

COPIERS & MANAGED PRINT SERVICES

Led by the State of Colorado

Master Agreement #: **140604**

Contractor: **TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.**

Participating Entity/State: **STATE OF OREGON**

On or about August 7, 2019, the State of Colorado (“Lead State”) issued a Request for Proposal, #RFP-NP-18-001 on behalf of the member states of the NASPO ValuePoint Cooperative Purchasing Program (“NASPO ValuePoint”), and other purchasing entities seeking offers from qualified and responsible proposers to provide *Copiers and Managed Print Services*. Lead State executed Master Agreement No. 140604 with Toshiba America Business Solutions, Inc. (“Contractor”) which consists of contract terms and conditions and other attachments (“Master Agreement”).

The State of Oregon (“State” or “Oregon”) is a member of NASPO ValuePoint. The State, by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services (“DAS PS”), on behalf of the State of Oregon and its agencies and members of the Oregon Cooperative Procurement Program (“ORCPP”) (“Purchasing Entity” or “Authorized Purchasers” as defined in Exhibit 1), has elected to participate in the Master Agreement, subject to the terms and conditions of this Addendum as a Participating State, also and in the alternative referred to in the Master Agreement as a Participating Entity. This Addendum is effective when all necessary approvals have been obtained and signed by the parties (“Effective Date”).

DAS PS and Contractor agree:

Master Agreement Terms and Conditions:

1. SCOPE:

1.1. Products and Services Available under Addendum. This Addendum covers the *Copiers and Managed Print Services* led by the State of Colorado for use by state agencies and other entities located in the Participating State authorized by that State’s statutes to utilize State contracts with the prior approval of the State’s Chief Procurement Officer.

The following Products and Services are included in this Addendum:

- Group A – MFD, A3
- Group C – Production Equipment
- Group D – Single-function Printers

- Group E – Large/Wide Format Equipment
- Group F – Scanners
- Managed Print Services (MPS)
- Supplies
- Software

The following Products or Services are **not** included in this Addendum: None

1.2. Terms and Conditions; Order of Precedence. This Addendum contains additional terms and conditions applicable to individual Contracts between Contractor and Authorized Purchasers. In the event of a conflict between the terms and conditions of this Addendum, the Master Agreement, and a Contract, the following descending order of precedence applies:

- 1) This Addendum less it's exhibits;
- 2) Exhibit 1 of this Addendum (Oregon Specific Terms and Conditions);
- 3) Special Terms and Conditions of a Contract;
- 4) Master Agreement, Attachment A, Toshiba Lease Agreement;
- 5) Statement of Work of a Contract;
- 6) Additional insurance requirements of a Contract;
- 7) Exhibit 2 of this Addendum (Insurance);
- 8) Exhibit 3 of this Addendum (Contractor Data);
- 9) Exhibit 5 (Vendor Collected Administrative Fee/Volume Sales Report);
- 10) Exhibit 4 of this Addendum (Purchase Order form); and then
- 11) Terms and conditions of the Master Agreement and its exhibits and attachments less Attachment A, Toshiba Lease Agreement.

1.3. The above referenced documents are hereby incorporated by this reference. Nothing in this Addendum limits Contractor's obligations under the Master Agreement unless otherwise noted herein. If a Contractor obligation in this Addendum conflicts with a Contractor obligation of the Master Agreement, the order of precedence in this Section 1 applies.

1.4. All Contractor terms and conditions or other provisions included in any preprinted or online Contractor materials, guidelines, specifications, underlying Contractor agreements or Contractor policies, or any other provisions related to the Products and/or Services now existing and not referenced or included in this Addendum or published by Contractor after the Effective Date of this Addendum and not added through the amendment process are subject to the terms and conditions of this Addendum and last on the order of precedence set forth above.

2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Oregon. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Officer.

Verification: Contractor shall verify that it provides Products and/or Services under this Addendum only to Authorized Purchasers. Contractor may verify that a particular entity is an ORCPP member on-line at:

<http://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx>

or by using the Oregon Procurement Information Network (ORPIN) at:

<http://orpin.oregon.gov/open.dll/welcome>

3. **Primary Contacts:** The primary contact individuals for this Addendum are as follows (or their named successors):

Toshiba Primary Contact:

Name:	Rick Jackson
Address:	25530 Commercentre Drive, Lake Forest, CA 92630
Telephone:	(949) 462-6089
Email:	Rick.jackson@tabs.toshiba.com

State of Oregon, DAS Procurement Services Primary Contact:

Name:	Kimberly Mainwaring, State Procurement Analyst
Address:	1225 Ferry St. SE
Telephone:	971-707-0081
Email:	Kimberly.Mainwaring@oregon.gov

4. **Participating Entity Modifications or Additions to The Master Agreement:** Modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

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

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

5. **Selection of Contractor:** This Addendum is not exclusive. Authorized Purchasers with appropriate authority may acquire the Products and/or Services from other Contractors and through other State of Oregon procurement processes. Authorized Purchasers who are not State Agencies may select the Contractor of the Authorized Purchaser's choice in compliance with applicable statute and rules.

If a State Agency Authorized Purchaser with authority or authorization (see Section 2) elects to utilize the Master Agreement(s) for the Products and/or Services, and more than one Contractor holds a Master Agreement for the Product and/or Services under an Addendum with Participating State, such Authorized Purchaser may elect to award Contracts to one or more of the Contractors holding a Master Agreement or the State Agency Authorized Purchaser shall follow the selection process below.

5.1. Contractor Selection Process, Large Purchases. From time to time, State Agency Authorized Purchasers may purchase Products and/or Services from Contractor or other contractors, and shall use one of the following selection processes for all purchases over the small procurement threshold (currently \$10,000):

5.1.1. Brand Name Justification - A documented brand name justification in compliance with applicable statute and rule; or

5.1.2. Best Value Analysis – Authorized Purchaser may request and conduct a comparison of the offers based upon a best value analysis. Authorized Purchaser shall:

5.1.2.1. Contact all Contractors holding a Participating Addendum with the State of Oregon under the Master Agreement for the Products and/or Services via phone, e-mail or facsimile and request a written, responsive quote for the anticipated Products and/or Services. Quoted rates must not exceed the most competitive rates and discounts set forth in Contractor’s Master Agreement or the Addendum. However, Contractor may agree to extend specialized, discounted pricing based on the Authorized Purchaser’s requirements by providing a specific quote to the Authorized Purchaser.

5.1.2.2. Determine which Contractor provides the best value for Authorized Purchaser based on Authorized Purchaser’s application of some or all of the following factors:

- Applicable discounts and incremental pricing options
- Shipping costs
- Delivery process and service levels
- Environmentally Preferable Products (“EPP”)
- Applicable warranties
- Contractor’s past performance record through reference checks
- Contractor’s service area
- Price comparison of the current market value of Products and/or Services similar to the Products and/or Services
- Price comparison to past purchases and the Products and/or Services similar to the Products and/or Services, taking the inflation rate into account

5.1.2.3. Document its procurement files describing the process, considerations, findings, and decisions used for determining the Contractor selected through the Best Value Analysis.

