

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
COPIERS, PRINTERS & RELATED DEVICES 14-19
Administered by the State of Nevada (hereinafter "Lead State"))

MASTER PRICE AGREEMENT
Konica Minolta Business Solutions
Nevada Contract Number 3091
(hereinafter "Contractor")

And

State of Washington 06614
(hereinafter "Participating State")

1. Scope

This addendum covers the Copiers, Printers & Related Devices 3091 lead by the State of Nevada for use by state agencies and other entities located in the State of Washington authorized by that state's statutes to utilize Washington's contracts with the prior approval of the state's chief procurement official.

Contractor has been awarded devices and services in the following categories:

- Group A – Convenience Copiers
- Group B – Production Copiers
- Group D – Printers

2. Participation

Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use Washington contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Leases

State agencies, political subdivisions and other entities authorized by the State, may enter into a separate Master Premier Lease Agreement(s) under this Participating Addendum. The form of the Master Premier Lease is attached as Exhibit A. Notwithstanding anything to the contrary in this Participating Addendum, or in the Contract, in the event of a conflict between the Contract, Purchase Order(s), Master Premier Lease Agreement or the Master Price Agreement, the terms of the Master Premier Lease Agreement will supersede and control. The terms and conditions of the Master Premier Lease Agreement and the Non Appropriations Rider (for qualifying state and local government entities only) will be incorporated by reference into any Purchase Order issued by purchasing entities for the leasing of equipment under the Master Price Agreement. The Purchase Order will be considered a Schedule to the Master Premier Lease Agreement.

Equipment acquisitions are requested by agency managers and are part of their individual agency budget. The Office of the State Treasurer (TRE), Debt Management section reviews each

agency request for financing to ensure that the equipment is essential to the function of the particular agency and that the finance term does not exceed the useful life of the equipment. (The useful life table, Chapter 30.50 of the State Administrative & Accounting Manual, is available at the Office of Financial Management web site: <http://www.ofm.wa.gov/policy/30.50.htm>.) The Debt Management section pools state agency requests for equipment several times during the year. Office of Financial Management (OFM), has determined that the useful life of a multifunction device, copier, scanners is 5 years (60 months), and the useful life of a laser printer is 6 years. Any leases enter into under this contract will be considered a capital/financing lease at 75% of the equipment's useful life and require approval from TRE's Debt Management section.

For example, if equipment is leased for 60 months, 45 months is 75% of the equipment's useful life. Leases must not exceed the useful life of the equipment. A lease that is greater than 75% of the equipment's useful life is considered a financing lease with ownership of the equipment transferring to the purchaser at the end of the lease term. These leases must be approved by OFM, Debt Management Section. An operating lease returns the equipment at the end of the lease to the manufacturer/dealer. An operating lease is no more than 44 months.

There are three (3) leasing options available on this contract:

- 1) **Operational Lease** – Operational lease is used to acquire devices on a relatively short term basis with no benefit of ownership to the lessee; no buy-out will be considered.
- 2) **Capital/Finance Lease** - A capital lease is classified by the Customer as a purchase and must meet one or more of the following criteria:
 - The lease term is greater than 75% of the property's estimated economic life.
 - The lease contains an option to purchase the property for less than fair market value.
 - Ownership of the property is transferred to the Customer at the end of the lease term.
 - The present value of the lease payment exceeds 90% of the fair market value of the property.
 - Such leases shall be subject to monthly payment reduction by the Awarded Vendor upon renewal, based upon the depreciated value. The depreciated value must be disclosed to the Customer at the time of the renewal; and the renewal rate is subject to the same terms and conditions under the contract with the Awarded Vendor.
- 3) **Fair Market Value Lease** - The customer may purchase the device at the end of the term at the then Fair Market Value. All fair market value leases shall have an end of term buyout to own value that is determined by the then current market price. Such leases shall be subject to monthly payment reduction by the Awarded Vendor upon renewal, based upon the depreciated value. The depreciated value must be disclosed to the Customer at the time of the renewal; and the renewal rate is subject to the same terms and conditions under the contract with the Awarded Vendor.

4. Primary Contacts

The primary contact individuals for this participating addendum are as follows (or their named successors):

Contractor

Name	Konica Minolta, Kristen McKenna, State Contract Manager
Address	1595 Spring Hill Road, Suite 410, Vienna, VA 22182
Telephone	813-207-8276
Fax	703-506-1257
E-mail	kmckenna@kmb.konicaminolta.us

Local Contact: The local contact individual for this participating addendum are as follows (or their named successors):

Contractor

Name	Robin Craft, Government Account Manager
Address	1595 Spring Hill Road, Suite 410, Vienna, VA 22182
Telephone	(916) 201-2004
Fax	703-506-1257
E-mail	rcraft@kmb.konicaminolta.us

Participating Entity

Name	Neva Peckham
Address	1500 SE Jefferson St/PO Box 41411 Olympia, WA 98504
Telephone	(360) 407-9411
Fax	(360) 586-2426
E-mail	neva.peckham@des.wa.gov

5. Purchase Order Instructions

All orders should contain the following (1) Mandatory Language "PO is subject to WSCA-NASPO Contract 3091 and Washington PA 06614 (2) Your Name, Address, Contact, & Phone-Number (3) Purchase order amount. Please channel your PO through one of our authorized resellers so they can arrange for proper ordering and installation of your unit.

6. Price Agreement Number

All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number **06614** and the Lead State price agreement number **3091**.

7. Individual Customer

Each State agency and political subdivision, as a Participating Entity, that purchases products/services will be treated as if they were Individual Customers. Except to the extent modified by a Participating Addendum, each agency and political subdivision will be responsible to follow the terms and conditions of the Master Agreement; and they will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each agency and political subdivision will be responsible for their own charges,

fees, and liabilities. Each agency and political subdivision will have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor will apply the charges to each Participating Entity individually.

