

## NASPO VALUEPOINT COOPERATIVE PURCHASING ORGANIZATION

### COPIERS, PRINTERS & RELATED DEVICES 14-19

Administered by the State of Nevada (hereinafter "Lead State")

#### MASTER AGREEMENT

Ricoh USA, Inc.

Nevada RFP 3091

(hereinafter "Contractor" or "Contract Vendor")

And

State of Minnesota

(hereinafter "Participating State" or "State")

- Scope:** The Participating State may purchase the products and/or Services available in the Participating Addendum (PA). The Participating Addendum is not a purchase order, nor does it guarantee any purchases will be made. The products and Services included in this PA are those listed **Group B – Production Copiers and Group C- Wide Format ONLY**.
- Changes:** The additional terms and conditions contained in Minnesota Exhibit A, and Exhibits B, C and D, which are attached and made part of the Participating Addendum, are hereby incorporated. In the event of a conflict between the terms contained within an Exhibit and the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement, the terms and conditions of the Exhibit shall prevail. The parties agree that this provision of the Participating Addendum supersedes the Standard Contract Terms and Conditions set forth in the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement. In the event that any provision of the Participating Addendum or NASPO VALUEPOINT Cooperative Purchasing Organization Agreement is contrary to Minnesota law, such provision shall be null and void. The Participating Addendum shall be governed by Minnesota law.  
  
No price escalations are allowed unless approved by the Lead State for the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement and adopted by the State through a fully executed Participating Addendum amendment. Price reductions resulting from the host provider's price schedule are effective upon notification of the price reduction to the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement Administrator.
- Authorized Representatives and Primary Contacts:** The State's Authorized Representative (the "AMS") and the primary contact individual for the Participating Addendum is identified below. All notifications to the State shall be in writing and addressed as follows:

Name: Mike Brick, or successor  
Title: Acquisition Management Specialist  
Address: Minnesota Department of Administration  
Office of State Procurement  
50 Sherburne Ave., 112 Administration Bldg.  
St. Paul, MN 55155  
Telephone: 651.201.2445  
Fax: 651.297.3996  
E-mail: [mike.brick@state.mn.us](mailto:mike.brick@state.mn.us)



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**For Contractor**

<b>Name</b>	<b>Ricoh USA, Todd Marron, NASPO VALUEPOINT National Contract Manager</b>
<b>Address</b>	<b>70 Valley Stream Parkway, Malvern, PA 19355</b>
<b>Telephone</b>	<b>503-747-6653</b>
<b>Fax</b>	
<b>E-mail</b>	<b>Todd.marron@ricoh-usa.com</b>

**Contractor Local Contact for Billing and Customer support**

<b>Name</b>	<b>Ricoh USA, Travis Massman, Manager, State &amp; Local Govt.</b>
<b>Address</b>	<b>70 Valley Stream Parkway, Malvern, PA 19355</b>
<b>Telephone</b>	<b>573-353-2559</b>
<b>Fax</b>	
<b>E-mail</b>	<b>travis.massman@ricoh-usa.com</b>

4. **Subcontractors:** The State and Contractor may add subcontractors upon mutual agreement through a duly executed amendment to this Participating Addendum.
5. **Leases:** Equipment leases are subject to the Terms and Conditions of the Contractor Lease Agreement, as set forth as Exhibit B (Lease Agreement) unless otherwise agreed to. To initiate a lease, Ordering Entities may issue a Purchase Order ["PO"] and reference the type of lease (FMV or Operational, Lease) on the PO. Notwithstanding anything to the contrary in this PA, in the event of a conflict between an executed Lease Agreement and the PA, the terms of Exhibit B will supersede and control. The Lease Agreement and each PO issued prior to the termination of this PA shall survive the termination of this PA and the Master Agreement.

Lease Renewals: FMV & Operational leases are subject to automatic price reductions at time of lease renewal. Thirty (30) days prior to lease expiration, Ordering Entities will provide written notice of intent to enter into a lease renewal. Price reductions in equipment payment are as follows (a) twelve (12) month extension - for original lease terms of thirty-six (36) or forty-eight (48) month, a twenty (20) % lease payment reduction or (b) twenty-four (24) month extension - for original lease term of thirty-six (36) months a thirty-five (35)% lease payment reduction.

End of term removal: End of term: At the end of term, Ordering Entity shall have the option to: (i) renew the schedule or (ii) return the equipment. If Ordering Entity desires to exercise a renewal or purchase of the equipment, it shall give Contractor written notice at least thirty (30) days before the expiration of such Schedule Term. Notwithstanding anything to the contrary, if Ordering Entity fails to notify Contractor of its intent with respect to the exercise of a renewal or purchase option, the initial schedule term shall be terminated on the date as stated in the schedule and removal of the equipment will be arranged.

6. **Subcontractors:**  
All Contactor dealers and resellers authorized in the State of Minnesota, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO Master Price Agreement. The Contractor dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement. An Authorized Service Provider shall be deemed "Contractor" under this PA for any PO issued directly to and accepted by such Authorized Service Provider and all references in the Lease Agreement to Contractor shall be deemed to refer to such Authorized Service Provider.

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**7. Purchase Order Instructions:**

Orders can be made out to (a) Ricoh USA, Inc or (b) Authorized Service Providers as approved by Contractor and the State. To the extent Ordering Entity and Contractor agree on additional terms, the terms will be documented on the PO, or other transaction document such as a Statement of Work, signed by both parties.

All orders should contain the following (1) mandatory language "PO is subject to NASPO VALUEPOINT Contract resulting from RFP # 3091 and this Purchase Order shall constitute a Schedule under the Terms and Conditions of the Lease Agreement, (2) Ordering Entity Name, Address, Contact, & Phone-Number (3) Purchase order amount (4) If leased, type of lease (FMV or Operational lease) and monthly payment (5) Itemized list of accessories (6) Service Program selected and CPC rates. Please channel the Ordering Entity PO through one of Contractor's authorized resellers so they can arrange for proper ordering and installation of your unit.

Unless otherwise agreed upon by both parties in writing, signing the delivery and acceptance certificate constitutes Acceptance of the Product(s) and allows Contractor to invoice for the Product(s). Contractor will provide timely billing and Ordering Entity will notify Contractor, in writing, of any billing concern. Contractor will be allowed a thirty (30) day cure period upon receipt of such notification to address any such billing issue. Invoices that require update due to information being received incorrectly or late from the Ordering Entity, are not considered inaccurate.

For Ricoh USA, Inc. Orders:

Address Purchase Orders to	Purchases Remit Payment to	Leases Remit Payment to
Ricoh USA, Inc. 70 Valley Stream Parkway Malvern, PA 19355	Ricoh USA, Inc. Box 802815 Chicago, IL 60680-2815	Address listed on invoice

For Authorized Service Provider Orders, address to and remit payments as shown on the dedicated Contractor (cooperative contract) website or, in the case of lease payments, to the address listed on the invoice.

**8. Additional Service Level Agreement Commitments:** The Service Level Agreement (SLA) is attached and incorporated herein as Exhibit C and provides additional service level commitments.

**9. Ricoh / WSCA Master Maintenance & Sale Agreement:**

Notwithstanding anything to the contrary in the PA, Ordering Entities are subject to "Ricoh WSCA Maintenance and Sale Agreement" attached and incorporated herein as Exhibit D. Unless otherwise agreed, software is provided subject to the terms and conditions of the license applicable to such software.

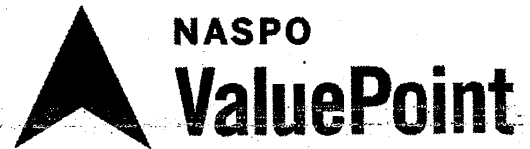
**10. Meter Collection Methods:**

As part of its Services, Contractor may, upon written agreement of Ordering Entity, and dependent upon device capabilities, provide electronic remote meter reading and equipment monitoring services using technology such as its @Remote solution. This may allow for automated meter reading and submission, automatic placement of low toner alerts, automatic placement of service calls in the event of a critical Product failure and may enable firmware upgrades. For avoidance of doubt, Section 49 (Security and Data Protection) of Minnesota Exhibit A applies to the methods described above.

**11. Maintenance Services for Kodak Nexpress Products - Intentionally Omitted.**

**12. Price Agreement Number:**

All purchase orders issued by purchasing entities within the jurisdiction of this Participating Addendum shall include the Participating State contract number: **142285** and the Lead State price agreement number: 3091.



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**13. Individual Customer:**

Each State agency and political subdivision, as an Ordering Entity, that purchases products/services will be treated as if it is an individual Customer. Except to the extent modified by this Participating Addendum, each agency and political subdivision will be responsible to follow the terms and conditions of the Master Agreement, and it will have the same rights and responsibilities for its purchases as the Lead State has in the Master Agreement. Each agency and political subdivision will be responsible for its 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 its purchases. The Contractor will apply the charges to each Ordering Entity individually.

- 14. Authorized Signature:** The Participating Addendum must be fully and properly executed by an officer or other authorized representative of the Contractor. If the Contractor is a corporation, a secretarial certificate or the corporate minutes showing that the signing officer has authority to contractually obligate the corporation should be furnished. Where the corporation has designated an attorney-in-fact, the power of attorney form should be furnished. If the Contractor is a partnership, a letter of authorization should be furnished signed by one of the general partners. A sole proprietor must sign the response. Proof of authority of the person signing the response must be furnished upon request.

The following documents, in order of precedence, are incorporated herein by reference and constitute the entire Contract between the Contract Vendor and the State:

- a. The Minnesota Participating Addendum
- b. The NASPO VALUEPOINT Cooperative Purchasing Organization Agreement Number 3091
- c. Applicable Engagement Addendums, Statement of Work Documents, licensing agreements and other service terms
- d. The NASPO VALUEPOINT Cooperative Purchasing Organization Solicitation
- e. Contractor's response to the NASPO VALUEPOINT Cooperative Purchasing Organization Solicitation

In the event of a conflict in language among any of these documents, the terms and conditions set forth and/or referenced in this Participating Addendum shall prevail over conflicting terms and conditions. In the event of any conflict between this PA and the Exhibits incorporated herein, the terms and conditions of the Exhibits prevail, to the extent not in conflict with the laws of the State.



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IN WITNESS WHEREOF, the parties have executed the Participating Addendum as of the date of execution by all parties below:

**1. Ricoh USA, Inc.**

The Contract Vendor certifies that the appropriate person(s) have executed this Participating Addendum on behalf of the Contract Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: \_\_\_\_\_

Signature

Steve Bissey  
Printed Name

Title: National Director, State & Local Govt.

Date: 5.25.18

**2. State of Minnesota  
Office of State Procurement**

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

By: \_\_\_\_\_

Title: Acquisition Management Specialist

Date: \_\_\_\_\_

**3. State of Minnesota  
Commissioner of Administration  
Or delegated representative.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

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**Minnesota Exhibit A**

**Minnesota General Terms and Conditions**

**1. DEFINITIONS.**

- a. **CPV Members.** The Cooperative Purchasing Venture (CPV) program was established by Minn. Stat. § 16C.03, subd. 10, which authorizes the commissioner of the Minnesota Department of Administration (Commissioner of Administration) through its Office of State Procurement (OSP) to enter into a cooperative purchasing agreement for the provision of goods, services, and utilities" with one or more governmental units and other entities as described in Minn. Stat. § 471.59, subd. 1 and Minn. Stat. § 16C.03, subd. 10. Based on this authority, the Commissioner of Administration enters into a joint powers agreement that designates OSP as the authorized purchasing agent for the governmental unit or other entity. Governmental units and other entities joining the program are given an access code which identifies them as CPV members and permits them to access the OSP website to get information about commodities and/or services available on the State of Minnesota (State) contracts. Governmental units and other entities who are not members of the CPV program are not authorized to use the contract prices. The Contract Vendor agrees to provide the contract to CPV members at the same prices, terms, conditions, and specifications. For additional information, visit the OSP website at [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us).
- b. **State Agencies.** This term applies only to State agencies and departments, as defined in Minn. Stat. §§ 15.01 and 15.021.
- c. **Ordering Entity.** This term applies to any State Agency or CPV Member when allowed in the Participating Addendum.
- d. **State and State of Minnesota.** These two terms apply to the Minnesota Department of Administration, Office of State Procurement (OSP), representing the State of Minnesota as the contracting agency for the Participating Addendum. These terms also apply to the State's Office of MNIT Services acting within its statutorily defined contracting capacity.
- e. **State of Minnesota, Office of MNIT Services.** Minnesota's Information Technology agency. The Office of MNIT Services is responsible for providing or entering into managed services contracts for the provision, improvement, and development of business application software and related technical support services and other information technology systems and services to Minnesota state agencies pursuant to Minnesota Statute section 16E.016(a).
- f. **Contract Vendor and Contractor.** These two terms apply to the awarded vendor(s) from the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement that OSP selects to receive a Participating Addendum.
- g. **Contract.** Contract is defined as the NASPO VALUEPOINT Cooperative Purchasing Organization Agreement and the Minnesota Participating Addendum and any documents incorporated by reference.

2. **EFFECTIVE DATE and CONTRACT PERIOD.** The Contract shall be effective upon the date of final execution by the State of Minnesota. The Contract term will begin on the date of Participating Addendum execution and end on December 31, 2019 with the option to extend up to 24 months or as otherwise allowed by the NASPO Value Point Master Agreement, upon agreement by all parties and duly executed amendment.
3. **STATE AUDITS (Minn. Stat. § 16C.05, Subd. 5).** The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Contract or transaction, are subject to examination by the contracting agency and either the Legislative Auditor or the State Auditor as appropriate. for a minimum of six years

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The State reserves the right to authorize delegate(s) to audit this Contract and transactions.

4. **ANTITRUST.** The Contract Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with the Participating Addendum resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State.
5. **INSURANCE.** If applicable, prior to execution of the Participating Addendum, the Contract Vendor will be required to provide a copy of a Certificate of Insurance, including workers' compensation insurance coverage requirements of Minn. Stat. § 176.181 subd. 2, and other coverages per the insurance requirements if included in the Participating Addendum.
6. **INDEMNIFICATION, HOLD HARMLESS, AND LIMITATION OF LIABILITY.** The Contractor shall indemnify, protect, save and hold harmless the State, its representatives and employees, from any and all claims or causes of action, including all legal fees incurred by the State arising from the death or bodily injury of any agent, employee, or business invitee of the State, or the damage, loss or destruction of any tangible property of the State to the extent proximately caused by the negligent acts or omissions or willful misconduct in performance of the Contract by the Contractor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contractor may have with the State's failure to fulfill its obligations pursuant to the Contract.

For clarification and not as a limitation, the Contractor hereby expressly extends, in addition to the other terms, conditions and specifications of the Contract, the foregoing defense and indemnification obligations to Cooperative Purchasing Venture (CPV) Members, including Board of Trustees of the Minnesota State Colleges and Universities, in addition to Agency as defined in Minn. Stat. 16.C.02, in addition to the legislative and judicial branches and constitutional offices of state government.

CONTRACTOR SHALL NOT BE RESPONSIBLE AND SHALL HAVE NO LIABILITY FOR LOST PROFITS, LOSS OF REVENUE, OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS PA, OR THE SUBJECT MATTER HEREOF, OR THE USE OR PERFORMANCE OF THE CONTRACTOR EQUIPMENT OR THE LOSS OF USE OF THE CONTRACTOR EQUIPMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CONTRACTOR'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION ABOVE, CONTRACTOR'S TOTAL AGGREGATE LIABILITY TO STATE, IF ANY, UNDER THIS PA, SHALL IN NO EVENT EXCEED ONE MILLION DOLLARS (\$1,000,000) OR THE TOTAL AMOUNT OF THE TOTAL CONTRACT AMOUNT PAID TO CONTRACTOR, WHICHEVER IS GREATER. IN NO EVENT SHALL CONTRACTOR BE LIABLE TO ORDERING ENTITY FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE OF ANY SOFTWARE PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, OR DELAY OF DELIVERY OF SERVICES UNDER THIS PA. CONTRACTOR ASSUMES NO OBLIGATION TO PROVIDE OR INSTALL ANY ANTI-VIRUS OR SIMILAR SOFTWARE AND THE SCOPE OF SERVICES CONTEMPLATED HEREBY DOES NOT INCLUDE ANY SUCH SERVICES. Ordering Entity must comply with any applicable license agreement or license terms relating to intangible property or associated services included in any Products, such as periodic software licenses and/or prepaid data base subscription rights ("Software License"), whether pursuant to written, click-through, shrink-wrap or other agreements for such purpose, with the supplier of the software ("Software Supplier") to the extent permitted by "Minnesota" applicable law. Contractor has no right, title or interest in any third-party software. Ordering Entity is solely responsible for entering into Software Licenses with the applicable Software Supplier.

7. **LAWS AND REGULATIONS.** Any and all services, articles or equipment offered and furnished shall comply fully with all State and federal laws and regulations, including Minn. Stat. § 181.59 and Minn. Stat. Ch. 363A prohibiting discrimination and business registration requirements of the Minnesota Secretary of State's Office.

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- 8. CANCELLATION OF THE CONTRACT.** The Contract may be cancelled by the State or the commissioner of Administration at any time, without cause, upon 30 days' written notice to the Contract Vendor. In the event the Contract Vendor is in default, the Contract is subject to immediate cancellation to the extent Contractor has not cured such default within thirty (30) days after written notification from the State. In the event of cancellation, the Contract Vendor shall be entitled to payment, for products, work or services satisfactorily received, performed and accepted according to the terms of the Contract with respect to such products, work or services. The cancellation of the Contract shall not affect the validity of any lease or rental of equipment entered into prior to the effective date of such cancellation.
- 9. GOVERNMENT DATA PRACTICES.** The Contract Vendor and the State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State to the Contract Vendor and all data provided to the State by the Contract Vendor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contract Vendor in accordance with the Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).
- In the event the Contract Vendor receives a request to release the data referred to in this article, the Contract Vendor must immediately notify the State. The State will give the Contract Vendor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contract Vendor or the State.
- The Contract Vendor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Contract, to the extent such violation was proximately caused by Contract Vendor. In the event that the Contract Vendor subcontracts any or all of the work to be performed under the Contract, the Contract Vendor shall retain responsibility under the terms of this article for such work. However, Contract Vendor shall have no liability for any of the foregoing indemnification if it was acting at the direction of the Ordering Entity.
- 10. EFFECTIVE DATE.** Pursuant to Minnesota law, the Contract arising from this RFP shall be effective upon the date of final execution by the State, unless a later date is specified in the Contract.
- 11. RISK OF LOSS OR DAMAGE.** The State is relieved of all risks of loss or damage to the goods and/or equipment during periods of transportation, and installation by the Contract Vendor and in the possession of the Contract Vendor or their authorized agent.
- 12. GOVERNING LAW.** The Contract will be construed in accordance with and performance governed by the laws of the State of Minnesota. Except to the extent that the provisions of the Contract are clearly inconsistent therewith, the Contract shall be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota.
- To the extent the Contract entails delivery or performance of services, the services will be deemed "goods" within the meaning of the UCC, except when to deem such services as "goods" is unreasonable.
- 13. JURISDICTION AND VENUE.** The Contract, its amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of the Contract or breach thereof shall be in the State or federal court with competent jurisdiction in Ramsey County, Minnesota. The Contract Vendor voluntarily agrees to be subject to the jurisdiction of Minnesota for all proceedings arising out of the Contract, or any breach thereof.