5.1.2.4. **Threshold.** State Agency Authorized Purchasers that are under DAS procurement authority may enter into Contracts under this Addendum for any dollar amount without further delegation of procurement authority from DAS PS. Notwithstanding the foregoing DAS PS delegation, State Agency

Authorized Purchasers must obtain all other necessary approvals, including but not limited to legal sufficiency approval as required.

5.2 Contractor Selection Process, Small Purchases. For purchases under the small procurement threshold (currently \$10,000), a State Agency Authorized Purchaser with appropriate authority may select the Contractor of its choice in compliance with applicable statute and rule.

6. Lease Agreements:

6.1. Lease Terms: Equipment Leases are subject to the terms and conditions as set forth in Attachment A to this Addendum No 9492 "Toshiba Lease Agreement" (herein the "Lease") unless otherwise agreed to. To initiate a Lease, Authorized Purchaser may issue a Purchase Order ("PO") and reference the type of Lease (FMV, Straight, or Capital Lease) on the PO or may simply sign other transactional documents deemed acceptable to the parties.

6.2. Assignment: Contractor may assign, solely for financing purposes, upon written notification to DAS PS for State Agency Authorized Purchasers and to the designated official for other Authorized Purchasers, its right title and interest in and to: (i) the Products subject to the Lease Agreement; (ii) all payments and other amounts due and to become due thereunder with respect to the Products and/or Services; and (iii) all rights and remedies under this Addendum with respect to the Products and/or Services, such payments and other amounts due. Any such assignment however, does not excuse Contractor from bearing any obligation, terms and conditions as outlined under either the NASPO ValuePoint Master Agreement #140604 or this Addendum. Contractor intends to assign, solely for financing purposes, rights as set forth immediately above to Toshiba Financial Services and this paragraph constitutes the required written notification to DAS PS for State Agency Purchasing Entities, and DAS PS consents to the assignment for State Agency Authorized Purchasers.

6.3. All Lease and rental programs must remain with the Contractor or Authorized Dealers through an in-house leasing program, or through the financial branch or subsidiary of the Contractor. In addition, subject to Section 6.2, Contractor and its Authorized Dealers may use Third Party leasing companies, but all billing must be invoiced in the name of the Contractor or Authorized Dealer, and all contractual obligations will still be the responsibility of the Contractor.

6.4. End of Term Notification: Contractor must notify an Authorized Purchaser, in writing, of their End of Term options at least sixty (60) to ninety (90) calendar days prior to the end of any Initial Lease or Rental Term. Such notification may include, but not be limited to, the following:

- i) Any acquisition or return options, based on the type of Lease or rental agreement;
- ii) Any renewal options, if applicable; and/or
- iii) Hard drive removal and surrender cost, if applicable.

6.5. End of Term Options: If an Authorized Purchaser desires to exercise a purchase, renewal, or return of the Equipment, it shall give Contractor at least thirty (30) calendar days written notice prior to the expiration of such Lease or rental term. Notwithstanding anything to the contrary, if Purchasing Entity fails to notify Contractor of its intent with respect to the exercise of a purchase, renewal, or return of the Equipment, the Initial Lease or Rental Term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged.

7. **Resellers:** All Contractors and resellers authorized in the State of Oregon, as shown on the dedicated Contractor (cooperative contract) website https://media.toshiba-solutions.com/naspo140604/naspo140604_oregon.htm are approved to accept orders and provide sales, Service support, and invoicing to participants in the NASPO ValuePoint Master Agreement. The contractor's resellers' participation will be in accordance with the terms and conditions set forth in the Master Agreement.
8. **Orders:** Any order placed by an Authorized Purchaser for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another Contract or agreement applies to such order.
9. **Product Installation and Invoicing:** Unless otherwise agreed to by both parties, signing the Delivery and Acceptance ("D&A") certificate constitutes Acceptance of the Product(s) and allows Contractor, its permitted assignee or authorized reseller (for the purposes of this Section 9, collectively "Contractor") to invoice for the Product(s). Failure to sign the D&A or reject the Product(s) within the foregoing five (5) Business Day period shall be deemed as Acceptance by the Purchasing Entity.

Contractor will provide timely billing and Authorized Purchaser will notify Contractor, in writing, of any billing concern. In order for Contractor to generate accurate Product and/or Service invoices, Authorized Purchasers shall provide meter reads within the Contractor(s) requested timeframe.

Invoices that are generated without receiving the proper meter read information from the Authorized Purchaser will not be considered inaccurate.

The Authorized Purchaser shall provide written notice of any alleged invoicing issue(s) and the Contractor will be allowed a thirty (30) Calendar Day cure period to address any such issue. Failure on the Contractor's part to maintain commercially reasonably accurate invoicing shall result in a \$25.00 per instance credit on the following month's Products and/or Services invoice not to exceed \$200.00 in any given month.

10. **Not Specifically Priced Open Market Items:** Not Specifically Priced ("NSP") items compliment or enhance the Products and/or Services offered under the resulting Master Agreement(s). NSP items will not include:

- i) Interactive White boards;
- ii) Computers, monitors, or other related items;
- iii) Fax machines;
- iv) Overhead Projectors; and
- v) Cameras.

NSP items may only be acquired through the Contractor(s) or their Authorized Dealer(s) and must be reported quarterly with all other sales under the resulting Master Agreement(s). NSP items must be priced at a minimum discount of 15% from MSRP or List Price. NSP items shall not be offered to an Authorized Purchaser as a stand-alone option, and the maximum allowable amount of all NSP items in a single order shall be determined by the Participating State or Authorized Purchaser.

11. **Showroom Equipment:** Upon request by an Authorized Purchaser, showroom Equipment for Groups A, B, and C may be converted to a purchase, Lease, or rental providing the following conditions are met:
 - a. The meter count on Group A and Group B devices does not exceed 10,000 copies total (i.e. b&w and color combined); and the meter count on Group C devices does not exceed 50,000 copies total (i.e. b&w and color combined);
 - b. The device must be discounted by at least 5% off the Master Agreement pricing for that same device; and the Authorized Purchaser and the Contractor must indicate on the order that the device is a showroom model.
12. **Software:** Subject to the provisions of this Addendum, Authorized Purchasers that acquire software are subject to the license agreements distributed with such software. Software subscriptions shall not be subject to automatic renewals. Authorized Purchasers shall have the option to finance software subscriptions by utilizing Contractor Lease and rental rates. Notwithstanding the foregoing, in the event of a conflict in language between an end user license agreement (“EULA”) and the Addendum, the language in the Addendum will supersede and control. In addition, any language in a EULA which violates a participating state’s constitution or a statute of that state; or violates the laws of a local entity making a purchase, will be deemed void, and of no force or effect, as applied to the Participating or Purchasing Entity.
13. **Maintenance Service Level Agreements:** Authorized Purchasers are subject to the Contractor “Maintenance Service Level Agreement” provided in the Master Agreement as Attachment D.
14. **Managed Print Services (“MPS”):** Authorized Purchasers are subject to the Contractor “Managed Print Service Level Agreement”. Contractor’s service level agreements and scope of Services is provided in the Master Agreement as Attachment F. Contractor(s) may not provide MPS maintenance or repair Services on any Devices that are being Leased or

rented to an Authorized Purchaser by another Manufacturer, unless they have a written agreement with the Manufacturer to do so. All MPS engagements shall require the Contractor and Authorized Purchaser to complete a detailed Statement of Work (“SOW”) template, like the format provided in the NASPO ValuePoint RFP Exhibit F, MPS Statement of Work. This agreement must be approved by both parties prior to the initiation of any engagement.

