

Member-Requested Participation Addendum (MPA)

This Addendum (“**MPA**”) is entered into by the Washington State Department of Enterprise Services on behalf of the State of Washington (“**Member**”) Henry Schein Dental, a division of Henry Schein, Inc., a corporation with an address of 135 Duryea Rd., Melville, NY 11747 (“**Vendor**”) and incorporates the MMCAP Infuse, an agency of the State of Minnesota (“**MMCAP Infuse**”) Agreement MMS1900159/03419 (“**Agreement**”).

WHEREAS, Member and Vendor wish to amend the terms and conditions of the Agreement to address the matters of Member.

WHEREAS, MMCAP Infuse has sole approval authority to any changes to the Agreement, thus is a signatory to this MPA.

WHEREAS, Member, MMCAP Infuse, and Vendor do not intend to alter, amend, interfere, modify, or adjust the contractual relationship of MMCAP Infuse and Vendor nor the relationship between any other member of MMCAP Infuse and the Vendor.

THEREFORE, the parties agree as follows:

I. **DEFINITIONS**

- A. **Membership**: Means the joint power cooperative comprised of the MMCAP Infuse authorized states, departments, facilities, and other municipalities.
- B. **Approved Facilities**: Means the authorized departments, facilities, and other municipalities approved by Member and MMCAP Infuse to access and use this MPA, as identified on Exhibit B.

II. **EFFECTIVE DATE AND TERM**

- A. **Effective Date**: This MPA is effective on the date all signatures have been obtained.
- B. **Termination**: This MPA terminates upon:
 - 1. Thirty (30) calendar days’ written notice to the other parties; or
 - 2. The termination of the Agreement between MMCAP Infuse and the Vendor; or
 - 3. Written agreement executed by all parties.

III. **SCOPE**

- A. **Exhibit A**: Which is attached and incorporated herein, identifies the Agreement and all other documents to be incorporated into the contractual relationship between Member and Vendor.
- B. **Exhibit B**: Which is attached and incorporated herein, identifies the Approved Facilities Member has approved to access the Agreement and MPA.
- C. **Exhibit C**: Which is attached and incorporated herein identifies the language to be incorporated into the contractual relationships between Member and Vendor, as referenced on Exhibit A. In the event of any conflict between the terms of the Agreement and Exhibit C of this MPA, the terms of Exhibit C will supersede as between Member and Vendor. *MMCAP Infuse, the State of Minnesota, nor any other party of the Membership (except for the Facilities) are bound by the terms of Exhibit C.*

IV. **GENERAL PROVISIONS**

- A. **Assignment:** Except as affirmed in this MPA, the Member nor Vendor will not assign, delegate, or transfer any rights or obligations under this MPA without the prior written consent of MMCAP Infuse.
- B. **Counterparts and Electronic Signature:** The MPA cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. If requested by MMCAP Infuse, Member and Vendor expressly agree to conduct transactions under the MPA by electronic means (including, without limitation, with respect to execution, delivery, storage and transfer of this MPA by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this MPA is an electronic record or transferable record. Member and Vendor will cooperate with and take all actions required by MMCAP Infuse in order for this MPA to be a transferable record, to ensure that MMCAP Infuse has control of the authoritative copy of such transferable record.
- C. **Amendments:** Any amendment or modification to this MPA must be in writing and will not be effective until executed by Vendor, the Member, and MMCAP Infuse.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned parties have caused this MPA to be signed on their behalf intending to be bound thereby.

BY AND BETWEEN:

FOR THE MEMBER:

STATE OF WASHINGTON

Department of Enterprise Services:

Signature: Corinna Cooper

By: Corinna Cooper

Title: Enterprise Procurement Manager

Date: 8/24/2020

VENDOR (Henry Schein Dental, a division of Henry Schein, Inc.):

Signature: Mark Nicholls

By: Mark Nicholls

Title: VP & GM Group Sales

Date: 8/3/2020

IN AN APPROVAL CAPACITY ONLY:

State of Minnesota for MMCAP Infuse

In accordance with Minn. Stat. § 16C.03, subd. 3

Signature: James P Losinski Printed: James P Losinski Date: 8/24/2020

Minnesota Commissioner of Administration

In accordance with Minn. Stat. § 16C.05, subd. 2

Signature: Sara Turnbow Printed: Sara Turnbow Date: 8/24/2020

[SIGNATURE PAGE]

EXHIBIT A

Agreement and other Applicable Legal Documents

1. Agreement numbers MMS1900159/03419

EXHIBIT B**Approved Facilities**

The following terms and conditions apply solely to the performance of Vendor and Member and solely for facilities designated as applicable by Member. These terms will be enforced by Member.