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**14. FORCE MAJEURE.** Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

**15. HUMAN RIGHTS/AFFIRMATIVE ACTION.** The State requires affirmative action compliance by its Contract Vendors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

- a. Covered contracts and Contract Vendors. One-time acquisitions, or a contract for a predetermined amount of goods and/or services, where the amount of your response is in excess of \$100,000 requires completion of the Affirmative Action Certification page. If the solicitation is for a contract for an indeterminate amount of goods and/or services, and the State estimated total value of the contract exceeds \$100,000 whether it will be a multiple award contract or not, you must complete the Affirmative Action Certification page. If the contract dollar amount or the State estimated total contract amount exceeds \$100,000 and the Contract Vendor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, the Contract Vendor must comply with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600. A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600 that had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months must have a certificate of compliance issued by the commissioner of the Department of Human Rights (certificate of compliance). A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 that did not have more than 40 full-time employees on a single working day during the previous 12 months within Minnesota but that did have more than 40 full-time employees in the state where it has its principal place of business and that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.
- b. Minn. Stat. § 363A.36, subd. 1 requires the Contract Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of the Department of Human Rights (commissioner) as indicated by a certificate of compliance. Minn. Stat. § 363A.36 addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
- c. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contract Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552-5000.3559.
- d. Disabled Workers. Minn. R. 5000.3550 provides the Contract Vendor must comply with the following affirmative action requirements for disabled workers.

#### AFFIRMATIVE ACTION FOR DISABLED WORKERS

- (a) The contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in

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employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- (b) The contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- (e) The contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

e. Consequences. The consequences of a Contract Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

f. Certification. The Contract Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

**16. PAYMENT.** Minn. Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read "Net 30 days." The ordering entity is not required to pay the Contract Vendor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. In addition, all goods and/or services provided must meet all terms, conditions and specifications of the Contract and the ordering document and be accepted as satisfactory by the ordering entity before payment will be issued.

**Conditions of Payment.** The Contract Vendor under this Contract must be in accordance with the Contract as determined by the sole discretion of the State's Authorized Representative and be in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the State's Office of the Secretary of State.

**17. PURCHASE ORDERS (PO).** The State requires that there will be no minimum order requirements or charges to process an individual purchase order unless otherwise stated in the special terms. The Contract number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.).

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- 18. TAXES.** DO NOT add sales tax to the prices being offered. Unless otherwise instructed by the State, state agencies will pay all applicable taxes to the Department of Revenue using the Direct Payment Permit 1114. Vendors may go to: <http://www.revenue.state.mn.us> regarding applicable sales tax (Fact Sheet 142).
- 19. SHIPPING REQUIREMENTS.** All shipments shall be FOB Destination. Freight charges shall be prepaid and allowed unless otherwise stated in the NASPO Value Point Master Price Agreement.
- 20. DEFAULT.** A State purchase order constitutes a binding Contract. All commodities and/or services furnished will be subject to inspection and acceptance by the ordering entity after delivery. No substitutions or cancellations are permitted without written approval of the State contracting agency. Back orders, failure to meet delivery requirements agreed to by Contractor and State, or failures to meet specifications in the purchase order and/or the Contract, authorizes the ordering entity to cancel the portion of the purchase order for which Contractor is in default subject to the terms herein, to the extent the non-defaulting portion of the purchase order is still usable without such cancelled portion. In the event of default, the State reserves the right to pursue any other remedy available by law. A Contract Vendor may be removed from the vendors list, suspended or debarred from receiving a Contract for failure to comply with terms and conditions of the Contract, provided Contract Vendor has not cured such curable default after having received thirty (30) days written notice from the Ordering Entity.
- 21. ASSIGNMENT.** The Contract Vendor shall not sell, transfer, assign, or otherwise dispose of the Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's Authorized Representative. Such consent shall not be unreasonably withheld. The Contract Vendor shall give written notice to the State's Authorized Representative of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of the Contract. Failure to do so may result in the Contract Vendor being held in default. This consent requirement includes reassignment of the Contract due to a change in ownership, merger, or acquisition of the Contract Vendor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contract Vendor's right to assign the Contract to corporations to provide some of the services hereunder and shall not be construed as limiting Contractor's right to assign its rights, title, interests and payment rights (but not its obligations) with respect to any leased Equipment to a third party for financing purposes. Notwithstanding the foregoing acknowledgment, the Contract Vendor shall remain solely liable for all performance required and provided under the terms and conditions of the Contract and any lease.
- 22. INTELLECTUAL PROPERTY RIGHTS.**
- (a) *Pre-Existing Intellectual Property Rights.* State and Contract Vendor shall each retain ownership of, and all rights, title, and interest in their own pre-existing intellectual property and all derivative works arising therefrom, subject to any license rights contained herein or otherwise executed between the parties.
- (b) *Intellectual property rights.*
- Intellectual property rights arising from the Professional Services (but not the data, materials or content provided by the Ordering Entity) shall remain the property of Contractor, and nothing contained in any Statement of Work shall be construed to transfer, convey, restrict, impair or deprive Contractor of any of its ownership or proprietary interest or rights in technology, information or products that existed prior to the provision of deliverables under the Statement of Work or that may be independently developed by Contractor outside the scope of the Statement of Work and without use of any confidential or otherwise restricted material or information thereunder. Ordering Entity shall not use any Professional Services provided pursuant to a Statement of Work for any unlawful purpose. Neither party shall acquire any right, title or interest in or to the other party's intellectual property rights including their copyrights, patents, trade secrets, trademarks, service marks, trade names or product names. Subject to payment of all relevant fees and charges, Contractor hereby grants Ordering Entity a worldwide, perpetual, nonexclusive, non-transferable, royalty-free (other than payments identified in the applicable Statement of Work or other transaction documents) license for its internal and government business purposes only to use, execute, display, perform and distribute (within State's organization only) anything developed by Contractor for Ordering Entity in

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connection with the Professional Services ("**Contract Property**"). Contractor shall retain all ownership rights to the Contract Property. For purposes of clarity any Statement of Work and the foregoing license relates to the Professional Services only, and software programs shall not be deemed to be deliverables or "Services" or "Professional Services." All licensing for Contractor or third-party software shall be as provided in section c hereunder.

- (c) Software. All Contractor and/or third-party software provided by Contractor as part of or in connection with the Professional Services is licensed, not sold, and is subject to both the server, seat, quantity or other usage restrictions set forth the relevant transaction documentation, and to the terms of the respective end user license agreements, with which Ordering Entity agrees to comply. If such software is manufactured by a party other than Contractor, then Ordering Entity acknowledges that Contractor is not the manufacturer or copyright owner of such third-party software and that Contractor makes no representations and provides no warranties with respect thereto. Contractor shall make available to Ordering Entity any warranties made to Contractor by the manufacturer of the software and/or products utilized by Contractor in connection with the Professional Services, to the extent transferable and without recourse.

**23. PARTICIPATING ADDENDUM AMENDMENTS.** Except as provided herein, the Participating Addendum shall be modified only by written amendment duly executed by an authorized representative of the State and the Contract Vendor. No alteration or variation of the terms and conditions of the Participating Addendum shall be valid unless made in writing and signed by the parties as required by law. Every amendment shall specify the date on which its provisions shall be effective. An approved Participating Addendum amendment means one approved by the authorized signatories of the Contract Vendor and the State as required by law.

**24. TERMINATION.** The Participating Addendum or any related Engagement Addendum or Statement of Work may be canceled by the State or the Commissioner of Administration at any time, with or without cause, upon 30 days written notice to the Contract Vendor. In the event of such a cancellation, the Contract Vendor shall be entitled to payment, determined on a pro rata basis, only for work or services satisfactorily performed and accepted. If the State terminates the Contract for default or other cause the Contract Vendor shall provide a pro-rated refund to the State for all prepaid but unused fees.

In the event the Contract Vendor is in default, the Participating Addendum is subject to immediate cancellation to the extent allowable by applicable law.

In the event of expiration, termination or cancellation of the Participating Addendum, Engagement Addendum or Statement of Work for any reason the Contract Vendor shall, in accordance with the State's directions: (1) continue to provide any then-existing Services for as long as the State needs to transfer its data, software, security credentials including, but not limited to, any account root or access keys, and other assets to an alternate service or service provider; and/or (2) transfer the account with its existing IT environment and security credentials to the State or to a new third-party contract vendor of the State's choosing while minimizing service disruption. The Contract Vendor will be entitled to pro-rata payment at the pricing in effect prior to expiration, termination or cancellation of the Participating Addendum, Engagement Addendum or Statement of Work for the continuing services for the period of time needed, subject to any other limitations within this Participating Addendum and other agreements between the State and the Contract Vendor.

The Contract Vendor may request to cancel the Participating Addendum or any related Engagement Addendum or Statement of Work but must receive written approval from the State. Any term or condition that allows the Contract Vendor to terminate the Contract for any or no reason (i.e., termination for convenience) is null and void. Notwithstanding the foregoing provisions of this Section or any other section of the Contract to the contrary, termination of the Participating Addendum and/or any related Engagement Addendum or Statement of Work will not affect any lease or rental of equipment entered into prior to the effective date of such termination.

**25. ADMINISTRATIVE PERSONNEL CHANGES.** The Contract Vendor must notify the AMS of changes in the Contract Vendor's key administrative personnel, in advance and in writing. Any employee of the Contract Vendor



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who, in the opinion of the State of Minnesota, is unacceptable, shall be removed from the project upon written notice to the Contract Vendor. In the event that an employee is removed pursuant to a written request from the Acquisition Management Specialist, the Contract Vendor shall have 10 working days in which to fill the vacancy with an acceptable employee.

- 26. PUBLICITY.** Any publicity given to the program, publications or services provided resulting from a State Contract for goods or services, including but not limited to notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Contract Vendor, or its employees individually or jointly with others, or any subcontractors, shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the Office of State Procurement Acquisition Management Specialist and the Department of Administration's Communication Office.

The Contract Vendor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the Department of Administration. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

- 27. NOTICES.** If one party is required to give notice to the other under the Contract, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the State shall be addressed as follows:

Mike Brick or Successor  
Acquisition Management Specialist  
50 Sherburne Avenue  
112 Administration Bldg.  
St. Paul, MN 55155

Fax: 651.297.3996

- 28. STATE AGENCY CONTRACT USE.** The State intends to use this Contract to meet its needs for goods and services purchased under the authority of the commissioner of Administration. An exception will be made when the commissioner of Administration or authorized delegate determines that the State will achieve its "best value" by utilizing alternative procurement methods as specified in Minn. Stat. Ch. 16C or other authorizing law.

The Contract must be used by State agencies unless a specific exception is granted by the Acquisition Management Specialist or authorized delegate, or unless otherwise provided for in the Special Terms and Conditions.

- 30. OWNERSHIP (See 22.b)**

- 31. AMERICANS WITH DISABILITIES ACT (ADA).** Products provided under the Contract must comply with the requirements of the Americans With Disabilities Act (ADA). The Contract Vendor's catalog and other marketing materials utilized to offer products under the Contract must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contract Vendor agrees that the customer can assume the product meets or exceeds the ADA requirements.

- 32. NONVISUAL ACCESS STANDARDS.** To extent required by law) Pursuant to Minn. Stat. §16C.145, the Contract Vendor shall comply with the following nonvisual technology access standards:

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- a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

- 33. USAGE REPORT.** Contract Vendor is required to furnish usage data to the Acquisition Management Specialist. Unless otherwise specified in the Special Terms and Conditions, a report on Contract usage must consist of the total dollars expended by the State and other entities.
- 34. MINNESOTA REPORTING REQUIREMENTS AND ADMINISTRATIVE FEE.** On a quarterly basis, the Contract Vendor shall return to the Department of Administration, Office of State Procurement, a fee of 1% (0.01 multiplication factor) of the total sales during that quarter, to assist with the cost of administering the Participating Addendum. The administrative fee shall be remitted to the State within 30 days of the end of the quarter. The quarter periods are July 1 to September 30 (1<sup>st</sup> Quarter), October 1 to December 31 (2<sup>nd</sup> Quarter), January 1 to March 31 (3<sup>rd</sup> Quarter), and April 1 to June 30 (4<sup>th</sup> Quarter). The Contract Vendor must provide a report detailing the total sales to State Agencies and CPV Members. The report must be submitted with the check on or before the required 30 days after the end of the quarter.  
  
The State reserves the right, at any time during the Contract period, to amend the Contract to change or add fees. This may include fees directed to the Department of Administration, Office of State Procurement, Office of MNIT Services or other state entities. The reporting requirements and amount of the fee will be specified in the Contract amendment. The Contract Vendor will be allowed to adjust the Contract pricing up to the percentage of any additional fee(s).
- 35. SEVERABILITY.** If any provision of the Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the State and the Contract Vendor shall be relieved of all obligations arising under such provisions. If the remainder of the Contract is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.
- 36. ELECTRONIC FUNDS TRANSFER (EFT) PAYMENT METHOD AND STRUCTURE.** In accordance with Minn. Stat. § 16A.40 the Contract Vendor may be required to provide their bank routing information to the Department of Minnesota Management and Budget to enable payments to be made through EFT.
- 37. COPYRIGHT - INTENTIONALLY DELETED.**
- 38. SURVIVABILITY.** The following rights and duties of the State and Contract Vendor will survive the expiration or cancellation of the resulting Contract(s). These rights and duties include, but are not limited to the paragraphs on Indemnification, Hold Harmless, and Limitation of Liability, State Audits, Government Data Practices, Security and Data Protection, Governing Law, Jurisdiction and Venue, Intellectual Property Indemnification, Publicity and Minnesota Reporting Requirements and Administrative Fees. Software licenses, warranty, maintenance agreements, service agreements and the terms of Engagement Addendums, Statement of work documents and any unexpired lease of equipment that were entered into under the terms and conditions of the Contract shall survive the expiration or termination of this Contract.

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- 39. PERFORMANCE WHILE DISPUTE IS PENDING.** Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Contract that are not affected by the dispute.
- 40. NOTICE TO RESPONDERS.** Pursuant to Minn. Stat. § 270C.65, subd. 3, Contract Vendors are required to provide their Federal Employer Identification Number or Social Security Number. This information may be used in the enforcement of federal and State tax laws. Supplying these numbers could result in action to require a Contract Vendor to file tax returns and pay delinquent tax liabilities. These numbers will be available to federal and State tax authorities and State personnel involved in the payment of State obligations.
- 41. SURVIVABILITY OF ORDER.** In the event the term of an order placed under this Contract extends past the termination or expiration of this Contract, the terms and conditions of this Contract shall remain in full force and effect as it applies to such order and continue in effect for such order until the term of that order expires.
- 42. PRODUCTS CONTAINING CERTAIN TYPES OF POLYBROMINATED DIPHENYL ETHER BANNED.** Not applicable.
- 43. IT ACCESSIBILITY STANDARDS.** (To the extent applicable) The State of Minnesota (Executive branch state agencies) has developed IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at: [http://mn.gov/mnit/images/Stnd\\_State\\_Accessibility.pdf](http://mn.gov/mnit/images/Stnd_State_Accessibility.pdf) or <http://mn.gov/mnit/>
- 44. E-VERIFY CERTIFICATION.** For services in excess of \$50,000, the Contract Vendor certifies that as of the date of services performed on behalf of the State, the Contract Vendor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. This is required by Minnesota Statutes Section 16C.075. The Contract Vendor shall be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available on OSP website [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us).
- All subcontractor certifications must be kept on file with the Contract Vendor and made available to the State upon request.
- 45. HAZARDOUS SUBSTANCES.** To the extent that the goods to be supplied to the State by the Contract Vendor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Contract Vendor must provide the State with Material Safety Data Sheets regarding those substances (including mercury). A copy must be included with each delivery.
- 46. SUBCONTRACTOR PAYMENT (When Applicable).** In accordance with Minn. Stat. § 16A.1245, the Contract Vendor shall, within 10 days of receipt of payment from the State, pay all subcontractors and suppliers having an interest in the Contract their share of the payment for undisputed services provided by the subcontractors or suppliers. The Contract Vendor is required to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of \$100 or more will be \$10. For an unpaid balance of less than \$100, the amount will be the actual penalty due. A subcontractor that takes civil action against the Contract Vendor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The Contract Vendor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under the Contract. In the event the Contract Vendor fails to make timely payments to a subcontractor or supplier, the State may, at its sole option and discretion, pay a subcontractor or supplier any amounts due from the Contract Vendor and deduct said payment from any remaining amounts due the Contract Vendor. Before any such payment is made to a subcontractor or supplier, the State shall provide the Contract Vendor written notice that payment will be made directly to a subcontractor or supplier. If there are no remaining outstanding payments to the Contract Vendor, the State shall have no

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obligation to pay or to see to the payment of money to a subcontractor except as may otherwise be required by law.

**47. SOFTWARE AND LICENSING AGREEMENTS – INTENTIONALLY OMITTED.**

**48. TAXPAYER IDENTIFICATION:** The Contract Vendor shall be registered as a vendor to the State in the SWIFT Procurement System. Registration must be done online at <http://www.mmb.state.mn.us/vendorresources>.

**ORDERING ENTITY.** The Contract Vendor will accept Engagement Addendums documents from the Department of Administration only. The State reserves the right to add additional State Agencies and CPV members, as defined in General Terms and Conditions section 1. Definitions, to the contract upon mutual agreement by both parties.

**49. SECURITY AND DATA PROTECTION.** The Contract Vendor is responsible for the security and protection of the State data related to the Contract. The terms, conditions, and provisions of this Security and Data Protection section take precedence and will prevail over any other terms, conditions, and provisions of the Contract, if in conflict. This Security and Data Protection section survives the completion, termination, expiration, or cancellation of the Contract.

- a. **Data Ownership.** The State solely and exclusively owns and retains all right, title and interest, whether express or implied, in and to the State data. For purposes of this section, "data" has the meaning of "government data" in Minnesota Statutes section 13.02, subdivision 7. Contract Vendor has no and acquires no right, title or interest, whether express or implied, in and to the State data.

Contract Vendor shall only use State data for the purposes set forth in the Contract. Contract Vendor shall only access State data as necessary for performance of the Contract. Contract Vendor will not access State user accounts except to respond to service or technical problems or at the State's specific request.