This Participating Addendum and the Master Agreement number 3091 (administered by the State of Nevada) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Master Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Master Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Master Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

8. Subcontractors:

All **Konica Minolta Business Solutions** dealers and resellers authorized in the State of Washington, as shown on the dedicated **Konica Minolta Business Solutions** (cooperative contract) website, are approved to provide invoicing, sales and service support to participants in the NASPO Master Price Agreement. **Konica Minolta Business Solutions** dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

9. Minority and Women's Business Enterprises (MWBE)

In accordance with the legislative findings and policies set forth in [RCW 39.19](#), the State of Washington encourages participation in all of its contracts by minority and woman-owned businesses firms certified by the [Office of Minority and Women's Business Enterprises](#) (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the state welcomes participation by self-identified minority and woman owned firms and strongly encourages such firms to become certified by OMWBE.

Participation may be either on a direct basis in response to this solicitation or as a subcontractor to a Konica Minolta Business Solutions. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the original solicitation, no preference will be included in the evaluation of bids, no minimum level of MWBE participation is required as condition for receiving an award, and bids will not be evaluated, rejected or considered non-responsive on that basis.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original solicitation will apply. Bidders are encouraged to contact OMWBE for information on becoming a certified firm as set forth in Washington Administrative Code (WAC) Chapters 326-02 and 326-20; or for information on other certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage bidders from inviting participation from non-MWBE firms as well as MWBE firms. Prior to

performance, an awarded bidder that is a MWBE or intends to use MWBE subcontractor USAs is encouraged to identify the participating firm(s) to DES. Konica Minolta Business Solutions agrees to provide diversity information for all authorized resellers/dealers. The State may require a copy of Konica Minolta's "Inclusion Plan".

10. Public records and exempt information

All documents submitted by bidders to DES as part of this procurement will become public records. They are subject to disclosure unless specifically exempt under Revised Code of Washington (RCW) [42.56](#) (The Public Records Act).

Confidential documents: DES strongly discourages submittal of confidential material. DES considers confidential material to be any portion of your submittal clearly marked all or in part "Confidential," "Proprietary" or "Trade Secret" (or the equivalent).

- DES reserves the right to return, reject or disqualify any submittal that includes confidential material.

Public records requests: If a public records request seeks to view or obtain a copy of your RFP submittal, and if your submittal includes content clearly marked "Confidential," "Proprietary" or "Trade Secret" (or the equivalent), DES will:

- Notify you of the date DES will disclose the requested records;
- Give you an opportunity to seek a court order that stops DES from disclosing the records.

DES will not:

- Evaluate or defend your claim of confidentiality. It is your responsibility to support your claim and take appropriate legal action to do so;
- Withhold or redact your documents without a court order.

Questions about the confidentiality of your submittal can be directed to the Procurement Coordinator or the DES Public Records Officer at (360) 407-8768 or publicrecords@des.wa.gov.

11. In-state preference/Reciprocity

Pursuant to RCW [39.26](#), DES has established a schedule of price adjustments applicable against any bidders submitting responses from states which grant a preference to their own in-state businesses as identified in the [Preference Table](#). The reciprocity adjustment is applied as follows.

- These adjustments will be applied in formal sealed bid solicitations only.
- The business address from which the response was submitted will determine if an adjustment is to be applied.
- The appropriate percentage will be added to each response bearing the address from a state with in-state preferences rather than subtracting a like amount from Washington state bidders.
- This action will be used only for evaluation. In no instance shall the increase be paid to a supplier whose response is accepted.

12. Legal notices

Any notice or demand or other communication required or permitted to be given under the contract or applicable law (except notice of malfunctioning Equipment) will be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, certified mail, return receipt requested, via facsimile or by electronic mail, to the parties at the addresses and fax numbers, e-mail addresses provided in Section 4 Primary Contacts above. For purposes of complying with any provision in the contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form. Notices will be effective upon receipt or four business days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to the contract is served upon Konica Minolta Business Solutions or DES, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Konica Minolta Business Solutions and DES further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

13. Liens, claims and encumbrances

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if DES or the purchaser requests, a formal release of same shall be delivered to the respective requestor.

14. Konica Minolta Business Solutions supervision and coordination

Konica Minolta Business Solutions shall:

- a. Competently and efficiently supervise and coordinate the implementation and completion of all contract requirements specified herein.
- b. Identify Konica Minolta Business Solutions Authorized Representative, who will be the principal point of contact for DES concerning Konica Minolta Business Solutions performance under this contract.
- c. Immediately notify the Contract Administrator in writing of any change of the designated Authorized Representative assigned to this contract.
- d. Be bound by all written communications given to or received from Konica Minolta Business Solutions Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for contract termination.

15. Term contract management

Upon award of a term contract, Konica Minolta Business Solutions shall:

- a. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
- b. Promote and market the use of this contract to all authorized contract purchasers.
- c. Ensure that those who endeavor to utilize this contract are authorized purchasers under this contract.
- d. At no additional charge, assist purchasers in making the most cost effective, value based purchases which may include, but is not limited to:
 - Having representatives available to provide information regarding products and services, including visiting the purchaser site if needed, and providing purchaser with materials/supplies/equipment recommendations.
 - Providing purchasers with a detailed list of contract items including current contract pricing and part numbers.

Konica Minolta Business Solutions shall designate a customer service representative who will be responsible for addressing purchaser issues including, but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians and processing warranty claim documentation.
- Providing purchasers with regular and timely status updates in the event of a delay in repair or order fulfillment.

Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for contract items purchased.

16. Statewide Payee Desk

Konica Minolta Business Solutions must register with the Statewide Payee Desk, maintained by DES, in order to be paid for contract sales. Washington state agencies cannot make payments to a Konica Minolta Business Solutions until it is registered. All authorized dealers resellers/dealers must be registered to receive payment from the State. Registration materials are available here: [Receiving Payment from the State](#).

17. Management fee

Konica Minolta Business Solutions will pay a management fee of 0.74 percent to DES on all state contract sales/purchase price for work orders. The management fee must be rolled into Konica Minolta Business Solutions' current pricing, and not shown as a separate line item on an invoice. The purchase price is defined as total invoice price less sales tax. No taxes will be assessed against the management fee.

How to determine the fee: Total sales (not including sales tax) x .0074 = management fee.

DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate contract pricing with Konica Minolta Business Solutions when adjustment of the management fee might justify an increase in pricing. Written notifications of the management fee by DES become effective for new purchases or new change orders to existing purchases 30 calendar days after notification unless DES grants additional time.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the management fee, may be cause for contract termination, the

charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fee terms owed to other entities such as the Western States Contracting Alliance, National Association of State Procurement Officials (WSCA-NASPO) or governmental entities other than the state of Washington.

DES will invoice Konica Minolta Business Solutions every quarter based on sales reported by Konica Minolta Business Solutions. **Konica Minolta Business Solutions will not remit payment for management fee until they receive an invoice from DES.**

Management fee payment must reference the contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and Konica Minolta Business Solutions name as it is known to DES, if not already included on the face of the check.

18. Contract sales report

The management fee will be based on total contract sales, which must be reported quarterly by Konica Minolta Business Solutions in the [Contract Sales Reporting System](#). DES will provide a login password and a vendor number.

For each report, Konica Minolta Business Solutions must identify every purchaser who has made purchases during the reporting period. The "Miscellaneous" option may be used only with prior approval by DES, and use of this option without prior approval by DES may be cause for contract termination. Refer sales reporting questions to the Contract Administrator.

Due date: Reports must be submitted electronically within 30 days after the end of the calendar quarter: no later than April 30, July 31, October 31 and January 31.

Failure to provide reports in accordance with the schedule above may be cause for contract termination.

19. Other required term contract reports

DES or Purchaser may require Konica Minolta Business Solutions to provide a detailed annual contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

20. Common vendor-registration and bid-notification system

Konica Minolta Business Solutions shall be registered in Washington's Electronic Business Solution (WEBS), the state's common vendor registration and bid notification system (www.ga.wa.gov/webs). Konica Minolta Business Solutions already registered and need not re-register. It is the sole responsibility of Konica Minolta Business Solutions to properly register and maintain an accurate vendor profile.

21. Konica Minolta Business Solutions qualifications and requirements

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within 10 calendar days from the date of request, and to terminate this contract as a material breach for noncompliance with any requirement of this paragraph. Konica Minolta Business Solutions shall maintain compliance with these requirements throughout the life of this contract.

a. Qualified and established business

DES may, at its sole discretion, require Konica Minolta Business Solutions to provide proof of their status as an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the solicitation.

b. Authorized Service Provider and Product Reseller certifications

Upon request, Konica Minolta Business Solutions must provide evidence of its status as an authorized service provider or product reseller. Konica Minolta Business Solutions shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting contract. If this status is discontinued, this contract may be terminated.

c. Dealer authorization

Konica Minolta Business Solutions shall maintain dealer authorization from the manufacturer consistent with the requirements outlined in the original solicitation.

d. Assignment

Konica Minolta Business Solutions shall not assign or otherwise transfer its obligations or any claim arising under this contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Konica Minolta Business Solutions shall provide a minimum of 30 calendar days advance notification of intent to assign or otherwise transfer its obligations under this contract. Violation of this provision may be considered a material breach and be grounds for contract termination. Assignment or transfer of contract shall not relieve Konica Minolta Business Solutions from its responsibilities and obligations under the contract. Konica Minolta Business Solutions may assign, solely for financing purposes, their right to payment to the equipment. Any such assignment however, does not excuse Konica Minolta from bearing any obligation, terms and conditions as outlined under the either the WSCA/NASPO Master Agreement 3091 or Washington Participating Addendum 06614. Konica Minolta Business Solutions may assign, solely for financing purposes, their right to payment to the equipment. Any such assignment however, does not excuse Konica Minolta Business Solutions from bearing any obligation, term or condition as outlined under the WSCA-NASPO Master Agreement 3091 or Washington's Participating Addendum 06614.

e. Konica Minolta Business Solutions authority and infringement

Under this contract, Konica Minolta Business Solutions is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the contract provisions. Konica Minolta Business Solutions shall not misrepresent to purchasers that they have the contract authority to sell any other materials, supplies,

services and/or equipment. Further, Konica Minolta Business Solutions may not intentionally infringe on other established state contracts.

f. Hours of labor-

In compliance with RCW [49.28](#), Konica Minolta Business Solutions agrees that no worker, laborer, or mechanic in the employ of Konica Minolta Business Solutions or subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours per day when the employer has obtained the employee's agreement (as defined in WAC [296-127-022](#)) to work a four-day, ten-hour work week.

g. Materials and workmanship

Konica Minolta Business Solutions is required to furnish all materials, supplies, equipment and/or services necessary to perform contractual requirements. Materials, supplies, equipment and/or services used in the performance of this contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

h. Mercury content and preference

Konica Minolta Business Solutions shall provide mercury-free products when available. Should mercury-free products not exist, Konica Minolta Business Solutions shall provide products with the lowest mercury content available in meeting performance requirements.

Konica Minolta Business Solutions shall disclose products that contain added mercury and provide an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product. Konica Minolta Business Solutions is to provide any existing technical data pertaining to the addition of mercury or a mercury compound intentionally added to the product.

Konica Minolta Business Solutions shall maintain compliance with these requirements throughout the life of this contract. DES reserves the right to require receipt of proof of compliance with within 10 calendar days from the date of request, and to terminate this contract as a material breach for noncompliance.

22. Delivery requirements)

a. Delivery:

Konica Minolta Business Solutions must ensure that delivery of goods will be made as required in the contract terms, the Purchase Order, or as otherwise mutually agreed in writing between the purchaser and Konica Minolta Business Solutions. The following apply to all deliveries:

- Konica Minolta Business Solutions must deliver the goods during purchaser's normal work hours and within contract time frames or as otherwise mutually agreed in writing between the purchaser and Konica Minolta Business Solutions at the time of order placement.
- Konica Minolta Business Solutions must verify specific working hours of individual purchasers and instruct carrier(s) to deliver accordingly.
- The purchaser may refuse shipment when delivered after normal working hours.
- The acceptance of late delivery does not constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Konica Minolta Business Solutions.
- Konica Minolta Business Solutions must make all deliveries to the applicable delivery location as indicated in the contract or Purchase Order.
- Konica Minolta Business Solutions is responsible for verifying delivery conditions/requirements with the purchaser prior to the delivery.
- When applicable, Konica Minolta Business Solutions must take all necessary actions to safeguard items during inclement weather.
- All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this contract shall be identified by the contract identifier and the applicable purchaser's order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.
- Konica Minolta Business Solutions must not initiate performance prior to receipt of written or verbal authorization from authorized purchasers. Expenses incurred otherwise will be borne solely by Konica Minolta Business Solutions.

b. Receipt of goods:

Inspection and rejection: The purchaser's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered, and are ready for Acceptance. If applicable, the state reserves the right to independently test, at Konica Minolta Business Solutions expense, any product of questionable freshness, quality, or origin delivered against this contract. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to contractual requirements.