- 15. Tax Compliance:** Contractor has complied with the applicable tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state. Contractor shall, throughout the duration of this Addendum and any extensions, comply with all applicable tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, “tax laws” includes: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to Products, Services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any uncured violation of this Section 15 constitutes a material breach of this Addendum and any Contract issued under this Addendum. Any uncured violation entitles DAS PS or Authorized Purchaser to terminate this Addendum or the applicable Contract, to pursue and recover any direct damages that arise from the breach and the termination of this Addendum or the applicable Contract, and to pursue any or all of the remedies available under this Addendum, a Contract, at law, or in equity, including but not limited to:

- Termination of this Addendum or the applicable Contract, in whole or in part;
- Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Authorized Purchaser’s setoff right, without penalty; and Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief.
- DAS PS or Authorized Purchaser may recover any direct damages suffered as the result of Contractor’s breach of this Addendum or the applicable Contract, including but not limited to direct damages, reasonable costs of cure, and reasonable costs incurred in securing replacement Products and/or Services. Replacement cost damages shall be limited to direct damages and shall not exceed 5% of the total revenue of the Agreement.

These remedies are cumulative to the extent the remedies are not inconsistent, and DAS PS or Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

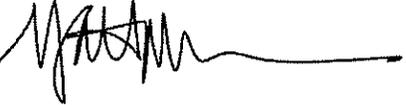
- 16. Reporting:** This Addendum and Contracts entered into by state executive agencies will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor’s compensation under this Addendum and related Contracts, or (ii) exercising a right of setoff against Contractor’s

compensation for any undisputed amounts that may be due and unpaid to State or its political subdivisions for which the Department of Revenue collects debts.

17. **Participating Addendum Integration:** This Addendum, including its exhibits, and the Master Agreement set forth the entire agreement between Contractor and Participating State with respect to the subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein. Any attempt to modify or add or incorporate terms and conditions inconsistent with, and contrary to, the terms and conditions of this Addendum and the Master Agreement through a Contract or other document is null and void and hereby rejected.

SIGNATURE PAGE FOLLOWS

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

Participating Entity: THE STATE OF OREGON, acting by and through the Department of Administrative Services	Contractor: TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.
Signature: 	Signature: 
Name: Ginny Beckwith	Name: Walter Holloman
Title: Procurement Sr Mgr	Title: VP Enterprise Administration
Date: 9/17/2020	Date: 9/16/2020

For questions on executing a participating addendum, please contact:
NASPO ValuePoint

Cooperative Development Coordinator:	Ted Fosket
TELEPHONE:	(907) 723-3360
Email:	tfosket@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to
PA@naspovaluepoint.org
to support documentation of participation and posting in appropriate data basis***

STATE OF OREGON
NASPO COPIER AND MANAGED PRINT SERVICES
PARTICIPATING ADDENDUM #9492

Exhibit 1

Oregon Specific Terms and Conditions

- 1. Applicability.** This Addendum pertains to the Copiers and Managed Print Services (“Products and/or Services”), including related intellectual property (such as documentation) to be provided by Contractor to Authorized Purchasers under Contracts entered into under this Addendum.
- 2. Definitions.** The following terms have the meanings set forth below. Capitalized terms not defined in this Addendum have the meaning ascribed to them in the Master Agreement and its exhibits. A Contract entered into between Authorized Purchaser and Contractor may include additional defined terms.

“*Addendum*” means Participating Addendum No 9492 to the Master Agreement (defined below)

“*Authorized Purchaser*” means an executive department agency of the State of Oregon with authority that enters into a Contract with Contractor, or an ORCPP member that enters into a Contract with Contractor. A “Purchasing Entity”, as that term is used in the Master Agreement, is an Authorized Purchaser.

“*Business Days*” means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, excluding State of Oregon holidays and business closure days.

“*Calendar Days*” means contiguous days.

“*Contract*” means the fully executed written agreement formed between Contractor and an Authorized Purchaser with authority to enter into an agreement under this Addendum, including a Purchase Order or Statement of Work (“SOW”), the terms and conditions of this Addendum, terms required by the Master Agreement, additional terms required by the Authorized Purchaser, and all its exhibits and attachments.

“*DAS PS*” means the State of Oregon acting by and through the Department of Administrative Services (“DAS”), Enterprise Goods and Services (“EGS”), Procurement Services.

“*Lease*” means Attachment A to the Addendum “Agreement for the Lease of Equipment”.

“*Master Agreement*” means the Master Agreement #140604 between Contractor and the State of Colorado, on behalf of the member states of the National Association of State Procurement Officials and the NASPO ValuePoint, and its attachments, as may be amended from time to time. The Master Agreement together with this Addendum sets forth terms, conditions and requirements for purchase by Authorized Purchasers of the Products and/or Services described in the Master Agreement.

“*ORCPP*” means the “Oregon Cooperative Purchasing Program”. State agencies with their own procurement authority, institutions of higher institution, political subdivisions and other entities may become members of the ORCPP and then are authorized to use statewide contracts in the State of Oregon.

“*Purchase Order*” (“PO”) means a purchase document submitted to Contractor by an Authorized Purchaser that is part of the Contract, and specifies the quantity and type of Products and/or Services that Contractor will provide to the Authorized Purchaser under the Contract.

“*Services*” means all effort to be expended by Contractor under this Addendum, including installation, configuration, implementation, maintenance and support.

“*State*” for the purposes of this Addendum, means the State of Oregon.

“*State Agency(s)*” means those Agencies of the State of Oregon that are subject to the procurement authority of the Director of the Department according to ORS 279A.050 and 279A.140. This includes the Department when the Department is engaged in Public Contracting. Under these Rules, an Agency is authorized only through a delegation of authority according to OAR 125-246-0170.

“*Work Product*” means everything that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor’s subcontractors or agents (either alone or with others) pursuant to this Addendum, including every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection). Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product is not Agency Intellectual Property, Contractor Intellectual Property, or Third Party Intellectual Property.

