

NASPO ValuePoint  
**PARTICIPATING ADDENDUM**



**COPIERS AND MANAGED PRINT SERVICES**  
Led by the State of Colorado

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Master Agreement #: **140602**

Contractor: **Ricoh USA, Inc.**

Participating State or Entity: Wisconsin

**The following products and services are included in this contract portfolio:**

- Group A – MFD, A3
- Group B – MFD, A4
- Group C – Production Equipment
- Group E – Large/Wide Format Equipment
- Group F – Scanners
- Supplies
- Software
- Accessories for Discontinued Base Units

1. **Scope:** This Addendum covers the NASPO ValuePoint Master Agreement for Copiers and Managed Print Services led by the State of Colorado, for use by state agencies and other entities located in the Participating State/Entity and authorized by that state's statutes to utilize state contracts with the prior approval of the state's Chief Procurement Officer.

Software installation Services shall be restricted to the installation and support of the approved Software list and the Equipment on the contract. Any Software installation Services in excess of \$50,000 must be approved in writing by the State of Wisconsin Department of Administration. The following items were excluded from the original solicitation: cameras, interactive white boards, micrographic equipment and overhead projectors.

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

3. **Order of Precedence:**

- a) A Participating Entity's Participating Addendum;
- b) NASPO ValuePoint Master Agreement Terms & Conditions, including all Exhibits;
- c) Attachment A – Master Lease Agreement
- d) An Order issued against the Master Agreement;
- e) The Solicitation, RFP-NP-18-001, Copiers and Managed Print Services;

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- f) The Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State; and
- g) The Contractor's Supplemental Documents, including all Attachments.

**4. Term of the Master Agreement:**

- a) **Initial Term:** The Parties' respective performances under the Master Agreement commenced on August 7, 2019, and shall terminate on December 31, 2021, unless terminated sooner, as specified in **Section 6.10, Defaults and Remedies**, of the Master Agreement.
- b) **Extension:** The Master Agreement may be extended beyond the original contract period for up to three (3) consecutive one (1) year additional terms, upon the mutual agreement of the Lead State and Contractor, via written Amendment. The total duration of the Master Agreement, including any extensions, shall not exceed five (5) years.

**5. Participating State or Entity Modifications or Additions to the Master Agreement:** The following are items that each Participating State or Entity should consider when drafting a Participating Addendum:

- a) **State specific terms and conditions:** Participating States or Entities may add statutory terms required to execute a Participating Addendum. The Master Agreement Terms and Conditions should be reviewed to ensure there is no conflict with what your state may accept. The Master Agreement Terms and Conditions are intended to be utilized as a baseline for state specific requirements.
- b) **Administrative Fees:** The Master Agreement allows Participating States and Entities to incorporate an administrative fee into the published Master Agreement pricing.
- c) **Supplemental Documents:** The Contractor's Supplemental Documents are attached to the Master Agreement as **Attachment A through Attachment I**. Each Participating State or Entity is responsible for negotiating the terms and conditions of each of these documents, if they so choose. The Lead State has only negotiated the language to the extent it aligns with the Master Agreement Terms and Conditions; however, any further negotiations are at the discretion and responsibility of the Participating State or Entity.
- d) **Authorized Dealers:** All Contractor approved Dealers are listed in **Exhibit D (Authorized Dealers by State)**. The Participating State or Entity may limit the number of Dealers they use, and/or request that the Contractor approve additional Dealers. The Contractor Dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Price Agreement.
- e) **Product Offerings:** The Contractor is authorized to provide Products as referenced on the first page of this template, and as detailed in **Section 4.3, Product Offerings**, of the Master Agreement. Each Participating State or Entity shall determine what Product Offerings they will limit, if any, in their Participating Addendum. Additional consideration should be given to the following:

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- **Third-Party Software**
- **Consumable Supplies**
- **Remanufactured/Refurbished Equipment**
- **Open Market Items**
- **Emerging Technologies**

**f) Service Offerings:** The Contractor is authorized to provide Services as referenced on the first page of this template, and as detailed in **Section 4.4, Service Offerings**, of the Master Agreement. Each Participating State or Entity shall determine what Service Offerings they will limit, if any, in their Participating Addendum. Additional consideration should be given to the following:

- **Managed Print Services – Exhibit C (Sample MPS Statement of Work)**, of the Master Agreement, provides a framework for any ensuing MPS engagement. Prior to any commencement, all MPS engagements must be agreed to and signed by both Purchasing Entity and Contractor.
- **Maintenance Agreements:**
  - Automatic renewals are not permitted under the Master Agreement
  - Contractor shall have the ability to blend the Service and Supply costs over a large Equipment fleet
  - **Manual Meter Reads** - As part of its Services, Contractor may, at its discretion and dependent upon device capabilities, provide electronic remote meter reading and equipment monitoring. 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
  - **Customer-Owned Equipment**
  - **Lease or Rental Equipment**
  - **Legacy Equipment**
- **Service Requirements** – Participating States and Entities may negotiate their own Service Level Agreement (SLA) with the Contractor; however, the minimum requirements are outlined in **Section 4.4.3(b)** of the Master Agreement. Additional consideration should be given to the following:
  - **Service Level Calculations**
  - **Reporting**

**g) Purchase, Lease, and Rental Programs:** Per **Section 4.5** of the Master Agreement the Contractor is authorized and/or required to provide and adhere to the following:

- **Acquisition Methods** – Participating States and Entities should determine which options they will allow:

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- Purchase
  - Fair Market Value (FMV) Lease
  - \$1 Buyout Lease
  - Straight Lease
  - Cancellable Rental
  - Short-Term Lease
- **Leasing and Rental Terms and Conditions** – Equipment leases and rentals are subject to the Terms and Conditions as set forth in the Master Agreement, and as negotiated by the Participating State or Entity.

**h) Security Requirements:**

- Per **Section 4.6.2, Sensitive Information**, of the Master Agreement, the Participating State or Entity shall define “sensitive data” as either Confidential and Personally Identifiable Information as below:

“Confidential Information” means all information and materials being disclosed in connection with this Contract, in any form or medium without regard to whether the information is owned by the State or by a third party, which satisfies at least one of the following criteria: (i) Personally Identifiable Information; (ii) Proprietary Information; (iii) non-public information related to the State’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or (iv) information expressly designated as confidential in writing by the State. Confidential Information includes all information that is restricted or prohibited from disclosure by state or federal law.

“Personally Identifiable Information” means an individual’s last name and the individual’s first name or first initial, in combination with and linked to any of the following elements, if that element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable: (a) the individual’s Social Security number; (b) the individual’s driver’s license number or state identification number; (c) the number of the individual’s financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual’s financial account; (d) the individual’s DNA profile; or (e) the individual’s unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other information protected by state or federal law.

“Proprietary Information” means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

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a. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

b. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

- Per **Section 4.6.5, Hard Drive Removal and Surrender**, of the Master Agreement, the Participating State or Entity shall determine which hard drive disposal options they will require.

**i) Shipping and Delivery Requirements**

All pricing shall be FOB Destination Freight Prepaid and Allowed where the Contractor prepays the transportation charges and such charges are already included in the Contract Price. See Section 5.17 for more information.

- j) **Inspection and Acceptance:** Per **Section 4.10.3** of the Master Agreement, confirmation of Product Acceptance occurs upon signature of **Exhibit B (Sample D&A Certificate)**, or within five (5) Business Days after Product install, unless otherwise stated in a Participating Addendum.

- k) **Warranty Requirements** – The Contractor must adhere to the warranty requirements as outlined in **Section 4.11** of the Master Agreement; however, Participating States and Entities may negotiate additional requirements with the Contractor.

Participating State or Entity must check one of the boxes below. These modifications or additions apply only to actions and relationships within the Participating State or Entity. A Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to their contractual relationship with the Contractor under the Terms and Conditions of the State of Colorado NASPO ValuePoint Master Agreement.

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

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

**5.1 Definitions:** For purposes of this Agreement, the following terms shall have the meanings defined below. Any other capitalized terms in this Participating Addendum not otherwise defined in this Participating Addendum shall have the meanings as the defined terms provided in the Master Agreement.

“Business Day” means any day on which the Contracting Agency is open for business.

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“Contracted Personnel” means a Contractor’s employees or other personnel (including officers, agents and Subcontractors) provided by the Contractor to render Services under this Contract.

“Contracting Agency” means the Agency entering into this Contract on behalf of the State.

“Day” means calendar day unless otherwise specified in this Contract.

“Deliverables” mean the tangible work product originally created in the performance of the Contractor Services and required to be delivered pursuant to mutually agreed Statements of Work.

“Properly-submitted Invoice” is one that is submitted in accordance with instructions contained on the State’s Purchase Order, includes a reference to the proper Purchase Order number, and is submitted to the proper address for processing.

“Subcontractor(s)” means Contractor’s subcontractors used in the delivery of Contractor Services and excludes Cloud Hosting Providers.