If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the purchaser will notify Konica Minolta Business Solutions within 3 business days of delivery of any defects. At the purchaser's option and without limiting any other rights, the purchaser may require Konica Minolta Business Solutions to:

- Repair or replace, at Konica Minolta Business Solutions expense, any or all of the damaged goods.
- Refund the price of any or all of the damaged goods.

- Accept the return of any or all of the damaged goods.

Alternatively and at the purchaser's option, any possible damage to the product may be noted on the receiving report and the cost deducted from final payment.

Acceptance: Acceptance shall be as specified in the contract or Purchase Order. In the event that there is a formal Acceptance Testing period required in the solicitation document then acceptance is formalized in writing. If there is no Acceptance Testing period required, Acceptance occurs when the products are delivered and inspected.

c. Shipping and risk of loss:

Unless the contract specifies otherwise, Konica Minolta Business Solutions shall ship all Goods freight prepaid, FOB purchaser's destination. The method of shipment shall be consistent with the nature of the Goods and hazards of transportation. Regardless of FOB point, Konica Minolta Business Solutions agrees to bear all risks of loss, damage, or destruction of the Goods ordered hereunder that occurs prior to Delivery Date or Acceptance, whichever is applicable, except loss or damage attributable to purchaser's fault or negligence; and such loss, damage, or destruction shall not release Konica Minolta Business Solutions from any obligation hereunder. After Delivery Date or Acceptance, whichever is applicable, the risk of loss or damage shall be borne by purchaser, except loss or damage attributable to Konica Minolta Business Solutions fault or negligence.

d. Site security:

While on purchaser's premises, Konica Minolta Business Solutions, its agents, employees, or subcontractors shall conform in all respects with physical, fire, or other security regulations.

e. Installation:

When applicable, installation shall be performed in a professional manner in accordance with industry standard best practices. The premises shall be left in a neat, clean, and undamaged condition. The state reserves the right to require Konica Minolta Business Solutions to repair any damage caused during installation or provide full compensation as determined by the state.

f. Labeling:

Individual shipping cartons shall be labeled with the name of the purchaser, order number, contract number, Konica Minolta Business Solutions, state stock numbers. Where applicable, date of manufacture, batch number, storage requirements, conditions, and recommended shelf life shall also be included.

g. Hazardous materials:

Consistent with WAC 296-839, all manufacturers and distributors of hazardous substances, including any of the items listed in this contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

- The identity of the hazardous material,
- Appropriate hazard warnings, and
- Name and address of the chemical manufacturer, importer, or other responsible party

The Department of Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment-pending receipt of a legible copy of MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

23. Payment

a. Advance payment prohibited:

No advance payment shall be made for the Products and Services furnished by Konica Minolta Business Solutions under this contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

b. Payment:

Payment is the sole responsibility of, and will be made by, the purchaser.

Under [Chapter 39.76 RCW](#), if purchaser fails to make timely payment(s), Konica Minolta Business Solutions may invoice for 1 percent per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with contract terms shall fully compensate Konica Minolta Business Solutions for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Konica Minolta Business Solutions.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by Konica Minolta Business Solutions.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If Konica Minolta Business Solutions fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to Konica Minolta Business Solutions.

c. Invoicing and discounts

Konica Minolta Business Solutions must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated contract number; Konica Minolta Business Solutions statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Invoices must be prominently annotated by Konica Minolta Business Solutions with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the

solicitation. Additional invoicing and billing requirements can be found in Exhibit B Konica Minolta Business Solutions Model Service Level Agreement.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of Konica Minolta Business Solutions has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

24. Taxes, fees and licenses

a. Taxes

Where required by statute or regulation, Konica Minolta Business Solutions shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by Konica Minolta Business Solutions shall be made for federal excise taxes and the purchaser agrees to furnish Konica Minolta Business Solutions with an exemption certificate where appropriate.

b. Collection of retail sales and use taxes

In general, Konica Minolta Business Solutions engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Konica Minolta Business Solutions must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Konica Minolta Business Solutions ability to establish or maintain a market for its products in Washington. Examples of such activity include where Konica Minolta Business Solutions either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in [WAC 458-20](#).

c. Department of Revenue registration for out-of-state Konica Minolta Business Solutions

Out-of-state Konica Minolta Business Solutions meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Konica Minolta Business Solutions are not required to

collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

d. Fees/Licenses

After award of contract, and prior to commencing performance under the contract, Konica Minolta Business Solutions shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for contract performance. It is Konica Minolta Business Solutions sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this contract.

e. Taxes on invoice

Konica Minolta Business Solutions shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

f. Overpayments to Konica Minolta Business Solutions

Konica Minolta Business Solutions shall refund to purchaser the full amount of any erroneous payment or overpayment under this contract within 30 days' written notice. If Konica Minolta Business Solutions fails to make timely refund, purchaser may charge Konica Minolta Business Solutions 1 percent per month on the amount due, until paid in full.

g. Audits

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced.