3. Products and Services.

3.1 Software Licenses; Third Party Intellectual Property.

3.1.1 Contractor Software Licenses. All Contractor Software Licenses incorporate and are subject to the terms and conditions of this Addendum. In the event of a conflict between the provisions of any Contractor Software License and this Addendum, the provisions of this Addendum control.

3.1.2 Third Party Intellectual Property. Unless otherwise specified in a Contract that Authorized Purchaser, on its own, will acquire and obtain a license to Third Party Intellectual Property, Contractor shall secure a license to Third Party Intellectual Property provided to Authorized Purchaser by Contractor during the term of the Contract necessary for Contractor to deliver Products and/or Services.

Contractor shall deliver to Authorized Purchaser a copy(s) of any applicable license and any maintenance or support agreement for a Third Party Product. Authorized Purchaser shall review the proposed license and/or maintenance, support agreement, and negotiate acceptable terms with the Third Party Vendor. Contractor may delay delivery of such Third Party Product until Authorized Purchaser has completed such negotiations and the prospective license and/or maintenance and support agreement has been executed by both parties

- 3.2 Leases.** In addition to the terms and conditions set forth in this Addendum, all Leases are subject to the terms and conditions as set forth in the Master Agreement, unless otherwise agreed to in writing by Authorized Purchaser and Contractor. Each PO, specifying the Lease of Product(s) and/or Services, issued pursuant to this Addendum and the Master Agreement creates a separate Lease Agreement between the Authorized Purchaser and Contractor. The State is only liable for purchases or Leases made by State of Oregon agencies. Each Authorized Purchaser will be responsible for complying with the terms and conditions of the Master Agreement, this Addendum, and Authorized Purchaser's applicable PO, and each Authorized Purchaser will be responsible for its own charges, fees and liabilities.
- 3.2.1 Lease Initiation for State Agency Authorized Purchaser.** To initiate a Lease, State Agency Authorized Purchaser may request a quote from Contractor. Upon receipt and review of the quote information State Agency Authorized Purchaser may issue a PO and reference the Addendum and the type of Lease. Each PO for a Lease issued prior to termination of this Addendum shall survive the termination of this Addendum and the Master Agreement for the term set forth in the Lease.
- 3.2.2 Lease Initiation for Non-State Agency Authorized Purchaser.** To initiate a Lease, an Authorized Purchaser that is not an agency of the State of Oregon, ("Non-State Agency Authorized Purchaser"), may issue a PO and reference this Addendum and the type of Lease on the PO. Each PO for a Lease issued prior to termination of this Addendum shall survive the termination of this Addendum and the Master Agreement for the term set forth in the Lease.
- 3.2.3 Financing Agreements.** State Agency Authorized Purchasers may not enter into any PO that would be considered a financing agreement, as that term is defined in the ORS 283.087 and ORS 286A.001 et. seq., without the prior approval of the Oregon State Treasurer and the Department of Administrative Services.
- 3.2.4 End of Term Notification.** Contractor must notify an Authorized Purchaser, in writing, of its End of Term options at least sixty (60) to ninety (90) Calendar Days prior to the end of any Initial Lease Term. Such notification may include, but not be limited to, the following:
- Any acquisition or return options, based on the type of Lease ; and/or
 - Any renewal options, if applicable; and/or
 - Hard drive removal and surrender cost, if applicable.
- 3.2.5 End of Term removal for Non-State Agency Authorized Purchasers only.** At the end of a Lease Term, Non-State Agency Authorized Purchaser shall have the option to: (i) Renew the PO (ii) Purchase the Products or (iii) Return the Products. If Non-State Agency Authorized Purchaser exercises the option of either renewal or purchase, it shall give Contractor written notice at least thirty (30) days before the expiration or such the Lease Term. Notwithstanding anything to the contrary, if Non-State Agency Authorized Purchaser fails to notify Contractor of its intent to either renew or purchase the Product, the initial Lease Term shall be terminated on the date as stated in the applicable PO and Contractor will remove the Product in accordance with the terms of this Addendum.
- 3.2.6 Lease Termination.** Upon termination of the applicable PO and provided Non-State Agency Authorized Purchaser has not exercised an option to purchase, Contractor shall remove all equipment within thirty (30) Calendar Days.
- 3.2.7 Taxes.** Contractor shall identify all taxes, fees and surcharges applicable to the

Products and/or Services. State Agency Authorized Purchasers are exempt from assessment of certain taxes, fees and surcharges. State Agency Authorized Purchaser shall deliver a copy of the appropriate exemption to Contractor upon issuance of a PO. In the event a State Agency Authorized Purchaser is liable for taxes, fees or other surcharges, the State Agency Authorized Purchaser shall only be liable for the actual amount of the tax, fee or other surcharge. Contractor shall not “gross up” the rates to cover any Contractor administrative costs.

- 3.2.8 Maintenance.** Contractor or State Agency Authorized Purchaser may request maintenance and support Services from Toshiba or a third party (“Servicer”).
- 3.2.9 Loss or Damage.** If a Product is lost or damaged, a State Agency Authorized Purchaser is responsible for the loss or damage while in State Agency Authorized Purchaser’s possession. If a Product is lost or damaged, Contractor shall be entitled to receive the insurance proceeds covering the loss or damage. If the insurance proceeds do not fully compensate Contractor, State Agency Authorized Purchaser shall (a) repair the item or replace the Product with a comparable item reasonably acceptable to Contractor; or (b) pay the sum of: (i) all past due payments (if any) under the Lease Agreement; the present value of all remaining lease payments for the effected item(s) of Leased Equipment, discounted at the rate of 3% per annum; and (iii) if this lease is not a \$1 Buyout Lease, the Fair Market Value of the effected item(s) of Leased Equipment.
- 3.2.10 Insurance.** A State Agency Authorized Purchaser may meet any insurance obligation through self-insurance.
- 3.2.11 Title; Recording.** Pursuant to ORS 286A.102, a State Agency Authorized Purchaser may grant Contractor a security interest in the Product; the provisions of the Uniform Commercial Code do not apply to State Agency Authorized Purchaser’s grant of a security interest. Upon Contractor’s reasonable request, State Agency Authorized Purchaser shall file an appropriate financing statement(s).
- 3.2.12 Software or Intangibles.** Any license or other agreement related to software or other intangible is subject to review, negotiation and acceptance by a State Agency Authorized Purchaser.
- 3.2.13 Default.** If a State Agency Authorized Purchaser issues multiple PO’s, each such PO is a separate Lease Agreement between State Agency Authorized Purchaser and Contractor. A default by a State Agency Authorized Purchaser under one PO is not a default of any other PO.
- 3.2.14 Remedies.** If a State Agency Authorized Purchaser defaults under a PO and fails to cure the default after thirty (30) Business Days prior written notice, Contractor may: (a) cancel or terminate the Lease evidenced by the PO ; (b) cancel or terminate the software license, as appropriate or direct the third party provider to cancel or terminate the software license; (c) demand payment pursuant to Section 4.5.8(j) of the Master Agreement; (d) after written notice, peacefully repossess the Product; (e) after five (5) Business Days written notice, dispose of the Product or sell the Product at public or private sale and apply the proceeds to any amounts due from State Agency Authorized Purchaser.
- 3.2.15 Assignment of Lease.** Pursuant to Section 6.2 of the Participating Addendum.
- 3.2.16 Return of Product.** In the event a State Agency Authorized Purchaser returns any Product to Contractor and upon written request asks Contractor to provide data

management Services, Contractor shall certify to State Agency Authorized Purchaser that Contractor has destroyed all State Agency Authorized Purchaser Data, as requested. Contractor's Services under this provision shall be at then current market pricing.