To the extent Contract Vendor is obligated to protect State data, all such State data, including copies and summaries thereof, shall be remitted, in a mutually agreeable format and media, to the State by the Contract Vendor upon request or upon completion, termination or cancellation of the Contract. The foregoing sentence does not apply if the State Chief Information Security Officer or delegate authorizes in writing the Contract Vendor to sanitize and/or destroy the data and the Contract Vendor certifies in writing the sanitization and/or destruction of the data. Within ninety days following any remittance of State data to the State, Contract Vendor shall, unless otherwise instructed by the State in writing, sanitize and/or destroy any remaining data and certify in writing that the sanitization and/or destruction of the data has occurred. Any such remittance, sanitization or destruction will be at the Contract Vendor's sole cost and expense.

In the event the Contract Vendor receives a request to release any State data, the Contract Vendor must immediately notify the State's data practices compliance official. The State will give the Contract Vendor instructions concerning the release of the data to the requesting party before the data is released. The Contract Vendor must comply with the State's instructions. The civil remedies of Minnesota Statutes section 13.08 apply to the release of the data by the Contract Vendor.

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- b. Security Incidents. If Contract Vendor becomes aware of or suspects a privacy or security incident regarding any State data Contract Vendor is obligated to protect, Contract Vendor will report the event to the State and the State Chief Information Security Officer as soon as reasonably possible but no later than forty-eight (48) business hours. The decision to notify and the actual notifications to the State's data subjects affected by the security or privacy incident is the responsibility of the State. Notwithstanding anything to the contrary in the Contract, the Contract Vendor shall indemnify, hold harmless and defend the State and its officers, and employees for and against any claims, damages, costs and expenses related to any privacy or security incident involving any State data Contract Vendor is obligated to protect in accordance with the Contract, to the extent such privacy or security incident was proximately caused by Contract Vendor. Contract Vendor shall reasonably mitigate any harmful effects resulting from any privacy or security incident involving any State data. However, Contract Vendor shall have no liability for any of the foregoing indemnification if it was acting at the specific direction of the Ordering Entity, or as specified in a Services agreement between the parties, at the time of such disclosure.

For purposes of this sub-section, "security incident" means the successful unauthorized access, use, disclosure, modification or destruction of data or interference with system operations in an information system. For purposes of this sub-section, "privacy incident" means violation of the Minnesota Government Data Practices Act (Minnesota Statutes chapter 13) and/or federal privacy requirements in federal laws, rules and regulations. This includes, but is not limited to, improper or unauthorized use or disclosure of not public data, improper or unauthorized access to or alteration of public data, and incidents in which the confidentiality of the data maintained by Contract Vendor has been breached. For purposes of this section, "not public data" has the meaning in Minnesota Statutes section 13.02, subdivision 8a.

- c. Security Program. For purposes of this section, "Cloud Services" includes "cloud computing" as defined by the U.S. Department of Commerce, NIST Special Publication 800-145 (currently available online at: <http://csrc.nist.gov/publications/nistpubs/800-145/SP800-145.pdf>) and any other software, hosting service, subscription or other service or product by which Contract Vendor stores, transmits, processes or otherwise has access to State data. Contract Vendor must make all commercially reasonable efforts to protect and secure all State data related to any Cloud Services provided under the Contract. Contract Vendor will establish and maintain an Information Security Program ("Program") that includes an information security policy applicable to any and all Cloud Services ("Policy"). To the extent the State acquires Cloud Services, the State and Contract Vendor will specify any appropriate industry security frameworks and standards in the applicable Statement of Work.
- d. Data Management. Contract Vendor will not use State data, including production data, for testing or development purposes. Contract Vendor has implemented and will maintain procedures to physically and logically segregate State data, unless otherwise explicitly authorized by the State Chief Information Security Officer or delegate.
- e. Data Encryption. Contract Vendor shall encrypt all State data at rest and in transit, in compliance with FIPS Publication 140-2 or applicable law, regulation or rule, whichever is a higher standard. All encryption keys shall be unique to State data. Contract Vendor shall secure and protect all encryption keys to State data. Encryption keys to State data shall only be accessed by Contract Vendor as necessary for performance of the Contract.

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- f. Data Storage. Contract Vendor warrants that any and all State data that Contractor is obligated to protect will be stored, processed, and maintained solely on designated servers and that no such data at any time will be processed on or transferred to any portable computing device or any portable storage medium, unless that storage medium is in use as part of the Contract Vendor's designated backup and recovery processes.
- g. Insurance and Liability. Contract Vendor shall maintain the insurance described in the General Insurance Requirements section, below, with minimum limits defined in, Network Security and Privacy Liability Insurance (or equivalent) during the term of the Contract and for a minimum of thirty-six (36) months following expiration, termination or cancellation of the Contract.

All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

Notwithstanding any limitation of liabilities in the Contract, the Contract Vendor shall be liable for damages to the extent such damages are within the insurance limit. For purposes of clarification, the foregoing sentence shall in no way limit the Contract Vendor's liability.

- h. Subcontractors. Contract Vendor agrees that no State data shall be transmitted, exchanged or otherwise provided to other parties except as specifically agreed to in writing by the State Chief Information Security Officer or delegate. Contract Vendor must ensure that any contractors, subcontractors, agents and others to whom it provides State data, agree in writing to be bound by the same restrictions and conditions under the Contract that apply to Contract Vendor with respect to such data.
- i. Compliance with Data Privacy and Security Laws and Standards. Contract Vendor shall comply with all applicable State and federal data privacy and data security laws, rules, and regulations.

**51. AUDIT COSTS.** If the State is required to pay Contract Vendor's audit and collection costs, and/or attorney's fees, the State is only required to pay such costs and/or fees up to an aggregate of \$5,000.

**52. NO AUTOMATIC RENEWALS.** The State does not agree to any automatic renewals which require the payment of additional fees.

**53. STATE'S NON-INDEMNIFICATION.** The State does not agree to indemnify, defend, hold harmless or release the Contract Vendor, Contract Vendor's subcontractors, or Contract Vendor's agents.

**54. NO MANDATORY MEDIATION OR ARBITRATION.** Any term or condition that requires the parties to mediate or arbitrate is null and void. Voluntary dispute resolution procedures are valid to the extent allowed by law.

**55. TERMS AND CONDITIONS LIMITED BY MINNESOTA LAW.** The State only agrees to the terms and conditions of the Contract to the extent permitted by Minnesota law.

**56. STATE'S RIGHTS AND REMEDIES CUMULATIVE.** All rights and remedies provided in the Contract are cumulative and not exclusive of any other rights or remedies that may be available to the State, whether provided by law, equity, statute or otherwise.

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- 57. CONTRACT VENDOR DISCLAIMERS OF WARRANTIES. TO THE EXTENT ALLOWABLE BY STATE OF MINNESOTA LAW AND EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CONTRACTOR DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE, OR FITNESS FOR A PARTICULAR PURPOSE.**
- 58. DATA DISCLOSURE.** Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Contract Vendor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contract Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.
- 59. DEBARMENT BY STATE, ITS DEPARTMENTS, COMMISSIONS, AGENCIES, OR POLITICAL SUBDIVISIONS.** Contract Vendor certifies that neither it nor its principals is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Contract Vendor's certification is a material representation upon which the Contract award was based. Contract Vendor shall provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.
- 60. RETAINAGE.** Under Minn. Stat. § 16C.08, subd. 2 (10), for Professional and Technical services performed under the terms of this Contract, no more than 90 percent of the amount due for those Professional and Technical Services may be paid until the final product has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contract Vendor has satisfactorily fulfilled those Professional and Technical Services.
- 61. FEDERAL FUNDS.** Payments under this Contract may be made from federal funds obtained by the State. The Contract Vendor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.
- 62. FUNDING OUT CLAUSE.** Notwithstanding any other cancellation clauses, the State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature beyond June 30, or from another funding source, or if funding cannot be continued at a level sufficient to allow for the payment of the goods or services in the Contract, whether due to a lack of direct funding or agency reallocation of funding, or if operations of any paying entity are being discontinued. The State must provide the Contract Vendor with notice within a reasonable time after the decision is made to terminate the Contract. Termination will be by written or fax notice to the Contract Vendor. The State is not obligated to pay for any goods or service accepted or provided after notice and effective date of termination. However, the Contract Vendor will be entitled to payment for goods or services accepted or satisfactorily performed up until the effective date of the termination. The State will not be assessed any penalty if the Contract is terminated in accordance with this section.

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**Minnesota Special Terms, Conditions and Specifications**

- A. FIRMWARE.** New equipment must have the most current "Generally Available" firmware installed.
- B. SOFTWARE LICENSES.** Upon request by the State, Software offered for installation under a separate license agreement must be made available for review by Customer prior to installation. Contractor shall record any such software utilized on the technical worksheets for each model. Any such separate license or related agreement that requires a Customer signature or for which Customer requests that the parties enter into signed and executed terms must be supplied to Customer for review prior to installation of the Software and installation and use of the Software alone shall not be deemed acceptance of the license agreement. For those license and related agreements not requiring a Customer signature, acceptance is governed by Section (C) below.

Contract Vendor is responsible to provide software updates/upgrades to Customer at no additional cost, provided the software is under a Contract Vendor software maintenance agreement or is covered under Contractor's equipment maintenance services agreement. Contract Vendor is required to communicate available updates/upgrades to customer, provided the software is under a Contract Vendor software maintenance agreement.

Contract Vendor has no right, title or interest in any third-party software. Customer is solely responsible for entering into the applicable license agreement ("Software Licenses") with the applicable licensor of the software ("Software Supplier") and acknowledges that its rights and obligations with respect to such software as well as those of the Software Supplier are solely as set forth in such Software Licenses to the extent not in conflict with the Contract or Minnesota law.

- C. SERVICE LEVEL AGREEMENTS (SLA).** Any and all licensing, maintenance, service level agreement or order-specific agreements, including any pre-installation or other "click-through" agreements that are allowed by, referenced within or incorporated within the Contract are agreed to only to the extent that the terms within any such agreement do not conflict with applicable Minnesota laws. A State employee's decision to choose "accept" or an equivalent option associated with a "click-through" agreement does not constitute the State's concurrence or acceptance of its terms.
- D. TECHNICAL SPECIFICATIONS.** All equipment must be capable of being networked. Equipment must be equipped with the required interface cards and print controllers and be ready to be networked. The equipment must support 10/100 base T network connections, 1000 base is optional. All equipment proposed must be IPv6 compatible. New operating systems, and technologies as they become standard over the term of the Contract, must be supported with software and/or hardware upgrades as they become available from the manufacturer.
- E. INTELLECTUAL PROPERTY INFRINGEMENT CLAIM.** For Contractor manufactured Products, the Contractor shall defend, indemnify and hold harmless NASPO VALUEPOINT, the Lead State, Participating Entities, Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").

- (1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- (a) Provided by the Contractor or the Contractor's subsidiaries or affiliates;
  - (b) Specified by the Contractor to work with the Product; or



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- (c) Reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
- (d) It would be reasonably expected to use the Product in combination with such product, system or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. Otherwise, the Contractor shall have control over the defense and settlement of it to the extent permitted by Minnesota statute section 8.06. However, regarding the settlement of such claim, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible\*IF SO ORDERED BY COURT. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If such a claim is made or appears likely to be made, the Indemnified Party agrees to permit Contractor to enable Indemnified Party to continue to use the Product, or to modify it, or replace it with one that is at least functionally equivalent. If Contractor determines that none of these alternatives is reasonably available, Indemnified Party agrees to return the Product to Contractor on its written request. Contractor will then give Indemnified Party a credit equal to Indemnified Party's net book value provided Indemnified Party has followed generally-accepted accounting principles.

This is Contractor's entire obligation to Indemnified Party regarding any claim of infringement.

- F. HARDWARE MANUFACTURER AND SOFTWARE PUBLISHER AGREEMENTS.** For those third party agreements that bind the State, Contract Vendor must provide Manufacturer and, Software Publisher Agreements and Cloud Services and Hosting Agreements upon request by the State.
- G. WARRANTY PERIOD.** Any third party Manufacturer and Software Publisher or Cloud Service or Hosting warranty passed on through the Master Agreement shall commence no sooner than successful installation of the hardware or software at the State's facility or upon first use of the cloud service or hosting service.
- H. QUALITY ASSURANCE GUARANTEE.** Contract Vendor shall honor its warranties for hardware and software products, given normal use and care, over the period of Contract Vendor's warranty. Contract Vendor shall immediately repair or replace without charge (including freight both ways) to the State any product or media that proves to be defective or fails within the warranty period as specified.
- I. SUPPLY CHAIN SECURITY.** Notwithstanding anything else in this Section, this Section does not and shall not limit any other rights of the State under this Contract, including, but not limited to, warranties, acceptance, and return policy, if any.

**a. Security Practices and Preventive Controls**

The Contract Vendor will use reasonable commercial efforts to ensure that the Contract Vendor and any subcontractors or third parties involved in assembling, manufacturing, packaging, distributing, handling, warehousing, transporting or shipping State of Minnesota goods, including goods intended to be but not yet delivered to the State of Minnesota, meet all applicable security standards and all applicable local, state, federal, and international laws, rules and regulations (hereinafter "supply chain security").

Contract Vendor must maintain certification/accreditation in an official supply chain security program and comply with that program's security standards for all orders sourced from the Contract/Agreement. Official supply chain security program is defined as one of the following: ISO 28000 or 27036 (as applicable), SAE AS5553 or other SAE standard (as applicable), Customs-Trade Partnership Against Terrorism (C-TPAT), Authorized Economic Operator (AEO), or other program accepted in writing by the State of Minnesota, Office of MNIT Services (f/k/a Office of Enterprise Technology and d/b/a MNIT or MNIT Services)("MNIT") and the

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State of Minnesota, Department of Administration's Office of State Procurement (OSP). To demonstrate certification/accreditation, Contract Vendor must provide to OSP and MNIT within one month following the effective date of this Contract/Agreement or amendment adding this Section, whichever is later, a letter verifying its certification/accreditation in an official supply chain security program. Contract Vendor will promptly notify OSP and MNIT of any change to its certification/accreditation.

Alternatively, if Contract Vendor is not certified/accredited or loses certification/accreditation, Contract Vendor must complete a MNIT security form to confirm that it complies with supply chain security. The form will require supporting documentation of any responses and must be completed to MNIT's satisfaction.

**b. Notification of Supply Chain Security Breach**

Contract Vendor will promptly notify OSP, MNIT, and the purchasing entity, if different from MNIT, of any breach of supply chain security involving State of Minnesota goods, including goods intended to be but not yet delivered to the State of Minnesota. Breach of supply chain security includes, but is not limited to, cargo theft, tampering, unauthorized access, or other activities that involve suspicious actions or circumstances. Goods received with viruses, malware or similar security deficiencies constitute breach of supply chain security.

**c. Return/Rejection of Goods**

Notwithstanding anything to the contrary, if a breach of supply chain security has occurred or the State of Minnesota in good faith suspects a breach may have occurred, including evidence that packaging or goods were tampered with or damaged, the State may reject delivery of those goods and/or return any of those goods already delivered. Breach of supply chain security has the meaning described in the preceding Subsection "Notification of Supply Chain Security Breach." Rejection of delivery or return of goods shall be solely the responsibility and at the cost and expense of the Contract Vendor.

The State of Minnesota may sanitize or destroy components of the goods prior to returning the goods to Contract Vendor, or instruct Contract Vendor to promptly sanitize or destroy goods upon their return. Following the completion of any such sanitization or destruction, and upon request by MNIT, the Contract Vendor shall provide a Certificate of Data Destruction/Sanitization that meets the requirements of the then current version of NIST Special Publication 800-88 or DOD 5220.22-M Supplement. The Certificate of Data Destruction/Sanitization must be provided to MNIT, if requested, within one month following the return of the goods.

At no additional expense to the State of Minnesota, Contract Vendor must provide within a reasonable time frame replacement goods for any goods that were rejected at delivery or returned due to a supply chain security breach. Any costs and expenses associated with removal or replacement of the goods, including sanitization and destruction costs and expenses, will be the responsibility of the Contract Vendor.

**J. SECURITY SPECIFICATIONS.** Contract Vendors must adhere to the following security specifications:

- a. Data sanitization (with intent to reuse): Describe processes for data sanitization in accordance with NIST Special Publication 800-88, Guidelines for Media Sanitization ([http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88\\_rev1.pdf](http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_rev1.pdf)), including provision of certificates of lawful disposal in the Questions Document. Describe electronic media overwrite capabilities including automatic on a per job basis, on – demand and scheduled in the Questions Document. Contract Vendor must provide a certificate verifying the hard drive has been cleansed per the State of Minnesota Office of Enterprise Technology Enterprise Security Information Sanitization and Destruction Standard [http://mn.gov/oet/images/SEC\\_S\\_Information\\_Sanitization\\_and\\_Destruction.pdf](http://mn.gov/oet/images/SEC_S_Information_Sanitization_and_Destruction.pdf) prior to removal of equipment from the customer's premises at no charge. It is prohibited for a Contract Vendor to charge a Customer for a new hard drive to replace the old hard drive to ensure a hard drive's data is protected.

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- b. Rented equipment that still contains electronic media that did or could have once been used to electronically store Not-Public Data, will not be given, sold, or donated to anyone outside of the Customer who originally rented the equipment, unless the electronic media has been cleansed according to Customer's security policy/standards.
- c. The Contract Vendor will provide written notification to AMS within 24 hours of discovery, any electronic media that did or could have contained Not-Public Data that has not been properly cleansed, while in their possession.
- d. Electronic media that is in the possession of the Contract Vendor, that did or could have stored Not-Public Data, will ensure that the proper administrative, physical and technical safeguards are in place to prevent unauthorized access. These safeguards are subject to initial and periodic review by the MNIT Security Office.
- e. Internal or third party assessments, audits or inspections of the Manufacturer's, authorized Resellers, or agent's environments that identify security weaknesses that did or could have put Not-Public Data at risk of unauthorized access will be reported to the State in writing, within 24 hours of discovery. Weekly updates on the resolution of weaknesses will be provided to the State until corrected.
- f. Contract Vendor will comply with all existing and future Enterprise Security and applicable Customer policies and standards as technology changes.
- g. Electronic media that cannot be cleansed according to Customer's security policy/standards will be removed and returned to the Customer or physically destroyed and documentation of such action will be provided in writing to the Customer.
- h. **Network Security.** To the extent Contract Vendor is obligated to protect State data in accordance this Contract, Contract Vendor agrees at all times to maintain network security that, at a minimum – includes: network firewall provisioning, intrusion detection, and regular third party penetration testing. Contract Vendor agrees to maintain network security that conforms to one of the following:
  - i. Those standards that the State of MN applies to its own network, as found at: <http://mn.gov/oet/policies-and-standards/> and elsewhere;
  - ii. Current standards set forth and maintained by the National Institute of Standards and Technology, including those at: <http://web.nvd.nist.gov/view/ncp/repository>
- i. CPV Customers may have different requirements for hardware and data security based upon their own policies. Therefore upon sale of equipment Contract Vendor will have to verify with the Customer the processes for hardware and data security which may include but will not be limited to the following:
  - i. Cleansing the hard drive (overwrite/encryption)
  - ii. Removal and surrender of hard drive to customer
  - iii. Provide certification that the hard drive has been cleansed
  - iv. Removal of all asset tags and identification stickers

**K. ONGOING SUPPORT.** Service support personnel, knowledgeable in digital equipment and in networking equipment, will be required to provide all necessary maintenance and repair for Contractor Equipment subject to Exhibit C and D. Equipment Software updates and upgrades must be included at no additional cost. Contract Vendor's technical staff must communicate and coordinate with customer's technical staff

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when updates and upgrades are available. Contract vendor's technical staff will be available to assist customers with installation of updates and upgrades for manufacturer's software and firmware at no additional cost, when necessary.