25. Quality assurance

a. Right of inspection

Konica Minolta Business Solutions shall provide right of access to its facilities to DES, or any of DES's officers, or to any other authorized agent or official of the State of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

Any access to Konica Minolta Business Solutions facilities shall not include access to Konica Minolta Business Solutions' or its customers' proprietary or confidential information unless required by applicable law. Access shall be provided solely to monitor and evaluate Konica Minolta Business Solutions' performance, compliance, and/or quality assurance under this contract. DES shall provide Konica Minolta Business Solutions with reasonable advance notice of any inspection. Any inspection shall be conducted at DES's sole expense. All inspections shall be conducted in a manner to minimize any disruption to Konica Minolta Business Solutions' business.

b. Konica Minolta Business Solutions commitments, warranties and representations

Any written commitment by Konica Minolta Business Solutions within the scope of this contract shall be binding upon Konica Minolta Business Solutions. Failure of Konica Minolta Business Solutions to fulfill such a commitment may constitute breach and shall render Konica Minolta Business Solutions liable for damages under the terms of this contract. For purposes of this section, a commitment by Konica Minolta Business Solutions includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Konica Minolta Business Solutions in its bid or contained in any Konica Minolta Business Solutions or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its bid or used to effect the sale to purchaser.

c. Warranties

Konica Minolta makes no other warranties whatsoever express or implied with regard to the service, the software included with the equipment or its installation, and maintenance, and expressly excludes all implied warranties of merchantability and fitness for a particular purpose.

d. Cost of remedy

Cost of remedying defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against Konica Minolta Business Solutions.

26. Information and communications

a. Advertising

Konica Minolta Business Solutions shall not publish or use any information concerning this contract in any format or media for advertising or publicity without prior written consent from DES.

b. Retention of records

Konica Minolta Business Solutions shall maintain a copy of all books, records, documents, data and other evidence relating to this contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Konica Minolta Business Solutions shall retain such copy for a period of three (3) years following the date of final payment. Copies and/or printouts of documents relevant to the performance of this Agreement and not otherwise proprietary or confidential to Contractor or its customers, at no additional cost, shall be subject at all reasonable times to inspection, review, or audit by DES, personnel duly authorized by DES, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

c. Proprietary or confidential information

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, DES shall maintain the confidentiality of Konica Minolta Business Solutions information marked confidential or proprietary. If a request is made to view Konica Minolta Business Solutions proprietary information, DES will notify Konica Minolta Business Solutions of the request and of the date that the records will be released to the requester unless Konica Minolta Business Solutions obtains a court order enjoining that disclosure. If Konica Minolta Business Solutions fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Konica Minolta Business Solutions of any request(s) for disclosure for so long as DES retains Konica Minolta Business Solutions information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Konica Minolta Business Solutions of any claim that such materials are exempt from disclosure.

d. Non-endorsement and publicity

Neither DES nor the purchasers are endorsing Konica Minolta Business Solutions products or Services, nor suggesting that they are the best or only solution to their needs. Konica Minolta Business Solutions agrees to make no reference to DES, any purchaser or the State of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of DES.

e. Protection of confidential and personal information

Konica Minolta Business Solutions acknowledges that some of the material and information that may come into its possession or knowledge in connection with this contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either [Chapter 42.17 RCW](#) or other state or federal statutes ("confidential information"). Confidential information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, etc or information identifiable to an individual that relates to any of these types of information. Konica Minolta Business Solutions agrees to hold confidential information in strictest confidence and not to make use of confidential information for any purpose other than the performance of this contract, to release it only to authorized employees or subcontractors requiring such information for the purposes of carrying out this contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without purchaser's express written consent or as provided by law. Konica Minolta Business Solutions agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

"Personal information" including, but not limited to, "protected health information" (PHI) under the Health Insurance Portability and Accountability Act (HIPAA), individuals' names, addresses, phone numbers, birth dates, and social security

numbers collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. Konica Minolta Business Solutions must comply with all HIPAA requirements and rules applicable to business associates.. If purchaser determines that (1) purchaser is a "covered entity" under HIPAA, and that (2) Konica Minolta Business Solutions will perform "business associate" services and activities covered under HIPAA, then at purchaser's request, Konica Minolta Business Solutions agrees to execute a business associate contract in compliance with HIPAA.

Konica Minolta Business Solutions shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Konica Minolta Business Solutions and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law.

Any breach of this provision may result in termination of the contract and demand for return of all personal information. Konica Minolta Business Solutions agrees to indemnify and hold harmless the State of Washington and the purchaser for any damages to the extent caused by Konica Minolta Business Solutions willful and knowing unauthorized use of personal information.

Purchaser reserves the right to monitor, audit, or investigate the use of confidential information collected, used, or acquired by Konica Minolta Business Solutions through this contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by Konica Minolta Business Solutions or its subcontractors may result in termination of this contract and demand for return of all confidential information, monetary damages, or penalties.

Immediately upon expiration or termination of this contract, Konica Minolta Business Solutions shall, at purchaser's option: (i) certify to purchaser that Konica Minolta Business Solutions has destroyed all confidential information; or (ii) return all confidential information to purchaser; or (iii) take whatever other steps purchaser requires of Konica Minolta Business Solutions to protect purchaser's confidential information.

Any audit of Konica Minolta Business Solutions facilities shall not include access to Konica Minolta Business Solutions' or its customers' proprietary or confidential information unless required by applicable law. Any audit shall be conducted solely to monitor and evaluate Konica Minolta Business Solutions' performance, compliance, and/or quality assurance under this contract. DES shall provide Konica Minolta Business Solutions with reasonable advance notice of any audit. Any audit shall be conducted at DES's sole expense. All audits shall be conducted in a manner to minimize any disruption to Konica Minolta Business Solutions' business.

27. General Provisions

a. Governing law and venue

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

b. Severability

Severability: If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract that can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.

c. Survivorship

All transactions executed for products and Services provided pursuant to the authority of this contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this contract or any extension thereof. Further, the terms, conditions and warranties contained in this contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this contract shall so survive.

d. Independent status of Konica Minolta Business Solutions

In the performance of this contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Konica Minolta Business Solutions relationship will be created by this contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Konica Minolta Business Solutions shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

e. Gifts and gratuities

Konica Minolta Business Solutions shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 39.26](#) , [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities. Under [RCW 39.26](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#), state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

f. Immunity and hold harmless

To the fullest extent permitted by law, Konica Minolta Business Solutions shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of state (the "Indemnified Parties"), from and against all claims for bodily injury, death or damage to property. Konica Minolta Business Solutions obligation to indemnify, defend, and hold harmless includes any claim by Konica

Minolta Business Solutions agents, employees, representatives, or any subcontractor or its employees.