**5.2 Governing Law; Venue:** This Participating Addendum and its amendments and exhibit thereto, shall be governed by Wisconsin Law. Venue for all legal proceedings arising out of the Participating Addendum, or breach thereof, shall be in the State or federal court with competent jurisdiction in Dane County, Wisconsin. In the event that any provision of this Participating Addendum is contrary to Wisconsin law, such provision shall be null and void. The Contractor shall at all times comply with and observe all applicable federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this Participating Addendum and which in any manner affect the work or its conduct.

**5.3 Usage Reports:** The manufacturer must submit electronic reports on a quarterly basis and one annual summary report on all sales, including service/maintenance, made against this Participating Addendum to the Participating Entity primary contact listed in Section 8 or designee.

- a. Reports must include the reporting listed in Attachment P of the RFP. The column denoting the “Customer Type” shall indicate either “State” or “Municipality.”
- b. The report file format shall be Microsoft Excel compatible format and shall easily be sorted for various data and inclusion into a pivot table.
- c. The quarterly reports will be filed using the schedule in Section f below. The annual report shall contain all data within the quarterly reports and include an annual sum total with any additional description notes.

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- d. Such reports shall retain the same format throughout the life of the contract unless mutually agreed upon.
- e. The Contractor agrees to provide additional reports if requested by the State of Wisconsin in a format and frequency as mutually agreed upon by both parties.
- f. Period End                      Report Received By
 

June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

The annual summary report is provided after four (4) quarters of data is collected from the start of the Participating Addendum.

**5.4 Service Level Agreement (SLA) Report.**

- a. The Contractor must submit SLA metrics reports on a quarterly basis to the Participating State primary contact or designee.
- b. The Contractor must submit, upon request of the Purchasing Entity, SLA metrics reports on a quarterly basis to the Purchasing Entity.
- c. SLA reports must include reporting on each SLA and credit listed in Exhibit C. If no credit was required, such shall be indicated.
- d. Such reports shall retain the same format throughout the life of the Participating Addendum unless mutually agreed upon.
- e. The report file format shall be Microsoft Excel compatible format and shall easily be sorted for various data and inclusion into a pivot table.
- f. The quarterly reports will be filed using the schedule in Section f below. The annual SLA shall contain all data within the quarterly reports and include an annual sum total with any additional description notes.
- g. Period End                      Report Received By
 

June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

The annual SLA report is provided after four (4) quarters of data is collected from the start of the Participating Addendum.

**5.5 Hard Drive:** With respect to any Ricoh manufactured Products which contain a hard drive, the options for hard drive security are as set forth in Section 3.7.4 of Attachment CC of the Master

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Agreement. If desired, Purchasing Entity may engage Contractor to perform the following hard drive services, and the PO shall detail the service:

- a. **Hard Drive Surrender Service.** Under this option, a Contractor service technician can remove the hard drive from the applicable Product (set forth on a PO) and provide Purchasing Entity with custody of the hard drive before the Product is removed from the Purchasing Entity's location, moved to another department or any other disposition of the Product. The cost for the Hard Drive Surrender Services is \$250 per device.
- 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).

The Purchasing Entity and Contractor shall agree prior to hard drive handling what the Purchasing Entity needs are.

**5.6 Trial or Demonstration of Device or Equipment:** In addition to Section 4.8 of the solicitation, a written agreement between the Purchasing Entity and the Contractor shall occur prior to any trial or demonstration.

**5.7 Contractor's Representation:** Contractor warrants that qualified personnel shall provide Contractor Services in a workmanlike manner. Contractor shall not enter any agreement with a third party that it knows might abridge any rights of the State under this Agreement. Contractor shall serve as the prime contractor under this Agreement for the Contractor Services. Should Contractor engage any Subcontractor(s) to deliver Contractor Services pursuant to an SOW under this Agreement, the Contractor shall be legally responsible for the performance and payment of the Subcontractor(s). Subject to any applicable terms of use, Trade Rules and Practices applicable to the Cloud Hosting Services and any software provided under a SOW, the Participating Entity is not agreeing to and is not responsible for any terms and conditions with third parties. Names of any third-party Subcontractors of Contractor may appear for purposes of convenience in this Agreement and shall not limit Contractor's obligations hereunder. Contractor shall retain responsibility for functional and technical expertise as needed in order to incorporate any work by third party Subcontractor(s) in the delivery of Contractor Services.

- a. **Intellectual Property.** Contractor represents to the best of its knowledge that it has the right to provide the Contractor Services and Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party and that Contractor Services and Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
- b. **Inherent Services.** Unless otherwise expressly provided in this Agreement, Contractor shall furnish all of its own necessary management, supervision, labor, facilities, furniture,



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computer and telecommunications equipment, software, supplies and materials necessary for the Contractor to provide and deliver the Contractor Services and Deliverables.