Contract Vendor must be able to provide parts and supplies for equipment proposed for a minimum of seven years from the begin date of purchase or rental of equipment. Contract Vendor must notify Customer and AMS within 10 days when an "End of Life" date has been established by Manufacturer for equipment models.

Agencies and CPV members may require dedicated certified technician(s) to serve larger locations.

- L. THIRD PARTY SOFTWARE.** Contract Vendor will be responsible for on-going support, updates and upgrades of any third party software included with Contractor's MFDs that is not otherwise provided subject to a separate third party license agreement. Contract Vendor's technical staff, knowledgeable in digital equipment, networking equipment, and the third party software will be required to provide support as necessary. Such Software updates must be included at no additional cost. Contract Vendor's technical staff must communicate and coordinate with Customer's technical staff when updates and upgrades are available. Contract Vendor's technical staff will be available to assist customers with installation of updates for third party software at no additional cost, when necessary.

- M. LEMON.** Any equipment that fails to operate (except due to operator error) in accordance with the Manufacturer's published performance specifications four times in any four-week period, or is subject to documented recurring problems shall be replaced with a new machine that meets the requirements of the same lot as the original, at no cost to the Customer. The AMS will review Customer requests for the application of this clause and will make a determination regarding its use.

This clause applies to all equipment purchased or rented through this Contract. The application period is up to 36 months from the date of installation. This clause takes precedence over any other warranty or service maintenance clauses associated with this Contract. For purchased machines, Customers must maintain an uninterrupted maintenance agreement with the Contract Vendor for the Lemon Clause to apply past the initial 90-day warranty period.

Failure to comply with the requirements of this clause may be grounds for default.

- N. CONTRACT VENDOR NON-PERFORMANCE.** If the Contract Vendor is found to be deficient in any contractual obligation, the Contract Vendor will be required to remedy the problem to the satisfaction of the Customer and with the approval of the AMS, which may include, but not be limited to the removal and replacement of the equipment with new like equipment, negotiating a discount from the invoice, or cancellation of rental agreement. Continuous Contract Vendor performance issues may result in the Contract Vendor being held in default of their State Contract.

- O. REMOVAL OF EQUIPMENT.** Contract Vendors are required to pick-up and dispose of Customer owned MFD/Printer devices, whether or not the equipment is their own brand when replacing the MFD/Printer devices with their equipment. This will be at no charge upon placement of a new machine. Before MFD/Printer devices are removed, at the Customer's request, hard drives must be either removed and given to the Customer, or the hard drive must be cleansed using overwrite and/or encryption based upon Customer's security policies by Customer's current vendor. Disposal of the equipment will be

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environmentally responsible.

- P. DISPOSAL OF OLD EQUIPMENT.** When placing equipment, Contract Vendors are required to pick-up and dispose of Customer owned MFD/Printers whether or not the equipment is their own brand.
- Q. HARDWARE AND DATA SECURITY UPON DISPOSAL OR REMOVAL OF EQUIPMENT.** Contract Vendor must provide a certificate verifying the hard drive has been cleansed prior to removal of MFD/Printer devices from the Customer's premises at no additional charge. If the new vendor is removing and disposing MFD/Printer devices, the new vendor at the Customer's request is responsible to either cleanse the drive or remove it and give it to the Customer. If the incumbent vendor removes and disposes the equipment, the Customer will be responsible to work with the incumbent vendor to secure the hard drive. The Contract Vendor must comply with MNIT Security Specifications when Customer is a State agency. Click this link to view State of Minnesota Office of Enterprise Technology Enterprise Security Information Sanitization and Destruction Standard [http://mn.gov/oet/images/SEC\\_S\\_Information\\_Sanitization\\_and\\_Destruction.pdf](http://mn.gov/oet/images/SEC_S_Information_Sanitization_and_Destruction.pdf)

If the Contract Vendor is unable to provide this service due to the technological restraints of the equipment or if the Customer prefers to destroy their own hard drive, the hard drive will be removed by the Contract Vendor and left with the Customer for secure disposal. There will be no fee associated with this service. It is prohibited for a Contract Vendor to charge a Customer for a new hard drive to replace the old hard drive that was removed.

Customers may have different requirements for hardware and data security based upon their own policies. Therefore upon sale of equipment, Contract Vendors will have to verify with the Customer the processes for hardware and data security which may include but will not be limited to the following:

- a. Cleansing the hard drive (overwrite/encryption)
- b. Removal and surrender of hard drive to customer
- c. Provide certification that the hard drive has been cleansed
- d. Removal of all asset tags and identification stickers

Contract Vendor will be responsible for all claims including but not limited to compensation and legal expenses for any action taken against the State or CPV Member as a result of Contract Vendor, its' authorized Reseller, or its authorized Agent improperly securing and/or disposing of hard drives or equipment.

a. **Hard Drive Surrender Service.** Under this option, a Contractor service technician can will remove the hard drive from the applicable Product (set forth on a PO) upon request by Ordering Entity and provide Ordering Entity with custody of the hard drive before the Product is removed from the Ordering Entity's location, moved to another department or any other disposition of the Product.

b. **Data Overwrite Security System (DOSS).** For any Ricoh-manufactured Product containing a hard drive, such Product will include Data Overwrite Security System (DOSS). DOSS is a Ricoh product designed to overwrite the sector of the hard drive used for data processing after the completion of each job to prevent recovery. Additionally, DOSS also offers the option of overwriting the entire hard drive up to nine (9) times. There is no cost for the Data Overwrite Security System (DOSS).



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**R. TRAINING.** Following installation, the Contract Vendor shall provide training sessions for each MFD placement at no cost to the user's satisfaction. Training is defined as online, webinar or in person. The Customer will select the type of training desired. Training is to include, but is not be limited to the basic features and functions of the MFD standard functional use of machine to networked users, technical staff advisement on networking and security, and associated websites the entity may need to utilize in managing their account. This training must be conducted at the Customer's location within two (2) working days of installation or at the request of Customer. Follow up or advanced training must be provided upon request of the Customer at no additional cost.

Upon request by Customer, training materials will be provided in an accessible format or interpreters will be provided at no additional cost.

**S. RENTAL EXPIRATION/RENEWAL.** The Contract Vendor will send email notification of the pending end of term at ninety (90) days and again at sixty (60) days prior to the end of rental terms. Customers may choose one of the following options at the end of the term:

- a. Returning the machine to the Contract Vendor. Customer shall not be responsible for pickup, shipping, transportation, or cleansing/removing hard drive charges to return the equipment to the contractor.
- b. Continue the placement, but with a lower mutually agreed upon monthly rental price or for an additional fixed period of time. The lower price must be quoted to the Customer within the email notification.
- c. If Customers elects to renew after rental period has expired, Customers would expect additional decreases in continued rental costs.

**T. EARLY TERMINATION.** For leases see Exhibit B and for purchase and maintenance services see Exhibit D.

**U. MAINTENANCE.** Maintenance service must be provided subject to Exhibit D (WSCA Master Maintenance and Sale Agreement) incorporated herein, during normal business hours for break-fix, preventive, and emergency services. A four hour response time is required. Normal business hours are from 7:30 a.m. through 5:00 p.m. C.T., Monday through Friday, excluding Customer holidays.

- a. **RESPONSE TIME.** Response time, defined as the time interval between the problem call by the Customer and the on-site arrival of the Contract Vendor's technician or response from Contract Vendor's network engineer, must not exceed four working hours. The Contract Vendor's staff must notify the Customer contact of the expected arrival time of the service technician or response from network engineer within one hour of the initial trouble call. Upon arrival of the technician, the equipment will be restored to full operating service by either repair or replacement within four working hours at no additional cost to the Customer. These response times apply to all service requests.
- b. **MAINTENANCE PERSONNEL.** All technicians must be factory trained or certified and authorized by the Manufacturer to perform the services. The Contract Vendor must also have a certified network engineer available during normal business hours to assist agencies in networking problems. Certified network engineer must respond within one hour of the initial trouble call and problem

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resolution must be within 4 hours. It is desired for the Contract Vendor(s) to work toward cross training technicians in both mechanical and network servicing of machines. Upon request, for entities with a large number of devices, Contract Vendor(s) must provide to Customer a proposal for on-site maintenance personnel to accommodate Customer's business critical needs. In certain geographical areas with a concentration of a number of units it may make sense for both the Contract Vendor and Customer to have a designated technician for the geographical area.

- c. **EQUIPMENT MAINTENANCE.** All equipment maintenance and/or replacement must be ON-SITE, unless otherwise approved by the customer. This means the repair/exchange must occur where the equipment is located. If the equipment has not been restored to full operation within four hours after the service technician's arrival, the Contract Vendor Service Manager and the Customer must discuss all options and should arrive at a solution acceptable to the Customer prior to technician leaving the site. Because of the diversity of customers served under this contract equipment operation will have to meet the business critical need of the Customer. If any function of the equipment is not working, the machine may be considered a "Failed Machine" as determined by Customer's critical business needs.
- d. **FIRST CALL EFFECTIVENESS.** First call effectiveness is measured by the Contract Vendor/Reseller's ability to remedy an issue on the first service call and that no other service calls are placed for that same issue on that same machine within 90 days. The State requires 97% of first service calls to be resolved within one visit.
- e. **PREVENTIVE MAINTENANCE.** Preventive Maintenance notifications must be turned on upon installation. With each service visit, the State requires Contract Vendors to adhere to a preventive maintenance standard each time the unit is repaired. All optics must be cleaned. If a part is at or near its replacement period it should be replaced.
- f. **EXCESSIVE SERVICE.** "Excessive Service" – is defined as 1 or more service calls in each of 2 or more consecutive months resulting in degraded or unavailable device functionality. Equipment that develops a trend of requiring excessive service calls, must be reported by the Contract Vendor to the Customer as the situation warrants. Should the equipment, any accessories, or software become inoperable for a period of eight (8) consecutive working hours, the Contract Vendor must, at the Customer's option provide at no charge a loaner or accessory of equal capability of non performing piece of equipment while repairs are being completed.
- g. **COMMUNICATION STATUS.** Contract Vendor/Resellers must provide continued communication regarding downed equipment and network issues. Customers need daily updates including resolution timeframe regarding parts/equipment on back-order in order to plan. Contract Vendors/Resellers not providing status updates to Customers by the agreed upon time may be suspended from the Contract until equipment issue with Customer has been resolved.
- h. **UPTIME.** Uptime is measured from the time the machine is not usable by the end user (when service is called) to the time when all functions of the equipment are fully functional. For any machine that does not meet an average 4 hours response/repair time Customer may require a reduction for all fixed maintenance and click charges must be credited against the invoice for the individual machine, for the month that the machine did not meet 96% uptime.
- i. **SOFTWARE UPDATES/UPGRADES.** Contract Vendor is responsible to provide and install software updates/upgrades to customer at no additional cost. Contract Vendor is required to communicate available updates/upgrades to customer within 30 days of its general availability date.

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- j. **MAINTENANCE/SUPPORT AGREEMENT RESPONSIBILITIES.** The Contract Vendor shall be responsible for coordination and communication of maintenance/support agreement information between the Manufacturer, Software Publisher or Cloud Service or Hosting provider and the State. This includes the following minimum requirements:
- i. Registration and Agreement Numbers; Period Dates: Provide the State with all Hardware and Software Publisher registration numbers, agreement numbers and maintenance agreement period dates, including agreements from providers of Cloud Services and Hosting. This activity shall occur when the maintenance/support is purchased or when the order transaction has been completed.
  - ii. Maintenance/Support Information: Provide the Authorized User with maintenance and support plan features, Manufacturer, Software Publisher and Cloud Services or Hosting contact telephone numbers and websites for obtaining maintenance/support.
  - iii. Co-termination: Coordinate co-termination of the second (2nd) year of a maintenance/support contract with the State's fiscal year or other date specified by the State, if requested by the State.
  - iv. Contract Vendor must provide or facilitate product, support and maintenance coverage throughout the State of Minnesota, including greater Minnesota. Support, service and maintenance coverage shall not exclude any areas outside the seven county metro area.
  - v. All defective products shall be repaired or replaced, at the State's election, at no additional cost to the State subject to Exhibit D.

## V. ENVIRONMENTAL

### a. ENVIRONMENTAL CERTIFICATIONS.

Electronic Product Environmental Assessment Tool (EPEAT) and Energy Star. Upon request by the State, Contract Vendor shall provide to the State EPEAT certification information and Energy Star ratings for products sold under the Agreement. For clarity, EPEAT is an environmental procurement tool designed to help institutional purchasers in the public and private sectors evaluate, compare, and select desktop computers, laptops and monitors based on the environmental attributes of the product. General information on the criteria of EPEAT can be found at <http://www.epeat.net>.

All products proposed for the Standards Program must be EPEAT registered to a minimum of EPEAT Bronze standard within two years of award of contract.

If a Contract Vendor's Standards products are not EPEAT registered after 2 years, the Contract Vendor will be prohibited from selling any additional products including non-standard products until all Standards products are EPEAT registered. When an exception to Standard product is requested, Contract Vendor will offer an EPEAT registered option first. A non-EPEAT registered option may be offered only if an EPEAT registered option is not available.

- b. **COLLECTION, RECYCLING AND DISPOSAL OF OLD EQUIPMENT AND SUPPLIES.** Contract Vendors must commit to responsible disposal of used equipment. Where practicable, Contract Vendors should refurbish. If not able to refurbish, equipment must be recycled to the maximum extent possible. Contract Vendors are restricted from shipping products overseas for improper disposal in nations where environmental regulations are not as strict.

Disposal of empty toner, fuser oil, and developer containers (including used toner and developer collected in the multifunction device) will be the responsibility of the Contract Vendor.



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- c. **TONER CARTRIDGES.** When the Contract Vendor(s) provides customers with supplies, they are required to provide information to Customers on collection programs. Remanufactured Toner Cartridges must meet or exceed OEM cartridge specifications or approved remanufactured toner cartridge industry standards established by the Standardized Test Methods Committee (STMC), or the latest guidelines adopted by ASTM International for remanufactured or OEM compatible toner cartridges.

Toner must be free of carcinogenic, mutagenic, or teratogenic substances.

- W. AWARD OF RELATED CONTRACTS.** In the event the State undertakes or awards supplemental Contracts for work related to the Contract or any portion thereof, the Contract Vendor shall cooperate fully with all other Contract Vendors and the State in all such cases. All contracts between subcontractors and the Contract Vendor shall include a provision requiring compliance with this section.

- X. AWARD OF SUCCESSOR CONTRACTS.** In the event the State undertakes or awards a successor Contract for work related to the Contract or any portion thereof, the current Contract Vendor shall cooperate fully during the transition with all other Contract Vendors and the State in all such cases. All Contracts between subcontractors and the Contract Vendor shall include a provision requiring compliance with this section.

- Y. PRINTERS AND MULTI-FUNCTIONAL DEVICES.** The Contract Vendor must indicate in the catalog or other marketing materials if the product will not operate, is not intended to operate, or will not operate under full manufacturer's warranty, using paper with a post-consumer recycled content. If any descriptive marketing materials are silent as to functions utilizing recycled content paper, the Contract Vendor agrees that the customer can assume the product meets or exceeds the State requirements.

- Z. RENTAL AGREEMENTS.** Customers will not be required to sign any additional Contract Vendor documents including but not limited to Lease Agreements and Statement of Works. Customer purchase orders will serve as the rental agreement contract. Any Contract Vendor found to be in violation of this Contractual requirement, may be held in default of their Contract. Terms and conditions of Contract Vendor's final award documents will take precedence.

- AA. RENTAL AGREEMENT PERIOD.** The rental period begins on the date when the MFD is completely installed to the Customer's satisfaction. Rental plans are to be available for 12, 36, 48 and 60 months with each commencing on the date of installation. Maintenance costs will be based on a "cost per copy" basis and NOT included in the rental rate.

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**STATE OF MINNESOTA – WORKFORCE CERTIFICATE INFORMATION**

Required by state law for ALL bids or proposals that could exceed \$100,000

Complete this form and return it with your bid or proposal. The State of Minnesota is under no obligation to delay proceeding with a contract until a company becomes compliant with the Workforce Certification requirements in Minn. Stat. §363A.36.

**BOX A – MINNESOTA COMPANIES** that have employed more than 40 full-time employees within this state on any single working day during the previous 12 months, check one option below:

- ☐ Attached is our current Workforce Certificate issued by the Minnesota Department of Human Rights (MDHR).
- ☐ Attached is confirmation that MDHR received our application for a Minnesota Workforce Certificate on \_\_\_\_\_ (date).

**BOX B – NON-MINNESOTA COMPANIES** that have employed more than 40 full-time employees on a single working day during the previous 12 months in the state where it has its primary place of business, check one option below:

- ☒ Attached is our current Workforce Certificate issued by MDHR.
- ☐ We certify we are in compliance with federal affirmative action requirements. Upon notification of contract award, you must send your federal or municipal certificate to MDHR at [compliance.MDHR@state.mn.us](mailto:compliance.MDHR@state.mn.us). If you are unable to send either certificate, MDHR may contact you to request evidence of federal compliance. The inability to provide sufficient documentation may prohibit contract execution.

**BOX C – EXEMPT COMPANIES** that have not employed more than 40 full-time employees on a single working day in any state during the previous 12 months, check option below if applicable:

- ☐ We attest we are exempt. If our company is awarded a contract, we will submit to MDHR within 5 business days after the contract is fully signed, the names of our employees during the previous 12 months, the date of separation, if applicable, and the state in which the persons were employed. Send to [compliance.MDHR@state.mn.us](mailto:compliance.MDHR@state.mn.us).

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of your company.

Name of Company: Ricoh USA, Inc.

Date 5/18/2018

Authorized Signature: 

Telephone number: 610-517-7648

Printed Name: Steve Bissey

Title: National Director, State & Local Govt.