Konica Minolta Business Solutions expressly agrees to indemnify, defend, and hold harmless the Indemnified Parties for any claim arising out of or incident to Konica Minolta Business Solutions or any subcontractor's performance or failure to perform the contract. Konica Minolta Business Solutions shall be required to indemnify, defend, and hold harmless the Indemnified Parties only to the extent claim is caused in whole or in part by negligent, reckless or willful acts or omissions of Konica Minolta Business Solutions, its agents, employees, representatives, or any subcontractor or its employees.

Konica Minolta Business Solutions waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

g. Personal liability

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

28. Insurance

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a solicitation or its appendices.

a. General requirements

Konica Minolta Business Solutions shall, at its own expense, obtain and keep in force insurance as follows until completion of the contract. Upon request, Konica Minolta Business Solutions shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in contract cancellation.

Konica Minolta Business Solutions shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor (s) to comply with insurance requirements does not limit Konica Minolta Business Solutions liability or responsibility.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

b. Specific requirements

Employer's Liability (Stop Gap): Konica Minolta Business Solutions will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than

\$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by Konica Minolta Business Solutions or their employees for services performed under the terms of this contract.

Commercial General Liability Insurance: Konica Minolta Business Solutions shall at all times during the term of this contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of Konica Minolta Business Solutions or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of Konica Minolta Business Solutions premises/operations, independent contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) conditions.

The limits of liability insurance shall not be less than as follows:

General aggregate limits (other than products-completed operations)	\$2 million
Products-completed operations aggregate	\$2 million
Personal and advertising injury aggregate	\$1 million
Each occurrence (applies to all of the above)	\$1 million
Fire damage limit (per occurrence)	\$50,000
Medical expense limit (any one person)	\$5,000

c. Business Auto Policy (BAP)

In the event that services delivered pursuant to this contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by Konica Minolta Business Solutions, subcontractor, or anyone employed by either.

Konica Minolta Business Solutions shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

d. Additional insurance provisions

All above insurance policies shall include, but not be limited to, the following provisions:

Additional insured:

The State of Washington and all authorized purchasers shall be included as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of policy(ies) cancellation/Non-renewal:

For insurers subject to [Chapter 48.18 RCW](#) (admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee 30 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this contract. Written notice shall include the affected contract reference number. Such notification shall be provided by Konica Minolta Business Solutions insurance broker.

e. Insurance carrier rating

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the contract and evidence of insurance before contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#)

f. Excess coverage

The limits of all insurance required to be provided by Konica Minolta Business Solutions shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve Konica Minolta Business Solutions from liability in excess of such limits.

g. Limit adjustments

The state reserves the right to increase or decrease limits as appropriate.

29. Industrial Insurance Coverage

Konica Minolta Business Solutions shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If Konica Minolta Business Solutions fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DES may terminate this contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Konica Minolta Business Solutions.

30. Nondiscrimination

During the performance of this contract, Konica Minolta Business Solutions shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

31. OSHA and WISHA requirements

Konica Minolta Business Solutions agrees to comply with conditions of the federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued thereunder, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Konica Minolta Business Solutions further agrees to indemnify and hold harmless DES and purchaser from all damages assessed against purchaser as a result of Konica Minolta Business Solutions failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the contract to so comply.

32. Antitrust

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, Konica Minolta Business Solutions hereby assigns to the State of Washington any and all of Konica Minolta Business Solutions claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this contract.

33. Waiver

Failure or delay of DES or purchaser to insist upon the strict performance of any term or condition of the contract or to exercise any right or remedy provided in the contract or by law; or DES's or purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release Konica Minolta Business Solutions from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of DES or purchaser to insist upon the strict performance of the entire agreement by Konica Minolta Business Solutions. In the event of any claim for breach of contract against Konica Minolta Business Solutions, no provision of this contract shall be construed, expressly or by implication, as a waiver by DES or purchaser of any existing or future right and/or remedy available by law.

34. Disputes and remedies

a. Problem resolution and disputes

Problems arising out of the performance of this contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Konica Minolta Business Solutions and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute

Resolution Panel shall be final and binding on the parties hereto. DES and/or purchaser and Konica Minolta Business Solutions agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Konica Minolta Business Solutions and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three business days. The initiating party shall have three business days to review the dispute response. If after this review a resolution cannot be reached, both parties shall have three business days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three business days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three business days of receiving the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three business days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

DES, the purchaser and Konica Minolta Business Solutions agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by purchaser for materials, supplies, services and/or equipment being provided by Konica Minolta Business Solutions, Konica Minolta Business Solutions shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided purchaser pays Konica Minolta Business Solutions the amount purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Konica Minolta Business Solutions, in good faith, believes is due and payable.

b. Administrative suspension

When it in the best interest of the state, DES may at any time, and without cause, suspend the ordering portion of the contract for a period of not more than 30 calendar days per event by written notice from DES to Konica Minolta Business Solutions Representative. Konica Minolta Business Solutions will not be allowed to place new orders when in suspension status. This provision shall not apply to customer's equipment payment and lease payment obligations. Konica Minolta Business

Solutions shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, Konica Minolta Business Solutions can be demanded and required to resume performance within the 30-day suspension period by DES providing Konica Minolta Business Solutions Representative with written notice of such demand.

c. Force majeure

The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of war, riots, strikes, fire, floods, windstorms, epidemics or other similar occurrences.

Exceptions: Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this contract if, and to the extent that, such party's performance of this contract is prevented by reason of force majeure.

Notification: If either party is delayed by force majeure, said party shall provide written notification within 48 hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this contract.

Rights reserved: DES reserves the right to authorize an amendment to this contract, terminate the contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Konica Minolta Business Solutions shall have no recourse against the state.

d. Alternative dispute resolution fees and costs

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

e. Non-exclusive remedies

The remedies provided for in this contract shall not be exclusive but are in addition to all other remedies available under law.