3.2.17 Miscellaneous Lease Provisions.

- A State Agency Authorized Purchaser does not appoint Contractor as its agent unless set forth in a PO, signed by the parties.
- Contractor is not authorized to conduct a credit search on any State Agency Authorized Purchaser. All credit information for the State of Oregon is found at: <https://www.oregon.gov/treasury/Pages/index.aspx>.
- In the event there is a dispute relative to the terms of the PO, venue and jurisdiction for any such dispute is set forth in Section 18 below.
- Opinion of Counsel. A State Agency Authorized Purchaser is not required to obtain or provide to Contractor an opinion of counsel under any PO for any purpose.

3.3 Managed Print Services. The Managed Print Services ("MPS") are subject to the terms and conditions of this Addendum. In the event of a conflict between the provisions of the MPS SOW and this Addendum, the provisions of this Addendum control.

3.4 Professional Services. All Professional Services Agreement ("PSA") are subject to the terms and conditions of this Addendum. In the event of a conflict between the provisions of a PSA SOW and this Addendum, the provisions of this Addendum control.

4. Contracts.

4.1 Contract Formation. A Contract entered into between an Authorized Purchaser and Contractor is formed by:

4.1.1 A PO, which describes the Products to be purchased and contains the following language:

"THIS PURCHASE IS PLACED AGAINST AND SUBJECT TO THE STATE OF COLORADO MASTER AGREEMENT NO. 140604 AND STATE OF OREGON PARTICIPATING ADDENDUM #9492."

4.1.1.1 THE TERMS AND CONDITIONS OF THE MASTER AGREEMENT TOGETHER WITH ITS EXHIBITS AND ATTACHMENTS AND THE ASSOCIATED PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, CONTRACT NO. 9492 APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

4.1.1.2 All orders should contain the following (1) Purchaser's, Address, Contact, & Phone-Number (2) Purchase order amount (3) Type of Lease (FMV, Straight, or Capital Lease) and monthly payment (4) Itemized list of accessories (5) Service program and rates (6) Attached SOW Template if applicable.

4.1.2 A SOW that describes the particulars of the Services to be provided by Contractor, such as tasks, deliverables and milestones, the attributes (including requirements) of each deliverable, acceptance criteria, a delivery schedule, and a payment schedule.

4.1.3 Additional insurance requirements, at the option of the Authorized Purchaser.

4.1.4 Special terms and conditions applicable to the Products and/or Services, information, or funding. Special terms and conditions may include specifications, terms and

conditions for hosting, security, privacy and data protections, and terms required by state or federal law or regulations (such as a business associate agreement).

- 4.2 **Form of Purchase Order or Statement of Work or other Contract.** Authorized Purchasers may use their own forms for PO or SOW or other Contracts. State Agencies may use the general state-approved PO, substantially in the form attached to this Addendum as Exhibit 4. To the extent that the terms of any form differ from the terms of this Addendum, the terms of this Addendum supersede such contrary terms.
- 4.3 **Intended Beneficiaries.** DAS PS and Contractor are the only parties to this Addendum and are the only parties entitled to enforce its terms. Authorized Purchasers are intended beneficiaries of this Addendum.

The Authorized Purchaser and Contractor are the only parties to a Contract, unless the Contract specifically states otherwise, and are the only parties entitled to enforce a Contract's terms.

Contractor acknowledges and agrees that the State shall bear no liability on Contracts entered into for purchases by Non-State Agency Authorized Purchasers, which liability the State expressly disclaims. Contractor shall look solely to the respective contracting party for any rights and remedies Contractor may have at law or in equity arising out of the sale and purchase of Products and/or Services and the resulting contractual relationship, if any, with each such contracting party. The State bears no liability for and expressly disclaims any liability for purchases made by State Agencies without the authority or authorization described in this Addendum, Non-State Agency Authorized Purchasers, or any other entity.

5 **Payment Provisions.**

- 5.1 All payments are subject to ORS 293.462 ("Overdue Payments").
- 5.2 No other charges will exceed the maximum amount payable under a Contract, unless the maximum additional amount payable is agreed upon by Authorized Purchaser in advance and authorized by in writing.
- 5.3 Authorized Purchaser will not be obligated to pay any travel expenses unless expressly agreed upon in a Contract. Any Authorized Purchaser obligation to pay travel expenses, including transportation, lodging, or meals, is subject to the rates and limitations set under Oregon law. Contracts with the State of Oregon are subject to the rates and limitations of the Statewide Travel Policy, currently found online at: <http://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf>.

6 **Funds Available and Authorized/Non-Appropriation.** The State of Oregon's and its Agencies' payment obligations under Contracts entered into under this Addendum are conditioned upon Authorized Purchaser receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any Contract entered into under this Addendum. Contractor is not entitled to receive payment under this Addendum or any Contract from any part of Oregon state government other than Authorized Purchaser. Nothing in this Addendum or any Contract is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Authorized Purchaser represents that it has sufficient appropriations and limitation for the current biennium to make payments under any Contract entered into under this Addendum.

7 **Volume Sales Reports/ Vendor Collected Administrative Fee.** Contractor shall submit

Volume Sales Reports (“VSRs”) and submit Vendor Collected Administrative Fees (“VCAF”) in accordance with Exhibit 5 of this Addendum.

DAS PS may, upon reasonable request during regular Business Hours, by itself or by a person authorized by it, audit Contractor’s records and other pertinent data, to determine and verify the figures reported in any VSRs furnished by Contractor. In the event that any such audit reveals underpayment of administrative fees, Contractor shall immediately pay the amount of deficiency, together with interest. If the audit reveals that an underpayment exists, Contractor shall pay the cost of the audit.