- A. Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and services to support Washington state agencies. See RCW 39.26.050(1). The Washington State Legislature has authorized Enterprise Services to make these master contracts available, pursuant to agreement in which Enterprise Services ensures full cost recovery, to specified eligible purchasers. See RCW 39.26.050(1) & (2).
- B. The Washington State Legislature also has authorized Enterprise Services to participate in, sponsor, conduct, or administer certain cooperative purchasing agreements for the procurement of goods or services. See RCW 39.26.060(1).
- C. Enterprise Services determined that entering into this MPA will meet the cooperative purchasing needs and be in the best interest of the State of Washington.
- D. The purpose of this MPA is to enable eligible purchasers to purchase certain goods/services as set forth herein.

PARTICIPATION – ELIGIBLE PURCHASERS (“APPROVED FACILITIES”):

This Agreement may be used by any of the following:

- A. WASHINGTON STATE AGENCIES. Washington state agencies, departments, offices, divisions, boards, and commission
- B. Washington State Institutions of Higher Education (colleges). Any of the following institutions of higher education in Washington:
 - State universities – i.e., University of Washington & Washington State University;
 - Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University;
 - Evergreen State college;
 - Community colleges; and
 - Technical colleges.
- C. MQUA PARTIES. The Agreement also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement (MQUA) with Enterprise Services:
 - Political subdivisions (e.g., counties, cities, school districts, public utility districts) in the State of Washington;
 - Public-benefit nonprofit corporations (i.e., § 501(c) (3) nonprofit corporations that receive federal, state, or local funding); and
 - Federally-recognized Indian Tribes located in the State of Washington.

EXHIBIT C**Language Modification of the Agreement**

The following terms and conditions are entered into between Vendor and the Member and incorporate the documents identified on Exhibit A. Neither MMCAP, the State of Minnesota, nor the Membership, except for the Member (and applicable Facilities on Exhibit B), are bound by the terms within this Exhibit.

Additional Terms:

1. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTIONS (WEBS) SYSTEM:** Vendor shall register in the Washington State Department of Enterprise Services' Electronic Business Solutions (WEBS) System at <https://fortress.wa.gov/ga/webcust/home.html>.
2. **WASHINGTON'S STATEWIDE PAYEE DESK:** To be paid for contract sales, Vendor must register with Washington's Statewide Payee Desk. Washington state agencies cannot make payments to a vendor until it is registered. Registration materials are available here: <https://des.wa.gov/services/contracting-purchasing/doing-business-state/receiving-payment-state>.
3. **VENDOR REPRESENTATIONS AND WARRANTIES.** Vendor makes each of the following representations and warranties as of the effective date of this MPA and at the time any order is placed pursuant to the Agreement. If, at the time of any such order, Vendor cannot make such representations and warranties, Vendor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.
 - A. **WAGE VIOLATIONS.** Vendor represents and warrants that, during the term of the MPA, and the three (3) year period immediately preceding the MPA, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.
 - B. **PAY EQUALITY.** Vendor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of the MPA, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Vendor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Vendor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this MPA and any purchaser

hereunder similarly may suspend or terminate its use of the Agreement and/or any agreement entered into pursuant to this MPA.

- C. **EXECUTIVE ORDER 18-03 – WORKERS’ RIGHTS (Mandatory Individual Arbitration).** Vendor represents and warrants that Vendor does NOT require its employees that reside or work in the State of Washington, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Vendor further represents and warrants that, during the term of this MPA, Vendor shall not, as a condition of employment, require its employees that reside or work in the State of Washington, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

4. **COMPLIANCE WITH LAW; TAXES, LICENSES, & REGISTRATION:** Vendor shall comply with all applicable law. Vendor shall register to conduct business in the State of Washington and promptly acquire and maintain all necessary licenses and registrations and pay all applicable taxes and fees. In addition, for all sales to purchasers in the State of Washington, Vendor shall calculate, collect, and remit, as appropriate, the applicable state and local sales tax on all invoices.
5. **PRIMARY CONTACTS:** The primary contact individuals for this MPA are as follows (or their named successors):

Vendor	Member
Henry Schein Dental Henry Schein, Inc. 35 Duryea Rd., Melville, NY 11747	State of Washington Department of Enterprise Services Contracts & Procurement P.O. Box 41411 Olympia, WA 98504-1411
Email: SpecialMarkets@henryschein.com	Attn: Washington MMCAP Contract Specialist Email: WA-MMCAP-CS@des.wa.gov

6. **ORDERS:** Unless the parties agree in writing that another contract or agreement applies to such order, any order placed by an Approved Facility set forth on Exhibit B for a product and/or service available from the Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions of) the Vendor as conditioned by this MPA.