- c. Contractor represents, as of the date of this Participating Addendum, that it has the financial capacity to perform and to continue perform its obligations under this Agreement; that Contractor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Contractor that will materially adversely affect performance of this Agreement; and that entering into this Agreement is not prohibited by any contract, or order by any court of competent jurisdiction.

**5.8 Rendering of Services:** The Contractor shall render services with all due skill, care, and diligence, in accordance with accepted industry practices and legal requirements, and to the requirements set forth in the Participating Addendum and a Purchase Order. The Purchasing Entity and/or Participating State may inspect, observe and examine the performance of the services rendered on the Purchasing Entity's premises at reasonable times, without notice. If the Purchasing Entity notifies the Contractor that any part of the services rendered are inadequate or in any way differ from the Participating Addendum requirements for any reason other than as a result of the Purchasing Entity's default or negligence, the Contractor shall at its own expense re-schedule and perform the work correctly within such reasonable times as the Purchasing Entity specifies. This remedy shall in be in addition to any other remedies available to the Purchasing Entity and/or Participating State by law or in equity.

**5.9 Contractor Personnel:**

- a. **Identification:** If requested by the Purchasing Entity, the Contractor shall provide a list of the names and addresses of all Contractor's employees, Contractor personnel, or subcontractor's employees who may at any time require admission to the Purchasing Entity's premises in connection with the rendering of services, specifying each such person's connection to the Contractor, the role the person is to take in the performance of the Participating Addendum, and other particulars as the Purchasing Entity may require. The Purchasing Entity reserves the right to refuse to admit to the Purchasing Entity's premises any person employed or contracted by the Contractor whose admission, in the sole opinion of the Purchasing Entity, would be undesirable.
- b. **Identification of Contracted Personnel:** The Contractor shall furnish each Contractor personnel with a means of identifying themselves as agents, subcontractors, or employees of the Contractor assigned to perform services under the Participating Addendum and furnish the Purchasing Entity with security credentials on these Contractor personnel, if requested.
- c. **Background or Criminal History Investigation:** When the Purchasing Entity business needs require a background or criminal history investigation, and prior to the commencement of any services under this Participating Addendum, the Purchasing Entity may request that Contractor provide a certification that a background or criminal history investigation of Contractor personnel, and subcontractor's employees, who will be providing services to the Purchasing Entity under the Participating Addendum has been

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performed on such personnel through either (a) Contractor's standard pre-employment screening processes or (b) a screening requested by the Purchasing Entity. If any of the stated personnel providing services to the Purchasing Entity under this Participating Addendum is not acceptable to the Purchasing Entity in its sole opinion as a result of the background or criminal history results, the Purchasing Entity may request immediate replacement of the person. If a replacement is not possible the Participating Entity may terminate any related Purchase Order. Purchasing Entity may not request that Contractor take action because of race, religion, gender, age, disability, or any other legally-prohibited basis under federal, state or local law.

**5.10 Repair or Service Refusal; Replacement Parts:**

- a. Contractor will repair or replace in accordance with the terms and conditions of the Participating Addendum and the manufacturer's specifications any part of the Products being services under a Purchase Order ("Serviced Products") that becomes unserviceable due to normal usage (other than consumable supplies).
- b. If the Purchasing Entity refuses repair or Serviced Products repair, a statement shall be placed in writing from the Purchasing Entity to Contractor as such. In an event where the Purchasing Entity does not permit Contractor to repair or replace the Serviced Products, such action shall excuse Contractor from any and all future performance hereunder.
- c. Replacement parts on leased or rental machines will be furnished on an exchange basis and will be new, reconditioned or used. Replacement parts for Purchasing Entity-owned equipment will be furnished as new equipment unless the Purchasing Entity accepts in writing replacement parts which are not new in exchange for an additional discount for such reconditioned or used parts, and to the extent such reconditioned or used parts will not adversely impact machine performance as determined by the operation of the machine in accordance with manufacturer's specifications.
- d. Except for hard drives on Purchasing Entity-owned equipment, all parts on leased or rental equipment removed due to replacement will become the property of the Contractor. Except for hard drives on Purchasing Entity-owned equipment, all parts on Purchasing Entity-owned equipment removed due to replacement may become the property of the Contractor if the Purchasing Entity does not want the equipment removed.