8 **Warranties.** Authorized Purchasers are entitled to the warranties, rights, remedies, and benefits under the Master Agreement, and this Addendum for any Contracts entered into by Authorized Purchasers under this Addendum. Without limiting the generality of the warranty provisions of the Master Agreement, Contractor represents and warrants to DAS PS and Authorized Purchaser that:

- 8.1 Contractor has the power and authority to enter into and perform this Addendum and each Contract entered into under this Addendum, and that this Addendum and any Contract entered into under this Addendum, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- 8.2 All Services to be performed under Contracts entered into under this Addendum will be performed in accordance with the provisions, representations highest applicable professional or industry standards, and that only workmanship of the first quality will be employed in the performance of the Services.
- 8.3 Contractor shall transfer to or secure on behalf of Authorized Purchaser all rights to use deliverables.
- 8.4 Contractor shall transfer to Authorized Purchaser all manufacturer warranties covering Products, if any at the time of delivery.
- 8.5 Contractor has no undisclosed liquidated and delinquent debt owed to the State of Oregon or any department or State Agency.
- 8.6 All Products and/or Services and any deliverables are free and clear of any liens or encumbrances, and that Contractor has full legal title to such Products, and that no other person has any right, title or interest in the Products, which is superior to, or infringe upon the rights granted to Authorized Purchaser hereunder as well as full legal title or sufficient rights to use any third party intellectual property included in the Products and/or Services.
- 8.7 All Products and/or Services and any deliverables will materially conform to acceptance criteria set forth in this Addendum or a Contract and any documentation provided by Contractor, are free from error or defect that materially impairs their use, and be free from material defects in materials, workmanship, or design.
- 8.8 The Products and/or Services are free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Software, collect unlawful personally identifiable information on Authorized Users, or prevent the Software from performing as required under the terms and conditions of this Addendum. Notwithstanding the foregoing, this representation and warranty does not include a disabling device that limits, suspends or ends use of the Product and/or Services expressly permitted by the terms and conditions by the license under which it was provided.

- 8.9 Contractor has the skill and knowledge possessed by well-informed members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors provide the Products and/or Services and to perform the Services described in this Addendum in accordance with the highest standards prevalent in the industry or business most closely involved in providing the Products and/or Services and other Product and/or Services that Contractor is providing to Authorized Purchaser pursuant to this Addendum.
- 8.10 Contractor shall comply with the standards established by the Project Management Institute ("PMI") as described in the Project Management Body of Knowledge ("PMBOK"), Sixth Edition, the Software Engineering Institute, supplemented by standards set forth in ISO 12207, as well as standards established by DAS PS for quality assurance services.
- 8.11 Contractor shall comply with the applicable requirements set forth in DAS Oregon Statewide IT and Information Security Policies, found at, <https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf> as those policies are amended from time to time.
- 8.12 Contractor has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security, and privacy of Data. Contractor shall monitor, periodically assess, and update its physical, technical, and logical security controls and risk to ensure continued effectiveness of those controls.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Master Agreement. All warranties provided in this Addendum are cumulative and will be interpreted expansively so as to afford Authorized Purchaser the broadest warranty protection available.

EXCEPT AS EXPRESSLY PROVIDED IN THIS ADDENDUM, CONTRACTOR MAKES NO OTHER REPRESENTATIONS OR WARRANTIES HEREIN, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR ANY REPRESENTATION OR WARRANTY ARISING BY USAGE AND TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE, TITLE, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. THE SERVICES ARE PROVIDED "AS IS". NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT WILL BIND CONTRACTOR. DAS PS AND AUTHORIZED PURCHASER AGREE THAT CONTRACTOR WILL NOT BE RESPONSIBLE TO PAY THE STATE OR ANY AUTHORIZED PURCHASER ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES FOR ANY DEFAULT BY CONTRACTOR UNDER THIS ADDENDUM.

9 Indemnification.

- 9.1 **General Indemnity.** Contractor shall defend, save, hold harmless and indemnify the Authorized Purchaser and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against all claims, suits, actions, losses, direct damages, liabilities, statutory penalties, direct costs resulting from, arising out of or relating to the negligent and intentional acts or omissions of Contractor or its officers, employees, subcontractors or agents under the Addendum.
- 9.2 **Infringement Indemnity.** Contractor shall, at Contractor's sole expense, defend, save, hold harmless and indemnify Authorized Purchasers and the State of Oregon and their

agencies, subdivisions, officers, employees and agents from and against any and all direct costs, direct damages, reasonable attorneys' fees, and any and all direct costs resulting from, relating to, or arising out of a claim that any aspect of the Products and/or Services furnished under a Contract infringes a patent, utility model, industrial design, copyright, mask work, trademark, trade dress, or any other legally cognizable intellectual property right of any third party (an "Infringement Claim").

9.3 **Control of Defense and Settlement.** Contractor's obligation to indemnify Authorized Purchaser as set forth in this Addendum is conditioned on Authorized Purchaser providing to Contractor prompt notification of any claim or potential claim of which Authorized Purchaser becomes aware that may be the subject of those sections. Contractor shall have control of the defense and settlement of any claim that is subject to Section 8; however, neither Contractor nor any attorney engaged by Contractor may defend the claim in the name of the State of Oregon or any Authorized Purchaser of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

9.4 **Remedies for Infringement Claims.** If any Products and/or Services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if an Authorized Purchaser is prevented from exercising its rights under this Addendum or a Contract based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, procure for the Authorized Purchaser the right to continue using the allegedly infringing Products and/or Services, or replace or modify the Product and/or Services so that they become non-infringing; provided that the replacement or modified Product and/or Service meets the specifications set forth in the applicable Contract to the satisfaction of the Authorized Purchaser.

10 Term and Termination of Addendum.

10.1 **Term.** Subject to DAS PS' right to terminate this Addendum, it is the intent of the parties that this Addendum be co-terminus with the Master Agreement. In the event the Lead State extends the term of the Master Agreement, the term of this Addendum will extend to such new expiration date without further action by DAS PS. This Addendum remains in effect until the earlier of (i) the expiration or termination of the Master Agreement, or (ii) expiration or termination of this Addendum in accordance with its terms.

10.2 **Termination.** DAS PS may terminate this Addendum, in whole or in part, at any time upon thirty (30) Calendar days' prior written notice to Contractor.

10.3 In addition, DAS PS may terminate this Addendum, in whole or in part, immediately upon written notice to Contractor, or at such later date as DAS PS may establish in such notice, for any reason, or upon the occurrence of any of the following events:

10.3.3 State fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Products and/or Services to be purchased under the Addendum.

10.3.4 Federal or state laws, regulations, or guidelines are modified or interpreted in such a

way that either the purchase of Products and/or Services under this Addendum is prohibited, or the State is prohibited from paying for such Product and/or Service from the planned funding source.