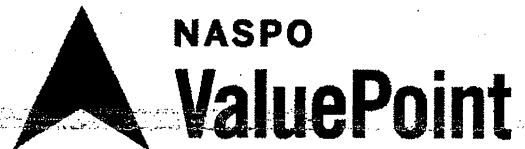
**For assistance with this form, contact:**

Minnesota Department of Human Rights, Compliance Services

Web: <http://mn.gov/mdhr/>  
Email: [compliance.mdhr@state.mn.us](mailto:compliance.mdhr@state.mn.us)

TC Metro: 651-539-1095

Toll Free: 800-657-3704  
TTY: 651-296-1283



**Copiers, Printers & Related Devices 14-19**  
Led by the State of Nevada  
State of Minnesota Contract Number 142285

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**STATE OF MINNESOTA  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF STATE PROCUREMENT**

**TAXPAYER IDENTIFICATION**

The identification number may be used in the enforcement of federal and State tax laws which could result in action requiring the Contract Vendor to file tax returns and pay delinquent tax liabilities, if any (Minn. Stat. § 270C.65).

Firm Name: Ricoh USA, Inc.

Address: 70 Valley Stream Parkway

Malvern, PA 19355

Minnesota SWIFT Vendor Registration Number: 0000212032

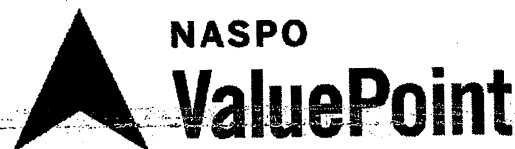
If you are not registered as a vendor to the State in the SWIFT Procurement System, you must register online at

<http://www.mmb.state.mn.us/vendorresources>.

(Note: If approved, you will receive your SWIFT vendor number two business days after you register.)

Are you a sole proprietorship? ☐ Yes ☒ No

Are you an independent contractor? ☐ Yes ☒ No



**Copiers, Printers & Related Devices 14-19**  
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**STATE OF MINNESOTA  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF STATE PROCUREMENT**

**SERVICE AND DELIVERY**

Service and delivery are important requirements for all State contracts. The successful responder will be expected to ship all orders within the time specified in its response or, in the case of unanticipated problems causing a delay, notify the agency of the problem and when the shipment will be made. All requests for information from State agencies will be answered promptly. A copy of all correspondence to State agencies shall be sent to Acquisitions, Office of State Procurement, 112 Administration Building, St. Paul, MN 55155. Any Contract Vendor found to be providing unsatisfactory service during the Contract period may be disqualified for a subsequent Contract award.

**SUBSEQUENT CONTRACT REVISIONS.** No verbal or written instructions from State agencies or officials to change any provision of the resulting Contract shall be accepted by the Contract Vendor without the approval of the Acquisition Management Specialist (AMS). The Contract Vendor shall report any such requests to the AMS who will issue approval or denial in writing.

**CONTACT PERSON FOR ORDERS:**

NAME: Travis Massman TITLE: Manager, State and Local Govt.  
TELEPHONE NUMBER: 573-353-2559 FAX NUMBER: \_\_\_\_\_  
TOLL FREE NUMBER: \_\_\_\_\_ E-MAIL: travis.massman@ricoh-usa.com

**CONTACT PERSON TO EXPEDITE ORDERS** (if different from above):

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_  
TOLL FREE NUMBER: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

**ORDER ADDRESS:**

STREET/PO BOX: 70 Valley Stream Parkway  
CITY/STATE: Makven, PA ZIPCODE: 19355  
TELEPHONE NUMBER: 573-353-2559 FAX NUMBER: \_\_\_\_\_  
TOLL FREE NUMBER: \_\_\_\_\_ E-MAIL: travis.massman@ricoh-usa.com

**REMIT-TO ADDRESS:** (non-lease payment)

STREET/PO BOX: PO Box 802815  
CITY/STATE: Chicago, IL ZIPCODE: 60680-2815  
TELEPHONE NUMBER: 573-353-2559 FAX NUMBER: \_\_\_\_\_  
TOLL FREE NUMBER: \_\_\_\_\_ E-MAIL: travis.massman@ricoh-usa.com

**Copiers, Printers & Related Devices 14-19**  
**Led by the State of Nevada**  
**State of Minnesota Contract Number 142285**

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### GENERAL INSURANCE REQUIREMENTS

The Contractor/Contract Vendor (Contract Vendor) shall maintain insurance to cover claims which may arise from operations under this Contract,

The Contract Vendor shall not commence work under the Contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance, such approval not to be unreasonably withheld. The Contract Vendor shall maintain such insurance in force and effect throughout the term of the Contract.

All coverages and limits shall remain in force and effect throughout the term of the Contract.

#### NOTICE TO THE CONTRACT VENDOR:

The failure of the State of Minnesota to obtain a Certificate of Insurance, for the policies required under this Contract or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the Ordering Entity to the Contract Vendor to provide such insurance.

The Ordering Entity reserves the right to immediately terminate the Contract if the Contract Vendor is not in compliance with the insurance requirements after thirty (30) days written notice and the Ordering Entity retains all rights to pursue any legal remedies against the Contract Vendor. In the event that a court of competent jurisdiction orders Contractor to disclose its insurance policy(ies) in connection with discovery during litigation brought as a result of a dispute between the parties, Contractor agrees to adhere to such court's order with respect to disclosure of such policy(ies).

#### NOTICE TO INSURER:

The Contract Vendor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

#### REQUIREMENTS FOR THE CONTRACT VENDOR:

The Contract Vendor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contract Vendor's performance under this Contract to the extent covered by required insurance.

If Contract Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Contract Vendor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Contract Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota.

The Contract Vendor is responsible for payment of Contract related insurance premiums and deductibles.

If the Contract Vendor is self-insured, a Certificate of Self-Insurance must be attached.

Insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the MN Department of Commerce if they are not rated by AM Best.

The Contract Vendor's Umbrella or Excess Liability insurance policy may be used to supplement the Contract Vendor's policy limits to satisfy the full policy limits required by the Contract.

**Copiers, Printers & Related Devices 14-19**  
Led by the State of Nevada  
State of Minnesota Contract Number 142285

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**POLICY REQUIREMENTS:**

**1. Workers' Compensation Insurance:**

Statutory Compensation Coverage. Except as provided below, Contract Vendor must provide Workers' Compensation insurance for all its employees and in case any work is subcontracted, Contract Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Minimum limits of liability:

Coverage B – Employer's Liability  
\$100,000 Bodily Injury by Disease per Employee  
\$500,000 Bodily Injury by Disease Aggregate  
\$100,000 Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts the Contract Vendor from Workers' Compensation insurance or if the Contract Vendor has no employees in the State of Minnesota, the Contract Vendor must provide a written statement, signed by the authorized signer of the Contract, stating the qualifying exemption that excludes the Contract Vendor from MN Workers' Compensation requirements.

If during the course of the Contract the Contract Vendor becomes eligible for Workers' Compensation, the Contract Vendor must comply with the Workers' Compensation Insurance requirements included herein and provide the State of Minnesota with a certificate of insurance.

Evidence of Subcontractor insurance shall be filed with the Contract Vendor.

**2. Automobile Liability Insurance:**

The Contract Vendor shall maintain insurance to cover liability arising out of the ownership, operation, use or maintenance of all owned, hired and non-owned autos used as part of the services provided, and in case any work is subcontracted the Contract Vendor will require the subcontractor to maintain Automobile Liability insurance.

**A. Minimum Limits of Liability:**

\$1,000,000 - Per Occurrence – Bodily Injury and Property Damage Combined Single Limit

**B. Coverages:**

☒ Owned Automobile  
☒ Non-owned Automobile  
☒ Hired Automobile

Evidence of Subcontractor insurance shall be filed with the Contract Vendor.

**3. General Liability Insurance:**

The Contract Vendor shall maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contract Vendor or by a subcontractor or by anyone directly or indirectly employed by the Contract Vendor under the Contract.

**A. Minimum Limits of Liability:**

\$1,000,000 - Per Occurrence  
\$1,000,000 - Annual Aggregate  
\$1,000,000 - Annual Aggregate applying to Products/Completed Operations

**Copiers, Printers & Related Devices 14-19**  
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**B. Coverages**

- ☒ Premises and Operations Bodily Injury and Property Damage
- ☒ Personal & Advertising Injury
- ☒ Contractual
- ☒ Products and Completed Operations
- ☒ **State of Minnesota included as an Additional Insured**

**4. Network Security and Privacy Liability Insurance (or equivalent):**

Contractor shall maintain insurance to cover claims which may arise from professional services provided by contractor resulting in, but not limited to, computer attacks, unauthorized access, disclosure of confidential or private information, transmission of a computer virus or denial of service.

Contractor is required to carry the following **minimum** limits:

\$2,000,000 per occurrence  
\$2,000,000 annual aggregate

Insurance certificate holder should be addressed as follows:

State of Minnesota  
Department of Administration  
50 Sherburne Avenue  
Room 112  
St. Paul, MN 55155





## Exhibit B

### WSCA/ NASPO Ricoh - Master Lease Agreement - Master Contract 3091

Number: \_\_\_\_\_

#### CUSTOMER INFORMATION

Full Legal Name				
Address				
City	State	Zip	Contact	Telephone Number
Facsimile Number			E-mail Address	

This Master Lease Agreement ("Lease Agreement") has been written in clear, easy to understand English. When we use the words "you", "your" or "Customer" in this Lease Agreement, we mean you, our customer, as indicated above. When we use the words "we", "us" or "our" in this Lease Agreement, we mean Ricoh USA, Inc. ("Rico") or, if we assign this Lease Agreement or any Schedules executed in accordance with this Lease Agreement, pursuant to Section 13 below, the Assignee (as defined below). Our corporate office is located at 70 Valley Stream Parkway, Malvern, PA 19355.

- Agreement.** We agree to lease or rent, as specified in any equipment schedule executed by you and us and incorporating the terms of this Lease Agreement by reference (a "Schedule" or "Purchase Order"), to you, and you agree to lease or rent, as applicable, from us, subject to the terms of this Lease Agreement and such Schedule, the personal and intangible property described in such Schedule. The personal and intangible property described on a Schedule (together with all attachments, replacements, parts, substitutions, additions, repairs, and accessories incorporated in or affixed to the property and any license or subscription rights associated with the property) will be collectively referred to as "Product." The manufacturer of the tangible Product shall be referred to as the "Manufacturer." To the extent the Product includes intangible property or associated services such as periodic software licenses and prepaid data base subscription rights, such intangible property shall be referred to as the "Software."
- Schedules: Delivery and Acceptance.** Each Schedule that incorporates this Lease Agreement shall be governed by the terms and conditions of this Lease Agreement. Each Schedule shall constitute a complete agreement separate and distinct from this Lease Agreement and any other Schedule. In the event of a conflict between the terms of this Lease Agreement and any Schedule, the terms of such Schedule shall govern and control, but only with respect to the Product subject to such Schedule. To the extent such terms are not in conflict with Minnesota law and such Schedule is signed by both parties. You may dispute any charge other than the minimum Payment (as defined below) in writing within thirty days of the applicable invoice date and we will waive such charge if we determine it to have been assessed in error. For avoidance of doubt, the parties agree that the minimum Payment shall not be subject to any dispute. The termination of this Lease Agreement will not affect any Schedule executed prior to the effective date of such termination. When you receive the Product, you agree to inspect it to determine it is in good working order. Scheduled Payments (as specified in the applicable Schedule) will begin on the Product delivery and acceptance date ("Effective Date"). You agree to sign and return to us a delivery and acceptance certificate (which, at our request, may be done electronically) within three (3) business days after any Product is installed.
- Term: Payments.** The first scheduled Payment (as specified in the applicable Schedule) ("Payment") will be due on the Effective Date or such later date as we may designate. The remaining Payments will be due on the same day of each subsequent month, unless otherwise specified on the applicable Schedule. If any Payment or other amount payable under any Schedule is not received within ten (10) days of its due date, you will pay to us, in addition to that Payment, a one-time late charge of one and half (1.5%) of the overdue Payment (but in no event greater than the maximum amount allowed by applicable law). You also agree to pay all shipping and delivery costs associated with the ownership or use of the Product, which amounts may be included in your Payment or billed separately. You agree to pay \$25.00 for each check returned for insufficient funds or for any other reason. You also agree that, except as set forth in Section 18 below, THIS IS AN UNCONDITIONAL, NON-CANCELABLE AGREEMENT FOR THE MINIMUM TERM INDICATED ON ANY SCHEDULE TO THIS LEASE AGREEMENT. All Payments to us are "net" and unconditional and are not subject to set off, defense, counterclaim or reduction for any reason except those set-offs required by law Minn.Stat. §270C.65. You agree that you will remit payments to us in the form of company checks (or personal checks in the case of sole proprietorships), direct debit or wires only. You also agree that cash and cash equivalents are not acceptable forms of payment for this Lease Agreement or any Schedule and that you will not remit such forms of payment to us. Payment in any other form may delay processing or be returned to you. Furthermore, only you or your authorized agent as approved by us will remit payments to us. In the event that you dispute any late charge in writing within thirty days of invoice date, we will waive such charge if we determine it to have been assessed in error.
- Product Location: Use and Repair.** You will keep and use the Product only at the Product Location shown in the applicable Schedule. You will not move the Product from the location specified in the applicable Schedule or make any alterations, additions or replacements to the Product without our prior written consent, which consent will not be unreasonably withheld. At your own cost and expense, you will keep the Product eligible for any Manufacturer's certification as to maintenance and in compliance with applicable laws and in good condition, except for ordinary wear and tear. You shall engage Ricoh, its subsidiaries or affiliates, or an independent third party (the "Servicer") to provide maintenance and support services pursuant to a separate agreement for such purpose ("Maintenance Agreement"). All alterations, additions or replacements will become part of the Product and our property at no cost or expense to us. We may inspect the Product at any reasonable time.
- Taxes and Fees.** In addition to the payments under this Lease Agreement, you agree to pay all taxes, and charges governmentally imposed upon our purchase, ownership, possession, leasing, renting, operation, control or use of the Product. If we are required to file and pay property tax, you agree, to either: (a) reimburse us for all personal property and other similar taxes and governmental charges associated with the ownership, possession or use of the Product when billed by the jurisdictions; or (b) remit to us each billing period our estimate of the pro-rated equivalent of such taxes and governmental charges. In the event that the billing period sums include a separately stated estimate of personal property and other similar taxes, you acknowledge and agree that such amount represents our estimate of such taxes that will be payable with respect to the Product during the term of the applicable Schedule. Sales and use tax, if applicable, will be charged until a valid sales and use tax exemption certificate is provided to us except for State agencies that are not tax exempt which pay sales tax directly to the Minnesota Department of Revenue through a direct pay tax permit.
- Warranties.** We transfer to you, without recourse, for the term of each Schedule, any written warranties made by the Manufacturer or Software Supplier (as defined in Section 10 of this Lease Agreement) with respect to the Product leased or rented pursuant to such Schedule. YOU ACKNOWLEDGE THAT YOU HAVE SELECTED THE

PRODUCT BASED ON YOUR OWN JUDGMENT AND YOU HEREBY AFFIRMATIVELY DISCLAIM RELIANCE ON ANY ORAL REPRESENTATION CONCERNING THE PRODUCT MADE TO YOU. However, if you enter into a Maintenance Agreement with Servicer with respect to any Product, no provision, clause or paragraph of this Lease Agreement shall alter, restrict, diminish or waive the rights, remedies or benefits that you may have against Servicer under such Maintenance Agreement. WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS TO US AND OUR ASSIGNEE, YOU LEASE OR RENT THE PRODUCT "AS-IS." The only warranties, express or implied, made to you are the warranties (if any) made by the Manufacturer and/or Servicer to you in any documents, other than this Lease Agreement, executed by and between the Manufacturer and/or Servicer and you. YOU AGREE THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY, WE ARE NOT RESPONSIBLE FOR, AND YOU WILL NOT MAKE ANY CLAIM AGAINST US FOR, ANY CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES.