**5.11 Services not included under the Participating Addendum:** The Services provided by Contractor under a Purchase Order will not include the following:

- a. Contractor is responsible for communicating to the Purchasing Entity prior to a transaction any equipment requirements. Repairs resulting from Purchasing Entity misuse (including without limitation intentional improper voltage or the use of supplies that do not conform to the manufacturer's specifications) or the intentional failure to provide, adequate electrical power, air conditioning or humidity control;

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- b. Repairs made necessary by service performed by persons other than Contractor representatives;
- c. Service calls or work which Purchasing Entity requests to be performed outside of Normal Business Hours (unless covered under an extended hour service contract) and service calls or work which Purchasing Entity requests to be performed on State Observed Holidays;
- d. Removable cassette, copy cabinet, exit trays, or any item not related to the mechanical or electrical operation of the Serviced Products;
- e. Consumable paper supplies, unless expressly provided for in a Purchase Order;
- f. Repairs and/or service calls resulting from accessories not purchased from Contractor;
- g. Parts no longer available from the applicable manufacturer;
- h. Electrical work external to the Serviced Products, including problems resulting from overloaded or improper circuits;
- i. Installation or de-installation and/or movement of the Serviced Products from one location to another unless specified in writing by Contractor; and
- j. Repairs of damage or increase in service time caused by force majeure events. Damage to Serviced Products or parts arising from causes beyond the control of Contractor are not covered by this Participating Addendum.

**5.12 Service Termination:** Contractor may terminate its Service obligations under any Purchase Order at no additional cost to the Purchasing Entity for Serviced Products that have been modified, damaged, altered or serviced by personnel other than those authorized to perform service under this Participating Addendum.

**5.13 Service Calls:** Service calls will be made during Normal Business Hours. Purchasing Entity and Contractor can agree upon any exceptions in writing in advance before Contractor order acceptance or anytime thereafter. Service does not include coverage on State Observed Holidays. Travel and labor-time for the service calls after Normal Business Hours, on weekends and on State Observed Holidays, if and when available and only in the event and to the extent that Contractor agrees to provide such non-standard coverage, will be charged at overtime rates per the Master Agreement in effect at the time the service call is made.

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Purchasing Entity is responsible for disconnecting, repairing and re-connecting unauthorized attachments or components.

**5.14 Use of Recommended Supplies; Meter Readings:**

- a. Purchasing Entity agrees to provide Contractor true and accurate meter readings monthly and in any reasonable manner requested by Contractor, whether via telephone, email or otherwise. If accurate meter readings are not provided on a timely basis, Contractor reserves the right to estimate the meter readings from previous meter readings and Purchasing Entity 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.
- b. As part of its services and upon written mutual agreement between Purchasing Entity and Contractor, Contractor may 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 Serviced Product failure and may enable firmware upgrades. The Purchasing Entity may choose to discontinue electronic meter reading and equipment monitoring services with 30 days written notice. All Purchasing Entity data collected from such meter collection methods shall be available to the Purchasing Entity as mutually agreed upon.
- c. 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 Purchasing Entity document content or user information.** Contractor uses reasonably available technology to maintain the security of the Data; however, Purchasing Entity acknowledges that no one can guaranty security of information maintained on computers and on the internet. Contractor retains full rights to the Data (but not Purchasing Entity documents or information), which it or its authorized third parties may use to service the Serviced Products. Contractor 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 Purchasing Entity nor will such data be sold. Contractor may dispose of the Data upon following Wisconsin Statutes Chapter 19, Subchapter II, Public Records and Property and with notice to the Purchasing Entity. The @Remote technology is the confidential and proprietary information of Contractor and/or its licensors protected by copyright, trade secret and other laws and treaties. Contractor retains full title, ownership and all intellectual property rights in and to @Remote.

**5.15 Basic Connectivity Services:** If any software, system support or related connectivity services are specifically set forth on a Purchase Order and accepted by Contractor, Contractor shall

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provide any such services at the Purchasing Entity's location set forth in the Purchase Order, as applicable, or on a remote basis. Purchasing Entity shall provide Contractor with such access to its facilities, networks and systems as may be reasonably necessary for Contractor to perform such Services. Purchasing Entity shall provide any special security requirements for the location prior to service. Purchasing Entity acknowledges that Contractor's performance of any such services is dependent upon Purchasing Entity's timely and effective performance of its responsibilities as set forth in the Purchase Order, as applicable. Unless connectivity services are specifically identified in the Purchase Order as part of the services to be performed by Contractor, Contractor shall have no obligation to perform and no responsibility for the connection of any hardware or software to any Purchasing Entity network or system.