35. Limitation of Liability

a. Limitation of liability

The parties agree that neither Konica Minolta Business Solutions, DES nor purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this contract. Except for payment obligations, Konica Minolta

Business Solutions, DES and purchaser are not liable for damages arising from causes beyond their reasonable control and without their fault or negligence. Such causes may include, but are not restricted to, acts of the public enemy, acts of a governmental body other than DES or the purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Konica Minolta Business Solutions, DES or the purchaser, or their respective subcontractors.

If delays are caused by a subcontractor without its fault or negligence, Konica Minolta Business Solutions shall not be liable for damages for such delays, unless the services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Konica Minolta Business Solutions to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

b. Federal funding

In the event that a federally funded acquisition results from this procurement, Konica Minolta Business Solutions may be required to provide additional information (free of charge) at the request of DES or purchaser. Further, Konica Minolta Business Solutions may be subject to those federal requirements specific to the commodity.

c. Federal restrictions on lobbying

Konica Minolta Business Solutions certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no federal appropriated funds have been paid or will be paid, by or on behalf of Konica Minolta Business Solutions, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

36. Debarment and suspension

Respondent certifies, by submitting this bid or proposal, that neither it nor its affiliates presently are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this procurement/contract by any government agency. Respondent also agrees to notify DES if its debarment status changes during the bid process or after receiving notice of contract award, if any. If respondent cannot certify this statement, attach a written explanation to the bid response for review.

37. Contract termination

a. Material breach

Konica Minolta Business Solutions may be terminated for cause by DES, at the sole discretion of DES, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the contract may include but is not limited to:

- Konica Minolta Business Solutions failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the contract;
- Konica Minolta Business Solutions failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;

b. Opportunity to cure

In the event that Konica Minolta Business Solutions fails to perform a contractual requirement or materially breaches any term or condition, DES may issue a written cure notice. Konica Minolta Business Solutions shall have thirty (30) days in which to cure. Time allowed for cure shall not diminish or eliminate any remedies available against Konica Minolta Business Solutions under the contract or by law.

If the breach remains after Konica Minolta Business Solutions has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this contract and any related contracts or portions thereof;
- Suspend or bar Konica Minolta Business Solutions from receiving future solicitations or other opportunities;
- Require Konica Minolta Business Solutions to reimburse the state for direct damages incurred as a result of default or failure to perform the terms of the contract.

c. Termination for cause

In the event DES, in its sole discretion, determines that Konica Minolta Business Solutions has failed to comply with the conditions of this contractor is in material breach, DES has the right to suspend or terminate this contract, in part or in whole. DES shall notify Konica Minolta Business Solutions in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the contract may be terminated. DES reserves the right to suspend all or part of the contract, or prohibit Konica Minolta Business Solutions from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by Konica Minolta Business Solutions or a decision by DES to terminate the contract.

If it is determined that: (1) Konica Minolta Business Solutions was not in material breach; or (2) failure to perform was outside of Konica Minolta Business Solutions or its subcontractor's control, fault or negligence, the termination shall be deemed to be a "termination for convenience", (refer to item 37d below for termination charges). The rights and remedies of DES and/or the purchaser provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

d. Termination for convenience

Participating Addendum - Except as otherwise provided in this contract, DES, at the sole discretion of DES, may terminate this contract, in whole or in part by giving 30 calendar days or other appropriate time period written notice beginning on the second day after mailing to Konica Minolta Business Solutions. DES shall not have any other obligation whatsoever to Konica Minolta Business Solutions for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

Termination of Lease/Non-Cancellable Rental Placements – Konica Minolta Business Solutions will assess a termination charge not to exceed the balance of lease payments on the equipment. On service/maintenance the termination charge will not exceed more than four (4) month service and supply base or 25% of the remaining term, whichever is less.

e. Termination for non-appropriation of funds

If funds are not appropriated to purchaser(s) by the respective State to continue this contract in any future period, DES may terminate this contract for the respective non-appropriation period with seven calendar days written notice, or other appropriate time period, to Konica Minolta Business Solutions, or work with Konica Minolta Business Solutions to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed-to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or purchaser agree to notify Konica Minolta Business Solutions in writing of such non-appropriation at the earliest possible time.

No penalty shall accrue to the purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

f. Termination for conflict of interest

DES may terminate this contract by written notice to Konica Minolta Business Solutions if it is determined, after due notice and examination, that any party to this contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other applicable laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this contract is so terminated, DES and/or purchaser shall be entitled to pursue the same remedies against Konica Minolta Business Solutions as it could pursue in the event that Konica Minolta Business Solutions breaches this contract.

g. Termination by mutual agreement

DES and Konica Minolta Business Solutions may terminate this contract in whole or in part, at any time, by mutual agreement.

h. Right to Terminate

The following shall not be considered material breach but allows the customer right to terminate:

- The Konica Minolta Business Solutions becomes insolvent or in an unsound financial condition so as to negatively affects- performance hereunder;

- Konica Minolta Business Solutions becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that negatively affects Konica Minolta Business Solutions proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for Konica Minolta Business Solutions or any of Konica Minolta Business Solutions property and such appointment negatively affects Konica Minolta Business Solutions proper performance hereunder;
- A determination that Konica Minolta Business Solutions is in violation of federal, state, or local laws or regulations and that such determination renders Konica Minolta Business Solutions unable to perform any aspect of the contract.

i. Termination procedure

In addition to the procedures set forth below, if DES terminates this contract, Konica Minolta Business Solutions shall follow any procedures DES specifies in the termination notice.

Upon termination of this contract and in addition to any other rights provided in this contract, DES may require Konica Minolta Business Solutions to deliver to the purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated. However, none of Konica Minolta Business Solutions' property, tangible or intangible, shall be transferred to any party at any time.

The purchaser shall pay to Konica Minolta Business Solutions the agreed upon price, if separately stated, for completed work and service(s) Accepted by the purchaser, and the amount agreed upon by Konica Minolta Business Solutions and the purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case DES and the purchaser shall determine the extent of the liability of the purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract.