7. **Loss or Damage.** You are responsible for any theft of, destruction of, or damage to the Product (collectively, "Loss") from any cause at all, whether or not insured, from the time of Product delivery to you until it is delivered to us at the end of the term of the Schedule. You are required to make all Payments even if there is a Loss. You must notify us in writing immediately of any Loss. Then, at our option, you will either (a) repair the Product so that it is in good condition and working order, eligible for any Manufacturer's certification, (b) pay us the amounts specified in Section 12 below, or (c) replace the Product with equipment of like age and capacity from Ricoh.
8. **Indemnity, Liability and Insurance.** You agree to maintain coverage, through insurance, self-insurance or otherwise, including retaining the risk of loss internally, to cover the Product for all types of loss, including, without limitation, theft, in an amount not less than the full replacement value and you will name us as an additional insured and loss payee on your insurance policy. In addition, you agree to maintain comprehensive public liability coverage, through insurance, self-insurance or otherwise, including retaining the risk of loss internally and, upon our request, you shall name us as an additional insured on your insurance policy. Such insurance will provide that we will be given thirty (30) days advance notice of any cancellation. Upon our request, you agree to provide us with evidence of such insurance in a form reasonably satisfactory to us. In the event of loss or damage to the Product, you agree to remain responsible for the Payment obligations under this Lease Agreement until the Payment obligations are fully satisfied.
9. **Title; Recording.** We are the owner of and will hold title to the Product (except for any Software). You will keep the Product free of all liens and encumbrances. Except as reflected on any Schedule, you agree that this Lease Agreement is a true lease. However, if any Schedule is deemed to be intended for security, you hereby grant to us a purchase money security interest in the Product covered by the applicable Schedule (including any replacements, substitutions, additions, attachments and proceeds) as security for the payment of the amounts under each Schedule. You authorize us to file a copy of this Lease Agreement and/or any Schedule as a financing statement, and you agree to promptly execute and deliver to us any financing statements covering the Product that we may reasonably require; provided, however, that you hereby authorize us to file any such financing statement without your authentication to the extent permitted by applicable law.
10. **Software or Intangibles.** To the extent that the Product includes Software, you understand and agree that we have no right, title or interest in the Software, and you will comply throughout the term of this Lease Agreement with any license and/or other agreement ("Software License") entered into with the supplier of the Software ("Software Supplier") to the extent permitted by applicable law. You are responsible for entering into any Software License with the Software Supplier no later than the Effective Date.
11. **Default.** Each of the following is a "Default" under this Lease Agreement and all Schedules: (a) you fail to pay any Payment or any other amount within thirty (30) days of its due date, (b) any representation or warranty made by you in this Lease Agreement is false or incorrect and/or you do not perform any of your other obligations under this Lease Agreement or any Schedule and/or under any other agreement with us or with any of our affiliates and this failure continues for thirty (30) days after we have notified you of it, (c) a petition is filed by or against you or any guarantor under any bankruptcy or insolvency law or a trustee, receiver or liquidator is appointed for you, any guarantor or any substantial part of your assets, (d) you or any guarantor makes an assignment for the benefit of creditors, (e) any guarantor dies, stops doing business as a going concern or transfers all or substantially all of such guarantor's assets, or (f) you stop doing business as a going concern or transfer all or substantially all of your assets.
12. **Remedies.** If you Default, we may do one or more of the following: (a) we may cancel or terminate this Lease Agreement and/or any or all Schedules, and/or any or all other agreements that we have entered into with you; (b) we may require you to immediately pay to us, as compensation for loss of our bargain and not as a penalty, a sum equal to: (i) all past due Payments and all other amounts then due and payable under this Lease Agreement or any Schedule; and (ii) the present value of all unpaid Payments for the remainder of the term of each Schedule plus the present value of our anticipated value of the Product at the end of the initial term of any Schedule (or any renewal of such Schedule), each discounted at a rate equal to 3% per year to the date of default, and we may charge you interest on all amounts due us from the date of default until paid at the rate of 1.5% per month, but in no event more than the maximum rate permitted by applicable law. We agree to apply the net proceeds (as specified below in this Section) of any disposition of the Product to the amounts that you owe us; (c) we may require you to deliver the Product to us as set forth in Section 14; (d) we or our representative may peacefully repossess the Product without court order and you will not make any claims against us for damages or trespass or any other reason; (e) we may exercise any and all other rights or remedies available to a lender, secured party or lessor under the Uniform Commercial Code ("UCC"), including, without limitation, those set forth in Article 2A of the UCC, and at law or in equity; (f) we may immediately terminate your right to use the Software including the disabling (on-site or by remote communication) of any Software; (g) we may demand the immediate return and obtain possession of the Software and re-license the Software at a public or private sale; (h) we may cause the Software Supplier to terminate the Software License, support and other services under the Software License, and/or (i) at our option, we may sell, re-lease, or otherwise dispose of the Product under such terms and conditions as may be acceptable to us in our discretion. You agree to pay all of our costs of enforcing our rights against you, including reasonable attorneys' fees, and all costs related to the sale or disposition of the Product including, without limitation, incidental damages expended in the repossession, repair, preparation, and advertisement for sale or lease or other disposition of the Product for an amount not exceeding five thousand (\$5,000) dollars. If we take possession of the Product (or any Software, if applicable), we may sell or otherwise dispose of it with or without notice, at a public or private disposition, and to apply the net proceeds (after we have deducted all costs, including reasonable attorneys' fees) to the amounts that you owe us. All costs owed will be taken out of any excess sales proceeds from the sale of the Product. You agree that, if notice of sale is required by law to be given, five (5) days' notice shall constitute reasonable notice. You will remain responsible for any deficiency that is due after we have applied any such net proceeds to the extent permitted by law.
13. **Ownership of Product; Assignment.** YOU HAVE NO RIGHT TO SELL, TRANSFER, ENCUMBER, SUBLET OR ASSIGN THE PRODUCT OR THIS LEASE AGREEMENT OR ANY SCHEDULE WITHOUT OUR PRIOR WRITTEN CONSENT (which consent shall not be unreasonably withheld). You agree that we may sell or assign all or a portion of our interests in the Product and/or this Lease Agreement or any Schedule without notice to you even if less than all the Payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as we assign to them but none of our obligations (we will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that you may have against us. No assignment to an Assignee will release Ricoh from any obligations Ricoh may have to you hereunder. The Maintenance Agreement you have entered into with a Servicer will remain in full force and effect with Servicer and will not be affected by any such assignment. You acknowledge that the Assignee did not manufacture or design the Product and that you have selected the Manufacturer, Servicer and the Product based on your own judgment.
14. **Renewal; Return of Product.** AFTER THE MINIMUM TERM OR ANY EXTENSION OF ANY SCHEDULE TO THIS LEASE AGREEMENT, SUCH SCHEDULE WILL IMMEDIATELY TERMINATE. Notwithstanding the foregoing, you may extend the original term of any Schedule by issuance of an acceptable Customer Purchase Order pursuant to the extension options outlined in the applicable State Participating Addendum to WSCA Master Contract 3091 prior to the expiration of the original term of such Schedule. Notwithstanding the foregoing, nothing herein is intended to provide, nor shall be interpreted as providing, (a) you with a legally enforceable option to extend or renew the terms of this Lease Agreement or any Schedule, or (b) us with a legally enforceable option to compel any such extension or renewal. At the end of or upon termination of each Schedule, we (or our designee) will immediately arrange to pick up the Product subject to such expired Schedule in as good condition as when you received it, except for ordinary wear and tear. You must pay additional monthly Payments at the same rate as then in effect under a Schedule, until date that the Product is pulled from service and Ricoh has been notified to pick it up.

15. **Miscellaneous.** It is the intent of the parties that this Lease Agreement and any Schedule shall be deemed and constitute a "finance lease" as defined under and governed by Article 2A of the UCC. ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. YOU AGREE THAT THE TERMS AND CONDITIONS CONTAINED IN THIS LEASE AGREEMENT AND IN EACH SCHEDULE MAKE UP THE ENTIRE AGREEMENT BETWEEN US REGARDING THE LEASING OR RENTAL OF THE PRODUCT AND SUPERSEDE ALL PRIOR WRITTEN OR ORAL COMMUNICATIONS, UNDERSTANDINGS OR AGREEMENTS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER CONTAINED HEREIN, INCLUDING, WITHOUT LIMITATION, PURCHASE ORDERS. Any purchase order, or other ordering documents, will not modify or affect this Lease Agreement or any Schedule, nor have any other legal effect and shall serve only the purpose of identifying the equipment ordered. You authorize us to supply any missing "configure to order" number ("CTO"), other equipment identification numbers (including, without limitation, serial numbers), agreement/schedule identification numbers and/or dates in this Lease Agreement or any Schedule. You acknowledge that you have not been induced to enter into this Lease Agreement by any representation or warranty not expressly set forth in this Lease Agreement. Neither this Lease Agreement nor any Schedule is binding on us until we sign it. Any change in any of the terms and conditions of this Lease Agreement or any Schedule must be in writing and signed by both parties. If we delay or fail to enforce any of its rights under this Lease Agreement with respect to any or all Schedules, we will still be able to enforce those rights at a later time. All notices shall be given in writing and sent either (a) by certified mail or recognized overnight delivery service, postage prepaid, addressed to the party receiving the notice at the address shown on the front of this Lease Agreement, or (b) by facsimile transmission, with oral confirmation, to the facsimile number shown below such party's signature on this Lease Agreement. Either party may change its address or facsimile number by giving written notice of such change to the other party. Notices shall be effective on the date sent. Each of our respective rights and indemnities will survive the termination of this Lease Agreement and each Schedule. It is the express intent of the parties not to violate any applicable usury laws or to exceed the maximum amount of time price differential or interest, as applicable, permitted to be charged or collected by applicable law, and any such excess payment will be applied to payments in the order of maturity, and any remaining excess will be refunded to you. We make no representation or warranty of any kind, express or implied, with respect to the legal, tax or accounting treatment of this Lease Agreement and any Schedule and you acknowledge that we are an independent contractor and not your fiduciary. You will obtain your own legal, tax and accounting advice related to this Lease Agreement or any Schedule and make your own determination of the proper accounting treatment of this Lease Agreement or any Schedule. We may receive compensation from the Manufacturer or supplier of the Product in order to enable us to reduce the cost of leasing or renting the Product to you under this Lease Agreement or any Schedule below what we otherwise would charge. If we received such compensation, the reduction in the cost of leasing or renting the Product is reflected in the Minimum Payment specified in the applicable Schedule. You authorize us, our agent and/or our Assignee to obtain credit reports and make credit inquiries regarding you and your financial condition and to provide your information, including payment history, to our Assignee and third parties having an economic interest in this Lease Agreement, any Schedule or the Product. You agree to provide updated annual and/or quarterly financial statements to us upon request.
16. **Governing Law; Jurisdiction; Waiver of Trial By Jury and Certain Rights and Remedies Under The Uniform Commercial Code.** YOU AGREE THAT THIS LEASE AGREEMENT AND ANY SCHEDULE WILL BE GOVERNED UNDER THE LAW FOR THE STATE OF MINNESOTA. YOU ALSO CONSENT TO THE VENUE AND NON-EXCLUSIVE JURISDICTION OF ANY COURT LOCATED IN EACH OF THE STATE OF MINNESOTA AND THE STATE WHERE YOUR PRINCIPAL PLACE OF BUSINESS OR RESIDENCE IS LOCATED TO RESOLVE ANY CONFLICT UNDER THIS LEASE AGREEMENT. THE PARTIES TO THIS LEASE AGREEMENT EACH WAIVE THE RIGHT TO TRIAL BY JURY IN THE EVENT OF A LAWSUIT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU WAIVE ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON A CUSTOMER OR LESSEE BY ARTICLE 2A OF THE UCC THAT YOU MAY HAVE AGAINST US (BUT NOT AGAINST THE MANUFACTURER OF THE PRODUCT). TO HELP THE GOVERNMENT FIGHT THE FUNDING OF TERRORISM AND MONEY LAUNDERING ACTIVITIES, FEDERAL LAW REQUIRES ALL FINANCIAL INSTITUTIONS TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES EACH PERSON WHO OPENS AN ACCOUNT. WHAT THIS MEANS FOR YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE MAY ASK TO SEE IDENTIFYING DOCUMENTS.
17. **Counterparts; Facsimiles.** Each Schedule may be executed in counterparts. The counterpart which has our original signature and/or is in our possession or control shall constitute chattel paper as that term is defined in the UCC and shall constitute the original agreement for all purposes, including, without limitation, (a) any hearing, trial or proceeding with respect to such Schedule, and (b) any determination as to which version of such Schedule constitutes the single true original item of chattel paper under the UCC. If you sign and transmit a Schedule to us by facsimile or other electronic transmission, the facsimile or such electronic transmission of such Schedule, upon execution by us (manually or electronically, as applicable), shall be binding upon the parties. You agree that the facsimile or other electronic transmission of a Schedule containing your facsimile or other electronically transmittable signature, which is manually or electronically signed by us, shall constitute the original agreement for all purposes, including, without limitation, those outlined above in this Section. You agree to deliver to us upon our request the counterpart of such Schedule containing your original manual signature.
18. **State and Local Government Provisions.** If the Customer is a State or political subdivision of a State, as those terms are defined in Section 103 of the Internal Revenue Code, the following additional terms and conditions shall apply:
- (a) **Essentiality.** During the term of this Lease Agreement and any Schedule, the Product will be used solely for the purpose of performing one or more governmental or proprietary functions consistent with the permissible scope of your authority. You represent and warrant that the use of the Product is essential to performing such governmental or proprietary functions.
  - (b) **Non-Appropriation/Non-Substitution.** (i) If all of the following shall occur: (A) your governing body fails to appropriate sufficient monies in any fiscal period for rentals and other payments coming due under a Schedule to this Lease Agreement in the next succeeding fiscal period for any equipment which will perform services and functions which in whole or in part are essentially the same services and functions performed by the Product covered by any such Schedule, (B) other funds are not available for such payments, and (C) the non-appropriation of funds did not result from any act or failure to act on your part, then a "Non-Appropriation" shall be deemed to have occurred. (ii) If a Non-Appropriation occurs, then: (A) you must give us immediate notice of such Non-Appropriation and provide written notice of such failure by your governing body at least sixty (60) days prior to the end of the then current fiscal year or if Non-Appropriation has not occurred by such date, immediately upon Non-Appropriation, (B) no later than the last day of the fiscal year for which appropriations were made for the rental due under any Schedule to this Lease Agreement (the "Return Date"), you shall return to us all, but not less than all, of the Product covered by such Schedule to this Lease Agreement, at your sole expense, in accordance with the terms hereof; and (C) any Schedule to this Lease Agreement shall terminate on the Return Date without penalty or expense to you and you shall not be obligated to pay the rentals beyond such fiscal year, provided that (x) you shall pay any and all rentals and other payments due up through the end of the last day of the fiscal year for which appropriations were made and (y) you shall pay month-to-month rent at the rate set forth in any such Schedule for each month or part thereof that you fail to return the Product as required herein.
  - (c) **Funding Intent.** You represent and warrant to us that you presently intend to continue this Lease Agreement and any Schedule hereto for the entire term of such Schedule and to pay all rentals relating to such Schedule and to do all things lawfully within your power to obtain and maintain funds from which the rentals and all other payments owing under such Schedule may be made. The parties acknowledge that appropriation for rentals is a governmental function to which you cannot contractually commit yourself in advance and this Lease Agreement shall not constitute such a commitment.
  - (d) **Authority and Authorization.** (i) You represent and warrant to us that: (A) you are a State or political subdivision of a State, as those terms are defined in Section 103 of the Internal Revenue Code; (B) you have the power and authority to enter into this Lease Agreement and all Schedules to this Lease Agreement; (C) this Lease

Agreement and all Schedules to this Lease Agreement have been duly authorized, executed and delivered by you and constitute valid, legal and binding agreement(s) enforceable against you in accordance with their terms; and (D) no further approval, consent or withholding of objections is required from any governmental authority with respect to this Lease Agreement or any Schedule to this Lease Agreement. (ii) You agree to provide us with any other documents that we may reasonably request in connection with the foregoing and this Lease Agreement to the extent permitted by Minnesota law.

- (e) Assignment. You agree to acknowledge any assignment to the Assignee in writing, if so requested, and, if applicable, to keep a complete and accurate record of all such assignments in a manner that complies with Section 149(a) of the Internal Revenue Code and the regulations promulgated thereunder.

## **Exhibit C**

### **RICOH MODEL SERVICE LEVEL AGREEMENT (SLA)**

The purpose of this model Service Level Agreement (SLA) is to provide the Participating State (the "State") and Contractor with an example of either objectives or service level commitments with penalties for failure to perform. This model SLA utilizes a scorecard method for the Buyer level SLA and flat rate penalties for the State.

#### **1. Buyer Level SLA**

##### **1.1 Purpose**

The purpose of this addendum is to define service levels; penalties for the performance of the service levels; as well as provide the Buyer with a defined replacement process for equipment performing below expectations. This SLA does not implicate or involve lease related invoicing rather it involves equipment performance and maintenance issues.

##### **1.2 Buyer Service Level Agreement**

Contractor agrees to maintain the following service levels defined below as targets:

<b>Performance Criteria</b>	<b>Target Level</b>
Average Uptime	96% or Better
Average On-Site Response Time	4 Hours or Less
First Time Fix	88% of all service calls or better

These service levels will be measured on a quarterly basis between Contractor and the State.

##### **1.3 Calculation of Service Level Points**

Once per quarter, upon written request by the Buyer, Contractor will produce reporting to be measured against the Service Level Agreement and points will be assigned according to the following chart. These points will be added to produce a total Service Level score. This score will be used to determine the subsequent penalty according to the following schedule where the penalty can be up to 4% of the previous quarter's service and supplies billing (expressed as a negative %).

<b>1.4 Performance</b>	<b>Target Level</b>	<b>Below Target 1</b>	<b>Below Target 2</b>	<b>Below Target 3</b>	<b>Below Target 4</b>
<b>Average Uptime</b>	98% or Higher	97.9% - 96%	95.9% - 94%	94.9% - 94%	93.9% or lower
<b>Possible Points</b>	4	3	2	2	0
<b>Average On-Site Response Time (in Hours)</b>	<b>Target Level</b>	<b>Below Target 1</b>	<b>Below Target 2</b>	<b>Below Target 3</b>	<b>Below Target 4</b>
	4 or Less	4.1 - 5	5.1 - 6	6.1 - 7	7.1 or more
<b>Possible Points</b>	4	3	2	2	0
<b>First Time Fix</b>	<b>Target Level</b>	<b>Below Target 1</b>	<b>Below Target 2</b>	<b>Below Target 3</b>	<b>Below Target 4</b>
	88% or Higher	87.9. % - 80%	79.9. % - 60%	69.9. % - 60%	Less than 60%
<b>Possible Points</b>	4	3	2	2	0
<b>Total Score</b>	<b>Target Level</b>	<b>Below Target 1</b>	<b>Below Target 2</b>	<b>Below Target 3</b>	<b>Below Target 4</b>
	12 - 10	9 - 7	6 - 4	3 - 1	0
<b>Penalty/Award as a percentage of quarterly service and supplies billings</b>	0%	-2.5%	-3.0%	-3.5%	-4.0%

The penalty shall be awarded to the Buyer as a credit or by check on the following period's service and supplies invoice.

#### 1.5 Equipment Performance

Contractor guarantees that the Buyer's fleet specified within any maintenance agreement, will average the monthly uptime as measured on a quarterly basis by product segment listed below.

<b>Group</b>	<b>Devices</b>	<b>Segments</b>	<b>Quarterly Uptime</b>
B	Copiers Black & White	All	96%
B	Copiers Color	All	96%
C	Wide Format Devices	All	96%

If any unit fails to maintain this level of performance for the monthly uptime, excluding service calls caused by operator error, provided Contractor has been given a ninety (90) day cure period, that unit will be subject to replacement at the

Buyer's discretion on a like-for-like basis with then current technology. Prior to installing a substitute product, Contractor will be allowed ninety (90) days to remedy any quality or reliability issues. The 96% uptime requirement shall not apply to devices whose uptime depends, in large part, on the operator's efficiency in replacing operator replaceable components.

Should Contractor determine that it cannot maintain a unit of Equipment or an Accessory in good working order, Contractor shall, at its own expense, replace such Equipment with another unit of the same product designation as that Equipment (a "replacement unit") and Ricoh shall bear all installation, transportation, removal and rigging charges in connection with the installation of such replacement unit; provided, however that (a) the replacement unit may be a reconditioned or otherwise used unit rather than a new unit; and (b) if a replacement unit of the same product designation as the unit of Equipment it replaces is not available, the replacement unit may be a product of substantially similar or greater capabilities.

The replacement unit will be in "as new" condition, both in operation and appearance. In addition, all warranties and maintenance coverage that applied to the removed unit will also apply to the permanent replacement equipment.

A designated factory authorized technician must certify each unit's ability to produce acceptable impressions with acceptable copies between calls or uptime. The guarantee will remain in effect for the term of the contract or up to five (5) years from the date of purchase/lease, provided the equipment has not been subjected to abuse or neglect and has been continuously covered by The Ricoh WSCA Master Maintenance & Sale Agreement. This replacement policy will remain in effect for the term of the contract and is subject to the Customer remaining current with supplier's payment requirements.

## **1.6 Additional Vendor Obligations**

**1.6.1 Training** – On-site training is to be performed within two (2) working days of installation or at the request of Customer. Contractor will also include two (2) hours for phone/technical support.

To aid Buyer after the training session, Contractor will provide a manual for every device for reference purposes. In addition, Contractor will offer Quick Reference Guides and 24-hour toll-free end-user technical support for everyday minor troubleshooting.