**5.16 Purchasing Entity Obligations:** Purchasing Entity 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. Purchasing Entity will provide adequate facilities (at no charge) for use by Contractor representatives in connection with the service of the Serviced Products under a Purchase Order within a reasonable distance of the Serviced Products. Purchasing Entity agrees to provide appropriate access to its facilities, networks and systems as may be reasonably necessary for Contractor to perform its services. Prior to service, Contractor may request the Purchasing Entity to allow the Contractor for "360 degree" service access to the Serviced Products. Purchasing Entity will provide a key operator for the Serviced Products and will make identified key operators or their designees available for instruction in use and care of the Serviced Products. Unless otherwise agreed upon by Contractor in writing or designated in the applicable Purchase Order, all supplies for use with the Serviced Products will be provided by Purchasing Entity and will be available "on site" for servicing.

**5.17 Delivery; Acceptance:** Purchasing Entity agrees to confirm delivery of all Products covered by each Purchase Order when the same is delivered by signing a delivery acknowledgement. By signing a delivery acknowledgement, it is not certifying acceptance of the equipment. Unless otherwise agreed upon by both parties in writing, signing the delivery acknowledgement only certifies equipment has arrived to the location delivered.

A good or service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the goods or services do not conform with the specifications identified in this Contract and Solicitation ("Defects"), the Purchasing Entity shall within thirty (30) calendar days of the delivery date ("Acceptance Period") to notify Contractor in writing of the Defect. Contractor agrees that upon receiving such notice, it shall use reasonable efforts to correct the Defects within fifteen (15) calendar days ("Cure Period").

Once equipment is installed and successfully operational, the Purchasing Entity shall sign an acceptance certificate which shows acceptance of the Product(s) and allows Contractor to invoice for the Product(s). Purchasing Entity agrees to sign and return to Contractor the acceptance certificate (which, at mutual agreement, may be done electronically) within three (3) business days after any Product is installed.

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Purchase Orders may be cancelable by Purchasing Entity following acceptance by Contractor per the terms of the Participating Addendum. Contractor reserves the right to make Product deliveries in installments. All such installments shall be invoiced and paid for when all delivery and installation are completed so that Purchasing Entity can accept equipment. Delay in delivery of any installment may relieve Purchasing Entity of its obligation to accept remaining installments and may temporarily relieve the obligation to remit payments as invoiced by Contractor for any equipment that has yet to be delivered and shall be reviewed on a case-by-case basis. Contractor reserves the right at any time to revoke any credit extended to Purchasing Entity because of Purchasing Entity's failure to pay for any Products when due per the terms of this Participating Addendum.

**5.18 Returns; Damaged Products:** No Products may be returned without Contractor's prior written consent. Only consumable goods invoiced within sixty (60) days will be considered for return. Products returned without written authorization from Contractor may not be accepted by Contractor and is the sole responsibility of Purchasing Entity. All nonsaleable merchandise (that has been opened or partially used) will be deducted from any credit due to Purchasing Entity. All claims for damaged Products or delay in delivery shall be deemed waived unless made in writing and delivered to Contractor within ten (10) business days after receipt of Products.

**5.20 IP Rights:** Proprietary materials licensed to the State in the delivery of Contractor Services shall be identified to the State prior to use or provision of Contractor Services hereunder and shall remain the property of the Contractor. Software or firmware embedded in a Deliverable shall not be a severable Deliverable unless specifically indicated in an SOW. All Software source and object code is the property of Contractor or Contractors Subcontractors and is only licensed to the State on a nonexclusive basis as provided in the applicable Statement of Work, in consideration for the license fee paid by the State, pursuant to the terms of the respective governing software license.

**5.21 Representations:** By submitting a Deliverable, the Contractor represents that, to the best of its knowledge, it has performed the associated tasks in a manner so that the Deliverables will, as delivered meet the specifications stated or referred to in this Agreement or SOW. The parties acknowledge and agree that the State's Acceptance of a Deliverable indicates only that the State has reviewed the Deliverable and detected no material deviations from the agreed specifications ("Deficiencies") at that time and that the State's Acceptance of a Deliverable does not discharge any of the Contractor's obligations under this Agreement for the provision of Contractor Services and Deliverables per the specifications of a SOW.