The rights and remedies of DES and/or the purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, Konica Minolta Business Solutions shall:


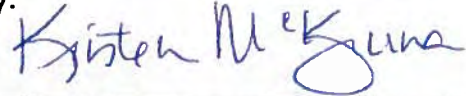


- Stop all work, order fulfillment, shipments, and deliveries under the contract on the date, and to the extent specified, in the notice;

- Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the contract except as is necessary to complete or fulfill such portion of the contract that is not terminated;
- Complete or fulfill such portion of the contract that is not terminated in compliance with all contractual requirements;
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts.
- Capital/Finance Lease - Transfer title to the purchaser and deliver in the manner, at the times, and to the extent reasonably directed by DES on behalf of the purchaser, pursuant to this Addendum, any property which, if the contract had been completed, would have been required to be furnished to the purchaser;



Take such action as may be necessary, or as DES and/or the purchaser may reasonably direct pursuant to this Addendum, for the protection and preservation of the property related to this contract which is in the possession of Konica Minolta Business Solutions and in which DES and/or the purchaser has or may acquire an interest.

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

Participating State: Washington	Contractor: Konica Minolta Business Solutions U.S.A., Inc.
By: 	By: 
Name: Neva Peckham	Name: Kristen McKenna
Title: Contracts Specialist	Title: State Contract Manager
Date: 4/6/15	Date: 4/2/15
Name: Scott Smith	
Title: State Procurement Manager - IT	
Date:	4/8/15
Name: Christine Warnock	
Title: WSCA-NASPO Director	
Date:	4/8/15

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Contract Amendment

05214 Copiers, Printers & Related Devices

Date Issued: 07/27/15

Effective Date: 07/01/15

Amendment Number: 01

Contractor Name: Konica Minolta business Solutions

This contract amendment is issued under the provisions of 05214 Copiers, Printers & Related Devices. The changes authorized are within the scope of the original contract. All rights and obligations of the parties are governed by the terms of the original contract, including any subsequent amendments, which are hereby incorporated by reference. All other terms and conditions remain unchanged.

Purpose of Amendment

- 1) The contract number associated with the Washington Participating Addendum is incorrect. Effective July 1, 2015 the contract number is 05214.
- 2) All references to Nevada procurement 14-19 is replaced with 3091.
- 3) All references to WSCA-NASPO is changed to NASPO ValuePoint.
- 4) The following language is added at the beginning of Section 3 Leases, "Any equipment acquired under this contract must follow the Office of Financial Management (OFM) Statewide Administrative & Accounting Manual (SAAM) [policy 30.20](#)."

Authorizing Signatures

For Contractor:

Kristen McKenna, Konica Minolta Business Solutions (KMBS)

(813) 207-8276

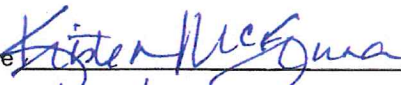
1595 Spring Hill Rd, Ste 410

Vienna, VA 22182

kmckenna@kmbs.konicaminolta.us

Signature

Date


7/27/15

For State of Washington:

Neva Peckham, DES Contracts, Procurement & Risk Management (CPRM)

(360) 407-9411


PO Box 41411

Olympia WA 98504-1411

neva.peckham@des.wa.gov

Signature

Date


7/27/15

DES Authorizing Manager:

Signature

Date

NOT REQUIRED

05214 NASPO ValuePoint (formerly WSCA-NASPO) Copiers, Printers, and Related Devices

Contract Amendment

Date Issued: 08/10/15

Effective Date: Upon Last Signature

Amendment Number: 2

Contractor Name: Konica Minolta Business Solutions

This Contract Amendment is issued under the provisions of 05214 Copiers, Printers, and Related Devices. The changes authorized are within the scope of the original contract. All rights and obligations of the parties are governed by the terms of the original contract, including any subsequent amendments, which are hereby incorporated by reference.

Purpose of Amendment

Section 3 Leases

(1) *The following language will be removed in its entirety:*

~~State agencies, political subdivisions and other entities authorized by the State, may enter into a separate Master Premier Lease Agreement(s) under this Participating Addendum. The form of the Master Premier Lease is attached as Exhibit A. Notwithstanding anything to the contrary in this Participating Addendum, or in the Contract, in the event of a conflict between the Contract, Purchase Order(s), Master Premier Lease Agreement or the Master Price Agreement, the terms of the Master Premier Lease Agreement will supersede and control. The terms and conditions of the Master Premier Lease Agreement and the Non Appropriations Rider (for qualifying state and local government entities only) will be incorporated by reference into any Purchase Order issued by purchasing entities for the leasing of equipment under the Master Price Agreement. The Purchase Order will be considered a Schedule to the Master Premier Lease Agreement.~~

(2) *The additional procurement options listed below will be added to the contract:*

Cancelable Rentals may be canceled upon 30 days written notice to Konica Minolta at any time during the rental term. Terms available for cancelable rentals are 24 months, 36 months, 48 months, and 60 months. Konica Minolta may assess a penalty of no more than 4 monthly rental payments that are not to include service or supply base commitments for the cancelation of the cancelable rental. Such cancelation will be subject to review and approval by the Contract Administrator.

Short Term Rental may not exceed 18 months. Extensions of short term rentals may be granted for up to a period of 6 months. Extension requests must be submitted to Konica Minolta in writing 30 days prior to expiration.

Non-Cancelable Rentals The customer may not purchase the device at the end of the initial, or any subsequent renewal term. All non-cancelable rentals shall not have a buyout to own option and all Customers will be remitting payment for the usage of the device only. Such rentals shall be subject to monthly payment reduction by the Awarded Vendor upon renewal, based upon the depreciated value. The depreciated value shall never reach a value that would result in the transfer of the asset to the Customer. The depreciated value

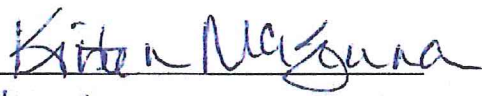
must be disclosed to the Customer at the time of the renewal; and the renewal rate is subject to the same terms and conditions under the contract with the Awarded Vendor.

All other terms and conditions remain unchanged.

Authorizing Signatures

For Contractor:

Kristen McKenna, Konica Minolta Business Solutions

Signature 

Date 9/14/15

For State of Washington:

Neva Peckham, Department of Enterprise Services

Signature 

Date 9/16/15