Follow up or advanced training must be provided upon request of the Customer at no additional cost.

Upon request by Customer, training materials will be provided in an accessible format or interpreters will be provided at no additional cost.

**1.6.2 Loaner Unit/Backup Production** – If any unit is inoperable due to equipment malfunction for a period in excess of 72 hours or as otherwise agreed to in a Statement of Work, Contractor shall provide the Buyer with either:

- i) A loaner unit of equal or better speed and capabilities until such time as the unit(s) covered by this agreement are operable, or
- ii) at State's request, provide the State with off-site manned production capabilities to accomplish the work of the unit that is inoperable at the sole cost of the Contractor. Production of said job will begin no less than 8 business hours from the time the job is submitted to the Contractor off site production facility. Such costs shall be limited to cost of production (service and supplies), equipment, labor, power, transportation of jobs to and from the off-site production facility and facilities.

**1.6.3 Invoicing** – Contractor shall maintain timely, accurate invoicing, less service run impressions, as defined below. The assigned copy machine operators, back-up personnel, and office personnel shall respond in a timely manner to the Contractor's e-mails, facsimiles, and phone calls in providing the readings. Receiving meters from Buyer is a necessary step in the process of generating a complete and accurate invoice. Invoices that are generated without receiving the proper meter read information, due to the Buyer's failure to provide such meter by the last day of the month, are not considered inaccurate. Failure on the Contractor's part to maintain the Service levels as defined in the table below shall result in a \$50.00 per instance credit on the following invoice, provided Buyer has provided written notice of any such alleged invoicing problem and Contractor has been allowed a 30 day cure period after such notice to address any such issue.

Measurable	Service Level
Timely Invoicing	Maintenance invoices will be submitted no later than the 25 <sup>th</sup> of the month immediately following the close of a billing period.
Accurate Invoicing	Maintenance invoices do not require any credits for miss-billing
Service Impressions	Vendor will credit all service run impressions within the same billing cycle

## **2. Reporting and Billing**



- 2.1 **Timely Reporting** – Contractor shall produce reporting for the Participating State within 30 days of the closing of the reporting period. Failure to do so will result in a penalty of \$5.00 per work day beyond the 30 day period.
- 2.2 **Timely Payment of Administrative Fees** – Contractor shall produce payment for any State Specific Administrative Fee within -30 days of the closing of the reporting period. Failure to do so will result in a penalty of \$5.00 per work day beyond the 30 day period.
- 2.3 **Accuracy of Reporting** – The State may request, at any point, proof of the reporting accuracy through the data set supporting the reporting. If the State has reason to believe that multiple and systemic reporting errors exist, that cannot be corrected to the State's reasonable satisfaction; the State may require an audit whereby the Contractor will provide supporting documentation to allow the State or its designee to confirm the accuracy of the reporting. If errors are found, the Contractor must reimburse the State for the cost of the auditor as well as correcting any administrative fee errors provided.
- 2.4 **Accuracy of Billing** – The State may request, at any point, proof of the billing accuracy through the data set supporting the billing. If the State has reason to believe that multiple and systemic billing errors exist, that cannot be corrected to the State's reasonable satisfaction; the State may require an audit whereby the Contractor will provide supporting documentation to allow such third party to confirm the accuracy of the reporting. If errors are found, the Contractor must reimburse the State for the cost of the auditor, not to exceed in total five thousand (\$5,000) dollars, as well as correcting any billing errors provided.
- 2.5 **Penalties** – All penalties under this, section two (2) of the Service Level Agreement, shall be payable to the State.
- 2.6 All other Service terms and conditions are set forth in the Participating Addendum, including Minnesota Exhibit A, and Exhibit D, WSCA Master Maintenance & Sale Agreement, and are incorporated by reference into this SLA. The remedies provided in this SLA are the Buyer's and State's sole and exclusive remedies for Contractor's failure to fulfill its obligations stated in this SLA. For the avoidance of doubt, these remedies do not exclude remedies for other obligations contained in the documents that are incorporated in the SLA.



### WSCA MASTER MAINTENANCE & SALE AGREEMENT

CUSTOMER INFORMATION				
Legal Name				
Bill To Address				
City		State		Zip Code

This Master Maintenance & Sale Agreement ("Agreement") sets forth the specific terms and conditions under which Ricoh USA, Inc. ("Ricoh" or "Contractor") agrees to sell the specific equipment, software, and/or hardware ("Products") identified on an Order (defined below) entered into pursuant to WSCA Contract #3091 hereunder and/or provide the services identified on an Order ("Services") entered into hereunder to "Customer" or "State" (defined above) from time to time. Either party may terminate the "master" arrangement contemplated by this Agreement at any time upon prior written notice to the other. Termination of this Agreement shall not, however, alter or otherwise modify the rights or obligations of the parties with respect to any Order Form (each an "Order") placed and accepted prior to such termination. Each Order is separately enforceable as a complete and independent binding agreement, independent of all other Orders, if any.

**The following terms shall apply to all Service transactions:**

1. **Services.** (a) In order to obtain Services from Ricoh hereunder, Customer will either (i) execute an Order (in a form to be provided and executed by Ricoh) referencing WSCA Contract #3091, Applicable State Participating Amendment, and this Agreement, or (ii) issue a valid and signed purchase order to Ricoh (each referred to in this Agreement as an "Order"). Each Order must identify the specific equipment to be serviced, the term of the Service engagement, the location at which Services shall be performed and the applicable Service charges for such Order. Ricoh will not be responsible to provide Services for equipment, in the event the term or locations are not identified on the Order accepted by Ricoh.

(b) Ricoh will repair or replace in accordance with the terms and conditions of this Agreement and the manufacturer's specifications any part of the Serviced Products that becomes unserviceable due to normal usage (other than consumable supplies). Failure to permit Ricoh to repair or replace the Serviced Products shall result in a material breach of this Agreement and excuse Ricoh from any and all future performance hereunder. Replacement parts will be furnished on an exchange basis and will be new, reconditioned or used. Except for hard drives on Customer-owned equipment, all parts removed due to replacement will become the property of Ricoh.

(c) The Services provided by Ricoh under an Order will not include the following: (i) repairs resulting from misuse (including without limitation improper voltage or the use of supplies that do not conform to the manufacturer's specifications) or the failure to provide, or the failure of, adequate electrical power, air conditioning or humidity control; (ii) repairs made necessary by service performed by persons other than Ricoh representatives; (iii) service calls or work which Customer requests to be performed outside of Normal Business Hours (defined below) (unless covered under an extended hour service contract) and Service calls or work which Customer requests to be performed on Ricoh Holidays (defined below); (iv) removable cassette, copy cabinet, exit trays, or any item not related to the mechanical or electrical operation of the Serviced Products; (v) consumable supplies such as paper or staples, unless expressly provided for in this Order or provided by Ricoh, its authorized agents, representatives or resellers; (vi) repairs and/or service calls resulting from attachments not purchased from Ricoh, its authorized agents, representatives or resellers; (vii) any software excluding firmware preloaded on the device, system support or related connectivity unless specified in writing by Ricoh, its authorized agents, representatives or resellers; (viii) parts no longer available from the applicable manufacturer, except that parts will be available for up to seven (7) years from date of procurement of the Product; (ix) electrical work external to the Serviced Products, including problems resulting from overloaded or improper circuits; (x) installation or de-installation and/or movement of the Serviced Products from one location to another unless specified in writing by Ricoh, its authorized agents, representatives or resellers; and (xi) repairs of damage or increase in service time caused by force majeure events. Ricoh may terminate its Service obligations under any Order for Serviced Products that have been modified, damaged, altered or serviced by personnel other than those employed by Ricoh, its authorized agents, representatives or resellers.

2. **Service Calls.** Service calls will be made during 7:30am – 5:00pm local service time, within four (4) hours of service call Monday through Friday ("Normal Business Hours") at the installation address shown on the applicable Order. Service does not include coverage on Ricoh holidays, which include New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving, the day after Thanksgiving and Christmas Day (collectively, "RicoH Holidays"). -Labor-time for the service calls after Normal Business Hours, on weekends and on RicoH Holidays, if and when available and only in the event and to the extent that Ricoh agrees to provide such non-standard coverage, will be charged at overtime rates as specified in the Participating Addendum. Customer is responsible for disconnecting, repairing and re-connecting unauthorized attachments or components.

3. **Reconditioning.** Reconditioning and similar major overhauls of Serviced Products may be covered by applicable manufacturer warranties, but are not covered by this Agreement or any Order. If Ricoh determines that such actions may be necessary as a result of normal wear and tear of materials and age factors caused by normal usage in order to keep the Serviced Products in working condition, Ricoh will submit to Customer an estimate of the needed repairs and the cost for such repairs (which costs will be in addition to the Service Charges payable under the Order

4. **Engineering Changes.** Engineering changes, determined applicable by Ricoh, will be controlled and installed by Ricoh. Engineering changes which provide additional capabilities to the Ricoh Equipment (defined below) covered herein will be made at Customer's request at Ricoh's applicable time and material rates then in effect.

5. **Term.** Each Order shall become effective on the effective date of the Order and shall continue for the term identified in the Order. At the expiration of the initial term or any extended term of the Order, it will, renew by mutual agreement of both parties for an additional twelve (12) month period, provided that Customer is not then in default. The contracted rate will be adjusted to Ricoh's then-prevailing rates, to be reflected in an automatic increase as of the renewal date, and Customer expressly consents to such adjustment without additional notice.

6. **Early Termination.** Customer may terminate any Order under this Agreement prior to its maturity so long as Customer is not then in default and provides Ricoh at least thirty (30) days prior written notice. As set forth in the WSCA Contract 3091, Section 5.4.2.3, termination charges of the Service contract will not exceed 4 times the monthly base or 25% of the remaining term whichever is less. For the purposes herein, the "Monthly Service Charge" shall equal (i) the base monthly Service Charge set forth in this Order; or (ii) in the event this Order does not contain a base monthly Service Charge, the average monthly Order charges for the six (6) month period prior to the date of Customer's termination. If such termination date occurs less than six (6) months after the effective date of the Order, the Monthly Service Charge will be equal to the average monthly Order charges for the number of months the Order was in effect.

7. **Service Charges.** (a) Service charges ("Service Charges") will be set forth on an Order and will be payable by the Customer in advance. Service Charges will not include any charges for repairs or Service that are otherwise covered by the applicable manufacturer's limited warranty during the period covered by any such warranty, to the extent Ricoh has agreed with such manufacturer not to charge a customer for any such charges. Customer acknowledges and agrees that: (i) alterations, attachments, specification changes, or use by Customer of sub-standard supplies that cause excessive service calls may require an increase in Service Charges; (ii) the transfer of the Serviced Products from the location indicated on the applicable Order may result in an increase of Service Charges or the termination of the Order; and (iii) the Toner Inclusive Program (if applicable) is based on manufacturer supply consumption rates. Delivery of supplies will not exceed agreed upon usage. Consumption of covered supply products varying significantly from expected usage may result in additional charges for supplies. Customer agrees to pay when due, all taxes, where applicable, related to an Order, excluding taxes on the income of Ricoh.

8. **Use Of Recommended Supplies; Meter Readings.** (a) It is not a condition of this Agreement that Customer use only Ricoh-provided supplies. If Customer uses other than manufacturer-recommended supplies, including paper, developer, toner, and fuser oil, and if such supplies are defective or not acceptable for use on the Serviced Product or cause abnormally frequent service calls or service problems, then Ricoh may, at its option, assess a reasonable surcharge or terminate the applicable Order with respect to such Serviced Product. If so terminated, Customer will be offered Service on a "Per Call" basis at Ricoh's then-prevailing time and material rates.

(b) If Ricoh determines that Customer has used more supplies than the manufacturer's recommended specifications as provided by Ricoh, Customer will pay reasonable charges for those excess supplies. Customer agrees to provide Ricoh true and accurate meter readings monthly and in any reasonable manner requested by Ricoh and agreed upon by Customer, whether via telephone, email or otherwise. If accurate meter readings are not provided on a timely basis, Ricoh reserves the right to estimate the meter readings from previous meter readings and Customer agrees to pay Service Charges based on such estimated meter reads. Appropriate adjustments will be made to subsequent billing cycles following receipt of actual and accurate meter readings.

(c) As part of its Services, Ricoh, upon agreement with Customer and dependent upon device capabilities, may provide remote meter reading and equipment monitoring services using its @Remote solution. This may allow for automated meter reading and submission, automatic placement of low toner alerts, automatic placement of service calls in the event of a critical Product failure and may enable firmware upgrades. For the avoidance of doubt, Section 49 (Security and Data Protection) of Minnesota Exhibit A of the Participating Addendum applies to the methods described above. The meter count and other information collected by @Remote ("Data") is sent via the internet to remote servers some of which may be located outside the U.S. @Remote cannot and does not collect Customer document content or user information. Ricoh uses reasonably available technology to maintain the security of the Data; however, Customer acknowledges that no one can guaranty security of information maintained on computers and on the internet. Ricoh retains full rights to the Data (but not Customer documents or information), which it or its authorized third parties may use to service the Serviced Products. Ricoh may also use the Data for its normal business purposes including product development and marketing research, however, the Data will not be provided to market research consultants in a form that personally identifies the Customer. Ricoh may dispose of the Data at any time and without notice. The @Remote technology is the confidential and proprietary information of Ricoh and/or its licensors protected by copyright, trade secret and other laws and treaties. Ricoh retains full title, ownership and all intellectual property rights in and to @Remote. In the event Customer does not rely on automatic meter reading devices or equipment monitoring services; Ricoh reserves the right to assess a surcharge for manual meter reads in addition to the Service Charges.

9. **Basic Connectivity Services.** If any software, system support or related connectivity Services are specifically set forth on an Order and accepted by Ricoh, Ricoh shall provide any such Services at the Customer's location set forth in the Order, as applicable, or on a remote basis. Customer shall provide Ricoh with such access to its facilities, networks and systems as may be reasonably necessary for Ricoh to perform such Services. Customer acknowledges that Ricoh's performance of any such Services is dependent upon Customer's timely and effective performance of its responsibilities as set forth in the Order, as applicable. Unless connectivity Services are specifically identified in the Order as part of the Services to be performed by Ricoh, Ricoh shall have no obligation to perform and no responsibility for the connection of any hardware or software to any Customer network or system.

10. **IT Services.** Customer may acquire connectivity IT services from Ricoh by executing and delivering to Ricoh an Order for acceptance and by executing a Purchase Order setting forth the specific services to be provided, except that Managed Print Services are not allowed under this Participating Addendum. The applicable Order applies to Ricoh IT Services. Ricoh shall provide any such ITS Services at the Customer's location(s) or on a remote basis as set forth in the Order. Customer shall provide Ricoh with such access to its facilities, networks and systems as may be reasonably necessary for Ricoh to perform such ITS Services. Customer acknowledges that Ricoh's performance of any such ITS Services are dependent upon both Customer and Ricoh's timely and effective performance of its respective responsibilities as set forth in the Order. Estimated delivery and/or service schedules contained in any Order are non-binding estimates but Ricoh will apply commercially reasonable efforts to meet estimated delivery and/or service schedules.

11. **Customer Obligations.** Customer agrees to provide a proper place for the use of the Serviced Products, including but not limited to, electric service, as specified by the manufacturer. Customer will provide adequate facilities (at no charge) for use by Ricoh representatives in connection with the Service of the Serviced Products hereunder within a reasonable distance of the Serviced Products. Customer agrees to provide such access to its facilities, networks and systems as may be reasonably necessary for Ricoh to perform its Services, including but not limited to "360 degree" service access to the Serviced Products. Customer will provide a key operator for the Serviced Products and will make operators available for instruction in use and care of the Serviced Products. Unless otherwise agreed upon by Ricoh in writing or designated in the applicable Order, all supplies for use with the Serviced Products will be provided by Customer and will be available "on site" for servicing. Customer agrees that any systems utilizing similar supplies must be covered under similar inclusive service programs.

12. **Insurance.** At all times during the term of this Agreement, Ricoh agrees to obtain and maintain in effect the policies as specified in Minnesota Exhibit A. Ricoh shall also require that all of its subcontractors maintain similar general liability insurance. Ricoh shall provide satisfactory evidence of above coverage and failure to provide or request satisfactory evidence of said coverage does not represent a waiver of the requirements for insurance coverage noted above. The State may maintain protection either through insurance or self insurance sufficient to ensure adequate defense for its operational risks sufficient to protect its contractual and responsibility provisions as stated in the Contract. Failure to maintain such adequate defense shall not discharge or relieve any obligations contained herein, including but not limited to responsibility obligations set forth herein. The State is responsible for all deductibles and or self insurance and Contractor shall not participate and or share in any costs associated with said self insurance.

13. **Indemnification.** Ricoh ("Indemnifying Party") shall indemnify, defend and hold harmless Customer ("Indemnified Party") from all third-party claims incurred by the Indemnified Party arising out of the death or bodily injury of any agent, employee, or business invitee of the Indemnified Party, or the damage, loss, or destruction of any tangible property of the Indemnified Party, up to a maximum of \$2,000,000, to the extent caused by the negligent acts or omissions or willful misconduct of the Indemnifying Party, its employees, or agents. Without intending to create any limitation relating to the survival of any other provisions of this Agreement, Ricoh and Customer agree that the terms of this paragraph shall survive the expiration or earlier termination of this Agreement. Customer shall promptly notify the other in the event of the threat or initiation of any claim, demand, action or proceeding to which the indemnification obligations set forth in this Section may apply. Customer shall be responsible for its own acts and behavior and the results thereof. Customer's liability is governed by the Minnesota Tort Claims Act, Minn. Stat. § 3.736

The following terms shall apply to all Product sale transactions:

14. **Order, Delivery and Acceptance.** In order to purchase Products from Ricoh hereunder, Customer will either (i) execute an Order (in a form to be provided and executed by Ricoh) referencing this Agreement, or (ii) issue a valid and signed purchase order to Ricoh (each referred to in this Agreement as an "Order"). Each Order must identify the Products, the Product delivery location and the applicable Product charges. Ricoh will not be obligated to sell or deliver Products or Services for which such information is not provided in an Order accepted by Ricoh. Customer agrees to confirm delivery of all Products covered by each Order when the same is delivered by signing a delivery certificate or written delivery acknowledgement. Unless agreed otherwise, written acceptance of Product by Customer will occur within three (3) business days after delivery, installation, and successful operation, testing, and training is completed. Upon receipt of written acceptance by the Customer (which, at mutual agreement, may be done electronically), Ricoh may invoice for the Product. - Ricoh reserves the right to make Product deliveries in installments. Customer reserves the right to withhold payment until last installment(s) is received and accepted - Ricoh reserves the right at any time to revoke any credit extended to Customer because of Customer's failure to pay for any Products when due or for any other credit reason.