**5.22 Contractor Personnel:** The State may request the Contractor to remove or reassign Contractor personnel assigned to perform Contractor Services ("Contractor Personnel") at the State's discretion for any lawful reason or if the performance or conduct of such personnel is unsatisfactory. The State may request that such Contractor Personnel be replaced within fifteen

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(15) business days from such removal. The State's contract administrator shall notify the Contractor in writing and the exclusion of a designated individual(s) shall take effect as soon as reasonably practicable provided that the parties shall first discuss alternatives to removal as may be requested by Contractor in writing, however the State reserves the right to deny entry or to request the immediate removal of any Contractor Personnel for any lawful reason from any of its facilities based on security or safety concerns. The decision of the contract administrator following such discussions if any shall be final. This provision shall not infringe upon the right of the Contractor to employ the removed individual, nor shall the State's rights under this provision implicate the State as a party to any of the Contractor's obligations in the Agreement. To the extent that departing Contractor Personnel provide adequate notice to the Contractor, Contractor shall use commercially reasonable efforts to obtain a smooth transition at no additional charge to the State, including the provision of knowledge transfer documentation and cooperation between the replaced and the newly assigned personnel including an overlap in the assignment of the replaced and newly assigned personnel for a duration of at least ten (10) business days, unless the State's contract administrator agrees to a shorter period in writing.

**5.23 Warranty:** Contractor agrees to perform its Services in a professional manner, consistent with applicable industry standards. For any Products manufactured by Contractor ("Contractor Equipment"), Contractor's warranty is as set forth in Section 4.11 of the Master Agreement, Contractor's response to the solicitation, and the Participating Addendum. PURCHASING ENTITY ACKNOWLEDGES THAT THE LIMITED WARRANTY CONTAINED HEREIN AND THEREIN DOES NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE CONTRACTOR EQUIPMENT. In connection with any other Product sale, Contractor shall transfer to Purchasing Entity 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 Contractor to Purchasing Entity upon Purchasing Entity's written request. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARTICIPATING ADDENDUM, 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. 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 PARTICIPATING ADDENDUM OR ANY PO, 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. CONTRACTOR'S TOTAL AGGREGATE LIABILITY TO ANY PURCHASING ENTITY, IF ANY, UNDER ANY PO, SHALL IN NO EVENT EXCEED THE TOTAL FEES PAID TO CONTRACTOR THEREUNDER DURING THE ONE-YEAR PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. IN NO EVENT SHALL CONTRACTOR BE LIABLE TO ANY PURCHASING ENTITY FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE OF ANY SOFTWARE PROVIDED UNDER AN PO, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, OR DELAY OF DELIVERY OF SERVICES UNDER THE PO. CONTRACTOR ASSUMES NO OBLIGATION TO PROVIDE OR INSTALL ANY ANTI-VIRUS OR SIMILAR SOFTWARE AND THE SCOPE OF

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SERVICES CONTEMPLATED UNDER A PO DOES NOT INCLUDE ANY SUCH SERVICES. Purchasing 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 database subscription rights (“Software License”), whether pursuant to written, click-through, shrink-wrap or other agreements for such purpose, with the third party supplier of the software (“Software Supplier”). Contractor has no right, title or interest in any third-party software. Purchasing Entity is solely responsible for negotiating terms and entering into Software Licenses with the applicable Software Supplier. Contractor transfers to Purchasing Entity, for the term of each PO for lease or rental, any written warranties and the benefit of any indemnities made by the manufacturer or Software Supplier with respect to the Product leased or rented pursuant to such PO.

**5.24 Warranty Of Third Party Products:** The Parties agree that, because the Contractor is not the manufacturer or developer of third party vendors’ products or services, any third-party vendors’ products and services provided hereunder are not warranted by Contractor and any warranties shall solely under the terms and conditions of the third-party licenses or other agreements extended directly to the State by the third-party vendor and by which such products are governed. Contractor shall pass through to the State any warranty and indemnification rights available for pass through to the State from the manufacturers or vendors of such products and services comprising the Deliverables. Such third-party warranty coverage shall not relieve the Contractor from Contractor’s warranty obligations for Contractor’s Services as provided herein.

**5.25 Payment Terms And Invoicing:** Pricing shall be set forth in the individual Statements of Work. Payments terms are as follows, unless otherwise agreed to a Statement of Work:

- a. All invoices shall include Contractor’s tax identification number and a detailed description of Services rendered. If the State fails to pay a properly submitted invoice within thirty (30) Days of receipt, it shall pay a late payment penalty as provided in s. 16.528, Wis. Stats. However, if the State declares a good faith dispute in regard to an invoice pursuant to s. 16.528 (3)(e), Wis. Stats., it shall pay any undisputed portion of said invoice, and will be excused from the prompt payment requirement for the disputed portion pending resolution of the dispute, provided it gives timely notice of such dispute to Contractor in writing and escalates the matter through the dispute resolution process in section 5.30 of this Agreement.
- b. All purchase orders issued by Participating Entities under this Participating Addendum shall include the Participating State contract number: SPO Price List Contract No. 505ENT-M20-MFDCOPIER-01 and the Lead State, State of Colorado-State Cooperative Contract Number 140602. Participating Entities may use a PCard, subject to its credit limit, or issue a purchase order, provided that any additional or different terms of such PCard or purchase order shall not apply.
- c. Contractor shall forward invoice(s), directly to the ordering agency. Purchase Orders and Payments shall be made to Contractor.



