

MA 18P 22032100000000000092
NEW

State of Maine



Master Agreement

Effective Date: 03/23/22

Expiration Date: 06/30/26

Master Agreement Description: Software Resales and Associated Services

Buyer Information

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Issuer Information

Thomas Howker 207-624-8878 ext. Thomas.n.howker@maine.gov

Requestor Information

Joan Bolduc 207-624-9904 ext. JOAN.BOLDUC@MAINE.GOV

Agreement Reporting Categories

Authorized Departments

ALL

Vendor Information

Vendor Line #: 1

Vendor ID

VC1000023659

Vendor Name

Dell Marketing, L.P.

Alias/DBA

Vendor Address Information

ONE DELL WAY
MS RR 1-33
ROUND ROCK, TX 78682
US

Vendor Contact Information

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

State of Maine - Department of Administrative and Financial Services

DocuSigned by:
Jaime Schorr 3/31/2022
6D6437754DD0459
Signature Date

Jaime C. Schorr, Chief Procurement Officer

Vendor

Carina Clifford March 31, 2022
Signature Date

Carina Clifford, Contract Administrator
Print Representative Name and Title

RIDERS

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Rider A – Scope of Work and/or Specifications
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input type="checkbox"/>	Rider C - Exceptions
<input type="checkbox"/>	Bid Cover Page and Debarment Form
<input checked="" type="checkbox"/>	Debarment, Performance, and Non-Collusion Certification
<input type="checkbox"/>	Price sheet (attach excel spreadsheet to post on website)
<input checked="" type="checkbox"/>	Other – Included at Department's Discretion

RIDER A
Scope of Work and/or Specifications

The purpose of this master agreement is to procure software resales and associated services, per the specifications attached and hereby incorporated into this contract. This agreement and all delivery orders are subject to the terms and conditions of contract ITS75 for software resales and associated services.

RIDER C
EXCEPTIONS

NA

Debarment, Performance, and Non-Collusion Certification

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:

 - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
 - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
 - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
 - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.**
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- **Failure to provide this certification may result in the disqualification of the Bidder's proposal, at the discretion of the Department.**

To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

Name: Carina Clifford	Title: Contract Administrator
Authorized Signature: <i>Carina Clifford</i>	Date: March 31, 2022

PARTICIPATING AGREEMENT

STATE OF MAINE AND MULTISTATE SOFTWARE AND SERVICES ITS75 2021-2026

Participating Agreement #: MA 18P-2203210000000000092

Contractor: **DELL MARKETING L.P.**

Participating Entity: **STATE OF MAINE**

The State of Maine is participating in the Commonwealth of Massachusetts (“Commonwealth”) ITS75 Multistate Software and Services contract (hereinafter referred to as “ITS75 Software and Services”). Dell Marketing L.P. (“Dell” or “Contractor”) has a current Multistate Contract ITS75 Software and Services (Dell Contract Code #C000000898515) with the Commonwealth of Massachusetts effective June 25, 2021 (hereinafter referred to as “Master Agreement” or “ITS75 Master Agreement”). All contract deliverables, performance requirements, policies, terms and conditions between the Contractor and Commonwealth apply for the State of Maine unless modified herein. This Participating Agreement between the State of Maine and Contractor shall have precedence in the event of any conflict between this Participating Agreement and the ITS75 Master Agreement.

The following products or services are included in this contract portfolio:

- Software Resales and associated services

The following products or services are not included in this agreement:

- No other products other than what is specified above

Participating Agreement Terms and Conditions:

1. Scope: This Participating Agreement covers Software and Services procured under ITS75 Master Agreement led by the Commonwealth of Massachusetts for use by state agencies, other branches of state government, political subdivisions (cities, town, schools, quasi-public agencies), state institutions of higher education, and other entities located in the Participating State of Maine authorized by that State’s statutes to purchase under State contracts with the prior approval of the State’s Chief Procurement Official (hereinafter referred to as “Authorized Purchasers”). Authorized Purchasers may procure Software and Services from Dell under the ITS75 Master Agreement in accordance with the terms and conditions set forth herein.
2. Contract Terms: The Parties agree that the following provisions shall apply to any purchase or purchase order for Software and Services issued by the State of Maine or any of its Authorized Purchasers to Dell under the Master Agreement. In the event of any conflict between these provisions, they shall be resolved in the order of precedence set forth below.
 - a. The terms and conditions set forth in this Participating Agreement;
 - b. The ITS75 Master Agreement. The ITS75 Master Agreement consists of (1) the Commonwealth of Massachusetts Standard Terms and Conditions for Information Technology Contracts and the Massachusetts Standard Contract Form including the Standard Contract Form Instructions and Contractor Certifications; (2) the Commonwealth’s RFR ITS75 (the “RFR”) including its attachments and exhibits; and (3) Dell’s response thereto, including the negotiated clarifications. Notwithstanding the foregoing, the parties agree that Section 3.6.4 of the RFR does not apply and is

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STATE OF MAINE AND MULTISTATE SOFTWARE AND SERVICES ITS75 2021-2026

superseded by this Participating Agreement, other than Exhibits 1-3 Cloud Services Terms identified in Section 3.6.1 and referenced in Section 3.6.4. For clarification purposes, the parties agree that the only additional terms and conditions of the Maine Attachment ME1 that Contractor is bound by with respect to the State of Maine are stated in Section 7 of this Participating Agreement.