15. **Returns; Damaged Products.** No Products may be returned without Ricoh's prior written consent. On authorized returns, Customer agrees to pay a restocking charge equivalent to ten percent (10%) of the purchase price unless product received by Customer was not ordered by Customer or is defective through no fault of the Customer. Products returned without written authorization from Ricoh may not be accepted by Ricoh and is the sole responsibility of Customer. All nonsaleable merchandise (that has been opened or partially used) will be deducted from any credit due to Customer. All claims for damaged Products or delay in delivery shall be deemed waived unless made in writing (which, at mutual agreement, may be done electronically) and delivered to Ricoh within five (5) business days after installation and testing of Products.

The following terms shall apply to all transactions:

16. **Warranty.** Ricoh agrees to perform its Services in a professional manner, consistent with applicable industry standards. For any Products manufactured by Ricoh ("Ricoh Equipment"), Ricoh further warrants that, upon written acceptance by Customer and for a period of ninety (90) days thereafter the Ricoh Equipment will be in good working order and will be free from any defects in material and workmanship. Ricoh's obligations under this warranty are limited solely to the repair or replacement (at Ricoh's option) of parts proven to be defective upon inspection. The foregoing warranty shall not apply (a) if the Ricoh Equipment is installed, wired, modified, altered, moved or serviced by anyone other than Ricoh, its agents or authorized distributors or resellers, or, (b) if the Ricoh Equipment is installed by Customer, stored and utilized and/or maintained in a manner not consistent with Ricoh specifications or (c) if a defective or improper non-Ricoh accessory or supply or part is attached to by Customer or used in the Ricoh Equipment. CUSTOMER ACKNOWLEDGES THAT THE LIMITED WARRANTY CONTAINED HEREIN DOES NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE RICOH EQUIPMENT. In connection with any other Product sale, Ricoh shall transfer to Customer any Product warranties made by the applicable Product manufacturer, to the extent transferable and without recourse. Physical or electronic copies of any applicable Product warranty will be delivered by Ricoh to Customer when quote is provided.

17.

18. **Payment; Risk of Loss; Taxes.** Payment terms are net thirty (30) days. If invoices are unpaid and overdue past 45 days, and if such services are undisputed, Customer agrees to pay Ricoh a late charge of one (1%) per month on any unpaid amounts or the maximum allowed by law, whichever is less, and in addition shall pay Ricoh all costs and expenses of collection, or in the enforcement of Ricoh's rights hereunder, including, but not limited to, reasonable internal and external legal costs, whether or not suit is brought if so ordered by court. All remedies hereunder or at law are cumulative; provided, however, that the sole remedy of Customer for any Services not performed in accordance with the Service terms set forth in this Agreement shall be the prompt and proper re-performance of such Services at no additional charge. Unless otherwise agreed upon by both parties in writing, Customer assumes all risk of theft, loss or damage, no matter how occasioned, to all Products covered by this Agreement following delivery by Ricoh to common carrier or, in the case of an arranged delivery by a local Ricoh installation vehicle, delivery by such vehicle to Customer shipping point. Except to the extent of any applicable and validated exemption, Customer agrees to pay any applicable taxes that are levied on or payable as a result of the use, sale, possession or ownership of the Products and/or Services covered hereunder, other than income taxes of Ricoh.

19. **Default.** In addition to any other rights or remedies which either party may have under this Agreement or at law or equity, either party shall have the right to cancel the Services provided under this Agreement immediately: (i) if the other party fails to pay any undisputed fees or charges or any other payments required under this Agreement when due and payable, and such failure continues for a period of ten (10) days after being notified in writing of such failure; or (ii) if the other party fails to perform or observe any other material covenant or condition of this Agreement, and such failure or breach shall continue un-remedied for a period of thirty (30) days after such party is notified in writing of such failure or breach; or (iii) if the other party becomes insolvent, dissolves, or assigns its assets for the benefit of its creditors, or files or has filed against it any bankruptcy or reorganization proceeding. Except as expressly permitted by this Agreement, no refund or credit will be given for any early termination of this Agreement or any renewal thereof. If Customer defaults in its obligations hereunder, Ricoh may, in addition to any other remedies available at law or equity, require Customer to pay to Ricoh all past due undisputed payments under all Orders, and the early termination fee described in the Early Termination Section above.

20. **Confidentiality; Non-Solicitation; Independent Contractors.** Except for the purposes set forth in the applicable Order, Ricoh shall not use or disclose any proprietary or confidential Customer data derived from its Services hereunder; provided, however, that Ricoh may use general statistics relating to the Service engagement so long as it does not disclose the identity of Customer or make any reference to any information from which the identity of Customer may be reasonably ascertained. All such data must meet the definition of Summary data as defined by Minn.Stat. § 13.02 Subd. 19. The relationship of the parties is that of independent contractors.

21. **Assignment; Force Majeure.** Customer shall neither assign any right or interest arising under this Agreement nor delegate any obligations hereunder without the prior written consent of Ricoh. Any such attempted assignment or delegation shall be void. Ricoh shall not be liable for failure to deliver or delays in delivery of Products or Services occasioned by causes beyond Ricoh's control, including without limitation strikes, lockout, fires, embargoes, war or other outbreak of hostilities, inability to obtain materials or shipping space, receipt of orders in excess of Ricoh's or its supplier's then-scheduled production capacity, machinery breakdowns, delays of carrier or suppliers, governmental acts and regulations, unavailability of Services, personnel or materials or other causes beyond Ricoh's control.

22. **Governing Law; Entire Agreement.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Minnesota without regard to its conflict of laws principles. The parties hereto also agree to submit to the non-exclusive jurisdiction of the courts of the State of Minnesota to resolve any action under this Agreement. The Uniform Computer Information Transactions Act shall not apply to this Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter contained in this Agreement; supersedes all proposals, oral and written, and all other communications between the parties relating to the Products; and may not be amended except in writing signed by an officer or authorized representative of Ricoh. Customer agrees and acknowledges that it has not relied on any representation, warranty or provision not explicitly contained in this Agreement, whether in writing, electronically communicated or in oral form. Any and all representations, promises, warranties, or statements, including but not limited to, statements or representations made in sales presentations or sales proposals, by any Ricoh agent, employee or representative that differ in any way from the terms of this Agreement shall be given no force or effect. This Agreement shall be governed solely by these terms and conditions, notwithstanding the inclusion of any additional or different terms and conditions in any order document of any kind issued by Customer at any time. Purchase Orders issued by Customer for Products and/or Services from Ricoh, even if they do not expressly reference or incorporate this Agreement, shall be subject to this Agreement and service only to identify the Products and/or Service ordered and shall not be deemed to alter or otherwise modify the terms and conditions of this Agreement. The delay or failure of either party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provision or affect the right of such party thereafter to enforce each and every provision of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable. Ricoh may accept or reject any order in the exercise of its discretion and may rely upon each order submitted by Customer as a binding commitment. No local, general or trade custom or usage or course of prior dealings between the parties shall be relevant to supplement or explain any term used herein. This Agreement may be executed in one or more counterparts which, taken together, shall constitute one and the same original document. Any notices required under this Agreement should be sent to: 3920 Arkwright Road Macon, GA 31210 Attn: Quality Assurance.

## SECRETARY CERTIFICATE

I, Samuel P. Martin, duly appointed Assistant Secretary of Ricoh USA, Inc. (the "Corporation"), in accordance with the authority delegated to me by the Board of Directors of the Corporation (the "Board") pursuant to duly adopted resolutions of the Board, dated October 1, 2017 and currently in effect, do hereby certify that, Steven Bissey, Director – State & Local Government Sales, is a duly appointed and qualified authorized signatory of the Corporation and holds the title set forth herein.

I further certify that such person is authorized to execute documents on the Corporation's behalf and on behalf of the Corporation, to enter into, execute and deliver or to designate such other person or persons to enter into, execute and deliver, without limitation, any instruments, contracts, agreements, real estate leases, equipment or vehicle leases, bills of sale, purchase orders, or any other documents and any amendments or addenda thereto, relating to the Corporation. The person named above shall have such Signing Authority until it is revoked, his successor has been duly appointed and has duly qualified, or, if earlier, until his removal, resignation or other termination of employment:

**"RESOLVED**, that each individual listed below be, and hereby is: (1) confirmed as an officer of the Corporation ("Officer") to serve at the pleasure of the Corporation until his or her successor has been duly appointed and duly qualified, or, if earlier, until his or her removal, resignation or other termination of employment; (2) incumbent in the office and title specified opposite his or her respective name; and (3) vested with the power and authority to enter into, execute and deliver on behalf of the Corporation ("Signing Authority") such instruments, documents, certificates, agreements, stock certificates, contracts, real estate leases, equipment or vehicle leases, bills of sale, purchase orders, and other items of any description, including, without limitation, any amendments or addenda thereto, which may be required in conducting the Corporation's business (collectively, the "Agreements"), and otherwise to act on behalf of the Corporation.

<u>NAME</u>	<u>TITLE</u>
Dennis Dispenziere	Senior Vice President, Chief Financial Officer and Treasurer
Jami Segota	Senior Vice President, General Counsel and Secretary
Yasuyuki Shimazu	Assistant Treasurer
Barry Sandin	Assistant Treasurer
Samuel P. Martin	Assistant Secretary

; and it is

**FURTHER RESOLVED**, that each Officer of the Corporation be, and hereby is, authorized and empowered in the name and on behalf of the Corporation to enter into, execute and deliver, and to designate such other person or persons to enter into, execute and deliver, without limitation, any Agreements relating to the Corporation."

IN WITNESS WHEREOF, I have hereunto set my hand this 24<sup>th</sup> day of May, 2018.



Samuel P. Martin  
Assistant Secretary

Commonwealth of Pennsylvania }  
  } SS:  
County of Chester }

On this, the 24<sup>th</sup> day of May, 2018, before me, Rebecca A. Bemis, a notary public, the undersigned officer, personally appeared Samuel P. Martin, Assistant Secretary of the Corporation, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.



Rebecca A. Bemis, Notary Public  
My commission expires September 21, 2019

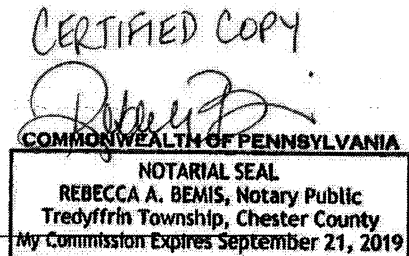
COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

REBECCA A. BEMIS, Notary Public  
Tredyffrin Township, Chester County  
My Commission Expires September 21, 2019



**UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS OF  
RICOH USA, INC.**



The undersigned, constituting all of the members of the Board of Directors (the "Board") of Ricoh USA, Inc. ("Corporation"), hereby consent and agree, pursuant to Section 1701.54 of the Ohio Revised Code and the Regulations of the Corporation, to adopt the following Resolutions, with the same effect as if they had been duly adopted at a meeting of the Board of the Corporation, duly called and constituted pursuant to the laws of the State of Ohio:

Appointment of Officers

**RESOLVED**, that each individual listed below be, and hereby is: (1) confirmed as an officer of the Corporation ("Officer") to serve at the pleasure of the Corporation until his or her successor has been duly appointed and duly qualified, or, if earlier, until his or her removal, resignation or other termination of employment; (2) incumbent in the office and title specified opposite his or her respective name; and (3) vested with the power and authority to enter into, execute and deliver on behalf of the Corporation ("Signing Authority") such instruments, documents, certificates, agreements, stock certificates, contracts, real estate leases, equipment or vehicle leases, bills of sale, purchase orders, and other items of any description, including, without limitation, any amendments or addenda thereto, which may be required in conducting the Corporation's business (collectively, the "Agreements"), and otherwise to act on behalf of the Corporation.

<u>NAME</u>	<u>TITLE</u>
Dennis Dispenziere	Senior Vice President, Chief Financial Officer and Treasurer
Jami Segota	Senior Vice President, General Counsel and Secretary
Samuel P. Martin	Assistant Secretary
Yasuyuki Shimazu	Assistant Treasurer
Barry Sandin	Assistant Treasurer

; and it is

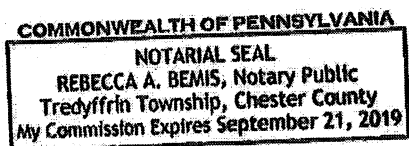
**FURTHER RESOLVED**, that each Officer of the Corporation be, and hereby is, authorized and empowered in the name and on behalf of the Corporation to enter into, execute and deliver, and to designate such other person or persons to enter into, execute and deliver, without limitation, any Agreements relating to the Corporation; and it is

**FURTHER RESOLVED**, that any of the above Officers, in writing, may delegate his or her above Signing Authority to a duly appointed designee to enter into, execute and deliver in the name and on behalf of the Corporation such Agreements, limited, however, to the extent that such designees may not enter into, execute or deliver Agreements which exceed the authority of the individuals granting to them such authority; and it is

Commonwealth of Pennsylvania )  
 )SS:  
County of Chester )

I certify that the attached copy of the Ricoh USA, Inc. Board Consent dated October 1, 2017 is a true, correct and complete copy of the original.

In witness hereof, I hereunto set my hand and official seal on May 24, 2018.



Robert

Rebecca A. Bemis, Notary Public  
My Commission expires September 21, 2019

Authorization of Banking Authority to Certain Officers

**FURTHER RESOLVED**, that any one of Jeffrey A. Briwick, Dennis Dispenziere, Jami Segota, Yasuyuki Shimazu and Barry Sandin, and such authorized designees confirmed by them in writing, (each of the foregoing named individuals and their designees referred to hereafter as "Banking Officers"), be and hereby are authorized and empowered to open, continue, maintain and close bank accounts for the Corporation or any of its subsidiaries, with any bank designated by them, and to designate or terminate the designation of persons (who may include the person making such designation) authorized to sign all checks, notes and orders for the payment of money, drawn or payable against any such account, which checks, notes and orders may be drawn or payable to the order of any person, firm or Corporation whatsoever, including without limitation those drawn or endorsed to the order of any person signing same; and it is

**FURTHER RESOLVED**, that any of the Banking Officers be and hereby are authorized and empowered for and on behalf to the Corporation to establish and maintain one or more accounts with any member firm of a national or regional securities exchange ("Broker") for the purpose of purchasing, investing in, selling, transferring, exchanging or otherwise disposing of, and generally dealing in and with any and all forms of securities including but not limited to, shares, stocks, options, listed or over-the-counter options, bonds, debentures, notes, scrip, evidences of indebtedness, participation certificates, mortgages, mortgage-backed securities, contracts, certificates of deposit, commercial paper, subscription rights, warrants, and certificates of interest of any and every kind and nature whatsoever, secured or unsecured, whether represented by certificate or otherwise (the "Property"); and it is

**FURTHER RESOLVED**, each Broker may be designated an agent of the Corporation to hold the Property and may be authorized to receive, hold and deliver any funds, securities or other Property within or without the United States, registered in or transferred into the name of the Broker or its nominee (s) or the name of one or more custodians or nominees thereof. Each Broker may either directly or through custodians retain unregistered securities or deposit the certificates representing such securities, in bulk with a central certificate depository, so that transfer of ownership of such securities may be made by bookkeeping entry on the books of such depository; and it is

**FURTHER RESOLVED**, that the authority of each of said Banking Officers or agents shall continue until any Broker or bank shall receive from the Corporation a written notice of revocation thereof; and it is

Appointment of Executive Nomination and Compensation Committee

**FURTHER RESOLVED**, that the following individuals be, and hereby are, appointed to serve as the Executive Nomination and Compensation Committee ("ENCC") in the roles set forth opposite their respective names below:

Akira Oyama, Chairman of the ENCC  
Joji Tokunaga, Secretary of the ENCC  
Donna Venable, ENCC Member

; and it is

Ratification

**FURTHER RESOLVED**, that any Officer or Additional Officer of the Corporation be, and hereby is, authorized to do any and all things and to execute and deliver any and all Agreements necessary or appropriate to carry out the purpose and intent of the foregoing resolutions; and it is

**FURTHER RESOLVED**, that all acts and things heretofore done by any of the Officers or Additional Officers of the Corporation, on or prior to the date hereof, in connection with the transactions contemplated by any of the foregoing resolutions be, and hereby are, ratified, confirmed and approved in all respects, and it is to be conclusively presumed from the actions of any such Officer or Additional Officer that he or she is authorized to do so on behalf of the Corporation; and it is

**FURTHER RESOLVED**, that the Secretary or any Assistant Secretary be, and hereby is, authorized and empowered to attest and affix the corporate seal to any and all Agreements, and to certify as to the adoption of the foregoing resolutions, the incumbency of the Officers or Additional Officers of the Corporation or an authorized designee, or any non officer authorized above, the Regulations and/or Articles of Incorporation of the Corporation, and any and all other matters as may be required in connection with the consummation of the transactions contemplated by the foregoing resolutions.

For all purposes, facsimile or electronic signature(s) shall constitute and shall have the same effect as original signatures and this consent may be signed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the undersigned have duly executed this written consent effective as of the 1<sup>st</sup> day of October, 2017.

\_\_\_\_\_  
Jeffrey A. Briwick  
Director

\_\_\_\_\_  
Akira Oyama  
Director

\_\_\_\_\_  
Joji Tokunaga  
Director

Ratification

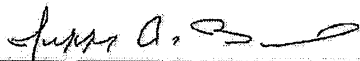
**FURTHER RESOLVED**, that any Officer or Additional Officer of the Corporation be, and hereby is, authorized to do any and all things and to execute and deliver any and all Agreements necessary or appropriate to carry out the purpose and intent of the foregoing resolutions; and it is

**FURTHER RESOLVED**, that all acts and things heretofore done by any of the Officers or Additional Officers of the Corporation, on or prior to the date hereof, in connection with the transactions contemplated by any of the foregoing resolutions be, and hereby are, ratified, confirmed and approved in all respects, and it is to be conclusively presumed from the actions of any such Officer or Additional Officer that he or she is authorized to do so on behalf of the Corporation; and it is

**FURTHER RESOLVED**, that the Secretary or any Assistant Secretary be, and hereby is, authorized and empowered to attest and affix the corporate seal to any and all Agreements, and to certify as to the adoption of the foregoing resolutions, the incumbency of the Officers or Additional Officers of the Corporation or an authorized designee, or any non officer authorized above, the Regulations and/or Articles of Incorporation of the Corporation, and any and all other matters as may be required in connection with the consummation of the transactions contemplated by the foregoing resolutions.

For all purposes, facsimile or electronic signature(s) shall constitute and shall have the same effect as original signatures and this consent may be signed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the undersigned have duly executed this written consent effective as of the 1<sup>st</sup> day of October, 2017.

  
\_\_\_\_\_  
Jeffrey A. Briwick  
Director

\_\_\_\_\_  
Akira Oyama  
Director

\_\_\_\_\_  
Joji Tokunaga  
Director