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**5.26 Taxes:** The Participating State and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below. The Participating State, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The Participating State may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials. Purchasing Entities other than State agencies may or may not be subject federal tax and Wisconsin state and local taxes. It is the responsibility of the Purchasing Entity to provide the Contractor with the appropriate tax exemption information.

**5.27 Pricing and Discount:** Contractor's stated prices approved and agreed to with NASPO under the Master Price Agreement shall apply to this Participating Addendum and its SOWs unless otherwise mutually agreed for a specific SOW and is attached hereto as Exhibit A. The State of Wisconsin qualifies for governmental discounts, if available; and its educational institutions also qualify for educational discounts, if available. The Contractor may offer, within written quotes, a greater discount than the approved minimum discount for the State of Wisconsin, volume purchases or for competitive reasons.

Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency sixty (60) calendar days before the proposed effective date of the price increase. Prices applicable under a particular SOW shall be subject to any price increase restrictions and notice requirements agreed upon in the SOW.

- a. Purchasing Entities will be allowed to negotiate any of the purchase and lease options available in the Master Agreement for lower pricing.
- b. Monthly lease pricing shall not increase over the lease term unless an accessory is added.
- c. If a Purchasing Entity adds or removes accessories, the Purchasing Entity and Contractor shall agree upon the new monthly lease price prior to the lease rate change to reflect the machine change.
- d. Purchasing Entity may negotiate a lower rate for volume placements.

**5.28 Right to Assurance:** If the State in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing under this Agreement, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within thirty days, from Contractor's receipt of such notice may, at the State's option, be the basis for terminating the Agreement for the State's convenience per the terms of this Agreement or other rights and remedies available by law.

**5.29 Right of Offset:** Upon written notice, the State may offset against contractual payments due to the Contractor in an amount necessary to satisfy a certified or verifiable delinquent payment

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owed by the Contractor to the State of Wisconsin or any local unit of government in Wisconsin that is not under formal written appeal. The State also reserves the right to cancel this Agreement as provided in Section 5.32.2 Termination, if a delinquency is not satisfied by the offset or other means during the Agreement Term.

**5.30 Contractor Compliance and Responsibility for Actions:** The Contractor shall at all times comply with and observe all Federal, State, and local laws, ordinances, and regulations that are in effect during the term of this Agreement that govern Contractor's business and operations. The Contractor shall be solely responsible for its actions and those of its agents, employees, or Subcontractors under this Agreement, and neither the Contractor nor any of the foregoing parties has authority to act or speak on behalf of the State.

**5.31 Renegotiation of Agreement:** Each party shall have the right to request the other renegotiate the terms and conditions of this Agreement to the extent required to accommodate a change in governing law or policy that, in the sole discretion of the requesting party, either substantially and unreasonably changes the its duties hereunder, or renders performance, enforcement or compliance with the totality of the Agreement impossible, patently unreasonable, or unnecessary.

**5.32 Term and Termination:**

5.32.1 This Agreement shall end conterminously with the Master Agreement, provided that any Statements of Work or Leases entered into prior to expiration or termination of this Agreement shall survive such expiration of the Master Agreement, for the term stated in the Statement of Work, and continue to be subject to its terms.

- a. The Purchasing Entity may terminate a specific Purchase Order issued under this Participating Addendum if the Contractor is unable to render the services or provide the Products required in a timely manner in accordance with the terms of the PO, in order to meet the business needs of the Purchasing Entity, which inability shall remain uncured following thirty (30) days written notice to the non-performing party.

5.32.2. **TERMINATION FOR CAUSE.** The State may terminate this Contract after providing the Contractor with thirty (30) Days written notice of the Contractor's right to cure a failure of the Contractor to perform under the terms of this Contract.

The Contractor may terminate this Contract after providing the State with thirty (30) Days written notice of the State's right to cure a failure of the State to perform under the terms of this Contract.

5.32.3 **TERMINATION FOR CONVENIENCE.** The State may terminate this Contract at any time, without cause, by providing a written notice to the other party at least sixty (60) Days in advance of the intended date of termination.

Contractor may terminate this Contract at any time, without cause, by providing a written notice to the other party at least sixty (60) Days in advance of the intended date of termination.



