- 10.3.5 Product and/or Services is prohibited or is no longer in the best interest of the State.
- 10.3.6 Contractor has undisclosed liquidated and delinquent debt owed to the State of Oregon or any department or State Agency.
- 10.4 **DAS PS' Right to Terminate for Cause.** In addition to any other rights and remedies DAS may have under this Addendum, DAS PS may terminate this Addendum, in whole or in part, upon thirty (30) Calendar Days written notice to Contractor of Contractor's material breach of this Addendum and Contractor's failure to cure such cause or under one or more Contracts.
- 10.5 Upon receipt of written notice of termination and failure to cure, Contractor will stop performance under Contracts if and as directed by State.
- 10.6 Termination under any provision of this Addendum does not extinguish or prejudice State's or an Authorized Purchaser's right to enforce this Addendum or a Contract with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of the State or an Authorized Purchaser to indemnification by Contractor.

11 Term and Termination of Contracts.

- 11.1 **Contract Term.** The effective date of a Contract may be no earlier than the date it is fully executed and approved in accordance with applicable law. A Contract will remain in effect until the date stated in the Contract, unless terminated or extended in accordance with its terms. A Contract entered into before the expiration or termination of the Master Agreement and this Addendum will continue for the term stated in the Contract unless it is terminated earlier.
- 11.2 Individual Contracts may be terminated at any time by written consent of Authorized Purchaser and Contractor.
- 11.3 Excepting Leases for equipment previously delivered and accepted, Authorized Purchaser may, at its sole discretion, terminate a Contract, in whole or in part, upon thirty (30) Calendar Days' written notice to Contractor.
- 11.4 Authorized Purchaser may terminate a Contract, in whole or in part, immediately upon written notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:
 - 11.4.3 The continuation of this Contract or Lease beyond the current fiscal period is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by Authorized Purchaser's legislature, governing body and/or federal sources. If for any reason Authorized Purchaser's funding is not appropriated Authorized Purchaser may terminate this Contract or Lease, and Contractor waives any and all claim(s) for damages, effective as of the end of the fiscal period in which written notice of such non-appropriation is provided by Authorized Purchaser to Contractor. If Authorized Purchaser terminates this Contract or Lease because of non-appropriation Authorized Purchaser will not purchase, Lease or rent replacement equipment performing the same functions as the Leased equipment during the subsequent fiscal period.
 - 11.4.4 Federal or State laws, regulations, or guidelines are modified or interpreted in such a

way that either the purchase of Product and/or Services under the Contract is prohibited, or Authorized Purchaser is prohibited from paying for such Product and/or Services from the planned funding source.

- 11.4.5 An Authorized Purchaser that is a State Agency does not receive authorization from the Office of the State Chief Information Officer ("OSCIO"), also known as the Enterprise Information Services ("EIS"); or the OSCIO authorization is withdrawn or modified in a way that performance of the Product and/or Services is prohibited or is no longer in the best interest of the State.
 - 11.4.6 Contractor has undisclosed liquidated and delinquent debt owed to the State of Oregon or any department or State Agency.
 - 11.4.7 Contractor commits any material breach of this Addendum or the Contract and following written notice and thirty (30) Calendar Days Contractor has failed to cure.
 - 11.5 Upon receipt of written notice of termination and failure to cure, Contractor will stop performance under the Contract as directed by Authorized Purchaser.
 - 11.6 Termination of a Contract does not extinguish or prejudice Authorized Purchaser's right to enforce the Contract with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of Authorized Purchaser to indemnification by Contractor. In addition, termination of a Contract does not extinguish or prejudice Authorized Purchaser's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this Addendum. If a Contract is so terminated, Authorized Purchaser will pay Contractor in accordance with the terms of the Contract (including this Addendum) for Product and/or Services delivered and accepted by Authorized Purchaser.
- 12 Transition; Return of Property.**
- 12.1 Upon termination (including by expiration) of this Addendum or a Contract for any reason whatsoever, Contractor shall provide Authorized Purchaser with Services to support a responsible and secure transition of Services and all information to another Service provider or to Authorized Purchaser ("Transition Services"). Contractor shall provide Authorized Purchaser with a Transition Plan within fourteen (14) Calendar Days of the request from Authorized Purchaser or DAS PS. The Transition Plan will provide that Contractor shall:
 - Cooperate with Authorized Purchaser and any Authorized Purchaser-designated provider by promptly taking all steps required to assist Authorized Purchaser in completing the Transition Plan.
 - Provide Authorized Purchaser and any Authorized Purchaser-designated provider with all information regarding the Services, Authorized Purchaser information and data, and Deliverables that these parties will need to complete the Transition Period. This includes data conversions, data access or transfers, and interface specifications.
 - Promptly and orderly remove all Products and conclude all Services as Authorized Purchaser may direct.
 - Return all Authorized Purchaser property, Data and information, and documentation of any work in progress, and other measures.
 - 12.2 In addition, Contractor shall immediately deliver to Authorized Purchaser all of its property, which includes Authorized Purchaser's Confidential Information and any deliverables for which Authorized Purchaser has made payment in whole or in part, that are in the

possession or under the control of Contractor in whatever stage of development and form of recordation such property is expressed or embodied at that time. Obligations under this section are in addition to Contract terms specifically addressing treatment of property, and data, during the term and following termination or expiration of a Contract.

- 12.2.3 Except as necessary to meet Contractor's obligations under Sections 21, Access to Records, Contractor shall not retain any copies of Authorized Purchaser property or Confidential Information. Contractor shall notify Authorized Purchaser of any conditions that make returning all Authorized Purchaser property or Confidential Information not feasible. Upon Authorized Purchaser's written acknowledgement that returning all property is not feasible, Contractor shall destroy such Authorized Purchaser property and provide Authorized Purchaser with written certification of destruction of the property.
- 12.2.4 Contractor shall maintain protections required by law, this Addendum, or a Contract for any retained Authorized Purchaser property for so long as Contractor (including through any subcontractor) retains the property.

13 **Compliance with Law.**

13.1 **Compliance with Law Generally.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor, this Addendum, and Contracts entered into under this Addendum. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Addendum and Contracts: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA); (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable and required by law to be so incorporated. DAS PS' and Authorized Purchasers' performance is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein.

13.2 **Security and Data Privacy Laws.** Contractor and all Contractor employees, subcontractors and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of State Agency Authorized Purchaser Data and access to State of Oregon information assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- Oregon's Statewide Information Security Standards: <https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>;
- Oregon's Statewide Information Security Plan, <https://www.oregon.gov/das/OSCIO/Documents/StatewideInformationSecurityPlan.pdf>;

- Oregon's Statewide Policies: <https://www.oregon.gov/das/Pages/policies.aspx>; and
- The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.

13.3 Oregon False Claims Act. Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to this Addendum or a Contract, including the procurement process relating to this Addendum, which constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Addendum, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State of Oregon under this Contract or any other provision of law.

13.4 Changes in Law Affecting Performance. Each party will immediately provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations in accordance with the provisions of this Addendum or a Contract. Each party shall monitor changes in federal and state laws, ordinances, and regulations applicable to its performance hereunder, and will be deemed aware of such changes within thirty (30) Calendar Days of the enactment of any such change.

