-14

**PARTICIPATING ADDENDUM**  
**Amendment One**  
**WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION**  
**Software Value Added Reseller (SVAR)**  
**Administered by the State of Arizona (hereinafter "Lead State")**

**MASTER AGREEMENT**  
En Pointe Technologies Sales, Inc  
Master Agreement No: ADSP011-0000358-1  
(hereinafter "Contractor")

And

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(hereinafter "Participating State/Entity")  
Participating State Contract Number 13093 OC

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- c. The State of Nebraska is exempt from the obligation to pay federal excise taxes; it is further exempt by state law, R.R.S. §2704.15, from the obligation to pay sales and use taxes. Taxes must not be included in the bid prices. Exemption by statute precludes the obligation to furnish a State of Nebraska exemption certificate. Copies of exemption certificates may be attached hereto as a courtesy.
- d. The State of Nebraska may terminate this Contract or any purchase order, in whole or in part, in the event funding is no longer available. Its obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for this contract. Should said funds not be appropriated, the State of Nebraska may terminate this Contract or any purchase order with respect to those payments for the fiscal years for which such funds are not appropriated. The State of Nebraska will give the Contractor written notice of thirty (30) days prior to the effective date of any termination under this section. All obligations of the State of Nebraska to make payments after the termination date will cease and all interest of the State of Nebraska in related equipment will terminate. The Contractor shall be entitled to receive just and fair compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.
- e. The Contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska shall be brought in the State of Nebraska administrative or judicial forums as defined by State Law. The Contractor must be in compliance with all Nebraska statutory and regulatory law.
- f. Scrutinized Businesses (3.11) and any other references regarding same in the Master Price Agreement are deleted for the purposes of this Participating Addendum.
- g. Offshore Performance of Work Prohibited (3.12) and any other references regarding same in the Master Price Agreement are deleted for the purposes of this Participating Addendum.
- h. This Contract is not an exclusive Contract to furnish software, supplies and maintenance services, and does not preclude the purchase of similar items from other sources.

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- i. It is understood by the parties that in the State of Nebraska's opinion, any limitation on the Contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3, and that any limitation of liability shall not be binding on the State of Nebraska.
- j. The Contractor shall also provide to the State of Nebraska primary contact person quarterly utilization reports based on net invoiced sales, containing at a minimum the following information pertaining to State of Nebraska utilization: (a) purchase order number (b) description; (c) quarterly; and (d) price. These reports will be provided in Excel format and sent via email at the end of the next month after quarterly periods as follows:

<u>Period End</u>	<u>Report Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

The Contractor agrees to provide a quarterly utilization report, reflecting new sales to the State during the associated fee period. The report shall be in the format developed by the Lead State and as agreed to by the Contractor. The report will be provided in secure electronic format and/or submitted electronically to the State contract listed in the Addendum.

- k. **New Employee Work Eligibility Status:** The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

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The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).

If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by R.R.S. §4-109.

- l. Contractor shall review the Nebraska Technology Access Standards, found at [http://nitc.nebraska.gov/standards/accessibility/accessibility\\_standards.pdf](http://nitc.nebraska.gov/standards/accessibility/accessibility_standards.pdf) and ensure that products and/or services provided under the contract comply with the applicable standards. In the event such standards change during the contractor's performance, the State may create an amendment to the contract to request that contract comply with the changed standard at a cost mutually acceptable to the parties.
- m. Contractor to provide delivery within ten (10) business days after receipt of a valid order unless conditions arise that are outside the control of the Contractor, such as product out of stock. If delivery cannot be within this time frame, Contractor is to notify the ordering entity, the order can be cancelled without penalty.
- n. All Contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles. In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately

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any material weakness or condition reported to the State in the course of an audit. These provisions shall survive the termination of the contract.

- o. **Ownership of Intellectual Property:** The contractor agrees it will at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the contractor or its employees, subcontractors, consultants, representatives, and agents; provided, however, the State gives the contractor prompt notice in writing of the claim. The contractor may not settle any infringement claim that will affect the State's use of Licensed Software without the State's prior written consent which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the contractor has indemnified the State, the contractor shall at the contractor's sole cost and expense promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the contractor, and the State may receive the remedies provided under this Master Price Agreement.

- p. **Indemnification:** The contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

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- q. Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.
  - r. Contract Monitoring: The Contractor is obligated to furnish information as requested to determine whether the objectives of the contract have been met. The contractor will be required to furnish reports as requested to the State of Nebraska primary contract upon request.
  - s. Effective Date and Contract Period: This Participating Addendum shall be effective upon the date of final execution by the State. The contract period for the State of Nebraska will be from the effective date of this participating addendum to the time period set forth in the Master Price Agreement No. ADSP011-00000358-1.
  - t. Contract Order of Precedence: Contract Award to include State of Nebraska Participating Addendum, including any Exhibits and or Attachments; WSCA Master Price Agreement; Exhibits and Amendment to the WSCA Master Price Agreement; The list of products and services contained in the purchase order and or contract release order; Any Request for Proposal Addenda and/or Amendments to include Questions and Answers; The original RFP document; and the Contractor's Proposal, including any written clarifications and or final proposal revisions.
  - u. Important Notice: Pursuant to § 84-602, all state contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. Any non-copyrighted information or other information not specifically excluded by §84-712.05 **WILL BE POSTED FOR PUBLIC VIEWING.**
4. Lease Agreements: No leasing is authorized under this addendum.

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

<u>Contractor</u>	
Name	Imran Yunus
Address	En Point Technologies Support Team
Telephone	(866) 334-2087
Fax	(310) 337-3498
E-mail	wscasoftware support@enpointe.com

<u>Participating Entity</u>	
Name	Nancy Storant
Address	1526 K Street, Suite 130, Lincoln, NE, 68608
Telephone	402-471-0974
Fax	402-471-2089
E-mail	Nancy.storant@nebraska.gov

6. Subcontractors: All En Pointe Technologies Sales, Inc. dealers and resellers authorized in the State of Nebraska, as shown on the dedicated En Pointe Technologies Sales, Inc. (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The En Pointe Technologies Sales, Inc. dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. 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.

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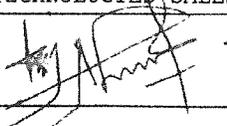
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IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State:	Contractor: EN POINTE TECHNOLOGIES SALES, INC.
By: 	By: 
Name: <i>Bo Botelho</i>	Name: Wasi Ahmed Yousaf
Title: <i>AS Materiel Administrator</i>	Title: Director of Operations & IT
Date: <i>5/27/14</i>	Date: 5/16/2014

[Additional signatures as required by Participating State]

For questions on executing a participating addendum, please contact:

WSCA-NASPO	
Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@wsca-naspo.org

**[Please email fully executed PDF copy of this document to**  
**[PA@wsca-naspo.org](mailto:PA@wsca-naspo.org) to support documentation of participation and**  
**posting in appropriate data bases]**