3. **Participation:** This Participating Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Maine. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
4. **Term:** March 22, 2022 to June 30, 2026.
5. **Software/Subscription Purchase, Support and Associated Services Requires State CIO Approval:** Unless otherwise stipulated in this Participating Agreement, specific services purchased through the ITS75 Master Agreement by state executive branch agencies are subject to the authority and prior approval of the State of Maine Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the Maine state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state. It is the procuring entity's obligation to ensure such approval prior to purchase.
6. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor: DELL MARKETING L.P.

Name:	Jennifer Sherman
Address:	One Dell Way, Round Rock, Texas 78682
Telephone:	(512) 720-7343
Fax:	N/A
Email:	Jennifer_Sherman@dell.com

Participating Entity: State of Maine

Name:	Justin Franzose
Address:	9 State House Station, Augusta ME 04333-0009
Telephone:	207-624-7337
Fax:	N/A
Email:	Justin.Franzose@maine.gov

7. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

PARTICIPATING AGREEMENT

STATE OF MAINE AND MULTISTATE SOFTWARE AND SERVICES ITS75 2021-2026

The following changes are modifying or supplementing the Master Agreement terms and conditions.

- I. EQUAL EMPLOYMENT OPPORTUNITY During the performance of this Participating Agreement, the Contractor agrees as follows.
 - A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
 - B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
 - C. The Contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.
 - D. The Contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.
 - E. Contractors and subcontractors with contracts in excess of \$50,000 will also pursue in good faith affirmative action programs.

- II. GOVERNING LAW This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine.

- III. STATE HELD HARMLESS The Contractor shall indemnify and hold harmless the State of Maine, including its agents, officers and employees, against any and all claims, liabilities, and costs for personal injury, property damage, or infringement of intellectual property rights, (each, an "Unlimited Claim"), and all claims, liabilities and costs, in connection with a security or data breach, or unauthorized disclosure of data, (each, a "Data Breach"), and other claims, liabilities, and costs, which arise out of Contractor's performance of this Agreement. After prompt notification by the State, the Contractor shall have an opportunity to participate in the defense of claims and any negotiated

PARTICIPATING AGREEMENT

STATE OF MAINE AND MULTISTATE SOFTWARE AND SERVICES ITS75 2021-2026

settlement agreement or judgment. The State shall not be liable for any costs incurred by Contractor arising under this Section III. The Contractor (including its agents, officers, employees or subcontractors) shall at no time be considered an agent or representative of the State. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

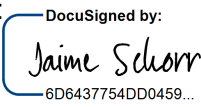
The parties agree that the aforementioned indemnification language is subject to the clarification as stated in the Master Agreement.

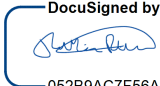
- IV. NON-APPROPRIATION Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to pay for orders placed under this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.
- V. ORDERS: Any order placed by the State or an Authorized Purchaser for Software and Services from Dell under the ITS75 Master Agreement shall be deemed to be a sale under and governed by the prices and other terms and conditions of this Participating Agreement and the ITS75 Master Agreement.
- VI. TRAVEL: Standard Business Expenses may be allowed with prior authorization from the State or an Authorized Purchaser. For Maine, the amount will not be more than that allowed for State of Maine employees (<http://www.maine.gov/osc/travel/per-diem>).
- VII. STATE IT POLICIES: As software reseller, Dell shall use commercially reasonable efforts to aid the State of Maine, when requested, with communication with contracted software/service providers on implementation of State IT or similar policies, standards and procedures where applicable to the software publishers or providers. State of Maine IT policies and standards documented on Maine.Gov/oit/policies-standards.
- VIII. Credit/Procurement Card: The State of Maine may use credit/debit cards, at its choice, for purchases of \$5,000 or under. The same quoted price must be charged for a credit/debit card purchase as a purchase executed through a Purchase Order or Delivery Order (regardless of payment method). No surcharge for credit or debit card purchases is allowed. Credit card information to be supplied by purchaser at order time, card to be charged at order fulfillment.

PARTICIPATING AGREEMENT

**STATE OF MAINE AND MULTISTATE SOFTWARE AND SERVICES ITS75
2021-2026**

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

Participating Entity: State of Maine	Contractor: DELL MARKETING L.P.
Signature:  DocuSigned by: Jaime Schorr 8D6437754DD0459...	Signature: <i>Carina Clifford</i>
Name: Jaime Schorr	Name: Carina Clifford
Title: Chief Procurement Officer	Title: Contract Administrator
Date: 3/31/2022	Date: March 31, 2022

State of Maine Chief Information Officer
Signature:  DocuSigned by: Frederick Brittain 052B9AC7F56A489...
Name: Frederick Brittain
Title: Chief Information Officer
Date: 3/31/2022