13.5 Pay Equity. As required by ORS 279B.235, Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Addendum and a failure to comply constitutes a breach that entitles DAS PS or Authorized Purchaser to terminate this Addendum or a Contract for cause.

13.6 Non-Discrimination. If the total value of the Products and/or Services to be provided under Contracts entered into under this Addendum is \$150,000 or more, Contractor certifies that it has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material condition, to maintain such policy and practice in force during the term of this Addendum and each Contract.

14 Oregon Public Records Law. Contractor acknowledges that any disclosures Contractor makes to Authorized Purchaser under this Addendum are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.311 – 192.478, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 – 192.710, and of ORS 646.461 - 646.475. The non-disclosure of documents or of any portion of a document submitted by Contractor to DAS PS or Authorized Purchaser may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to DAS PS' or Authorized Purchaser's release of documents to entities other than participating agencies or other State

Agencies. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested documents, at its own expense.

15 **Recycled Products.** Contractor will use, to the maximum extent economically feasible in the performance of this Addendum or any Contract, recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

16 **Notices.** Except as otherwise provided in a Contract (including for security incident and breach notifications), any formal communications between Authorized Purchaser and Contractor, to or notices to be given under a Contract will be given in writing by personal delivery of an electronic transmission or the notice or mailing the notice, postage prepaid, at the address or number set forth in the Contract. Any communication so addressed and mailed will be deemed to have been received five (5) Calendar Days after mailing. Any communication delivered electronically will be deemed to be given when a confirming report for the transmission is generated by the transmitting machine. To be effective against the receiving party, such electronic transmission may be confirmed by telephone notice to the receiving party's authorized representative, as set forth in the Contract. Any communication or notice by personal delivery will be deemed to be given when actually received by the appropriate authorized representative.

As between Contractor and State with respect to this Addendum, the Primary Contacts of Contractor and State are set forth in the Addendum.

17 **Governing Law.** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Addendum and resulting Contracts, including, without limitation, their validity, interpretation, construction, performance, and enforcement.

18 **Jurisdiction and Venue.** Any claim, action, suit or proceeding (collectively, "Claim") between the State of Oregon (including DAS PS, Authorized Purchasers who are State Agencies, OCRPP Authorized Purchasers who are Oregon executive department agencies, and any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Addendum or a Contract under this Addendum, will be brought and conducted solely and exclusively in the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively in the United States District Court of the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS ADDENDUM HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of the State of Oregon's sovereign immunity with respect to any Claim, whether brought under State or Federal law, or the consent to jurisdiction in State or Federal Court.

Any Claims between Contractor and an Authorized Purchaser other than the State of Oregon or a State Agency that arise from or are related to individual Contracts or this Addendum will be brought and conducted solely and exclusively within the Circuit Court of the county in the State of Oregon in which such Authorized Purchaser resides or has its principal office, or at Authorized Purchaser's option, within such other county as Authorized Purchaser will be entitled to proceed under the venue laws of Oregon to bring or defend Claims. If any such Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

19 **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon as of the effective date of this Addendum, Contractor will promptly provide to the Oregon Department of Revenue all information required by that department relative to the

Addendum or any Contract. An Authorized Purchaser may withhold final payment under a Contract until Contractor has provided the Oregon Department of Revenue with the required information.

20 **Independent Contractor.** Contractor shall act at all times as an Independent Contractor and not as an agent or employee of Authorized Purchaser. Contractor has no right or authority to incur or create any obligation for or legally bind Authorized Purchaser in any way. Contractor is not an "officer", "employee", or "agent" of Authorized Purchaser (or any agency, office, or department of the State of Oregon), as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither party shall make any statements, representations, nor commitments of any kind or to take any action binding on the other except as provided for herein or authorized in writing by the party to be bound.

21 **Access to Records.** Contractor will maintain all fiscal records relating to its performance under this Addendum and each Contract in accordance with generally accepted accounting principles and will maintain any other records relating to its performance in such a manner as to clearly document Contractor's performance. Authorized Purchaser, the State and its Agencies, and the Oregon Secretary of State Audits Division and its duly authorized representatives, will have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this Addendum to perform examination and audits and make excerpts and transcripts. To the extent provided by law, the federal government will be entitled to the same access as the State of Oregon and Authorized Purchasers. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of 6 years, or such longer period as may be required by applicable law following final payment and termination of this Addendum and all Contracts entered into under this Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum or any Contract, whichever date is later.

22 **Dispute Resolution.** Any dispute between the parties under this Addendum that is not resolved through informal discussions may be submitted to mediation upon the consent of both parties. If informal discussions or mediation are unsuccessful, either party may initiate litigation to resolve the dispute. The parties specifically disclaim any right to arbitration of disputes. Neither party waives its right to a jury trial or right to participate in class, collective, or representative claims.

23 **Severability.** If any term or provision of this Addendum or any Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Addendum or Contract did not contain the particular term or provision held to be invalid.

24 **Survival.** Any terms of this Addendum or any Contract, which by their nature are intended to survive termination or expiration do so survive. Terms include but are not limited to warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, termination and remedies provisions.

25 **Insurance.** No later than ten (10) Business Days following the Effective Date, Contractor must provide insurance as set forth on Exhibit 2, Insurance, of this Addendum. No Contracts may be placed or accepted until proof is provided that these requirements have been met. An Authorized Purchaser may require additional amounts or types of insurance under a Contract.

26 **Amendments.** This Addendum may only be modified in writing agreed to and executed by the parties and approved in accordance with applicable law. A Contract may only be modified in writing agreed to and executed by the parties and approved in accordance with applicable law.

27 **Security and Privacy.** Unless a Contract specifies otherwise, Contractor shall comply with at least the following security and privacy requirements:

27.1 **Ownership of Data.** With the exception of pre-existing Work Product and internal information for Contractor purposes only, any information Contractor or its employees or agents receives or creates relating to Authorized Purchaser, or Authorized Purchaser's clients ("Data") is owned by Authorized Purchaser. Authorized Purchaser hereby grants Contractor a license to use Data to fulfill the purposes of the Contract under which Data is accessed, and otherwise only as specifically described in the Contract. Contractor hereby irrevocably assigns, transfers and conveys, and will cause its employees, subcontractors and agents to assign, transfer and convey without further consideration all right, title, and interest in Data to Authorized Purchaser. Upon request by Authorized Purchaser, Contractor will or will cause the execution and delivery of any documents that may be necessary to preserve, or enable Authorized Purchaser to enforce, its rights with respect to its Data.

27.2 **Requests for Data.** In the event Contractor receives a third party request for Data, including any electronic discovery, litigation hold, or discovery searches, Contractor shall first give Authorized Purchaser notice and provide such information as may reasonably be necessary to enable Authorized Purchaser to take action to protect its interests.

27.3 **Confidentiality Generally.** Contractor acknowledges that, it and its employees, subcontractors or agents in the course of this Addendum and any Contract may be exposed to or acquire information that is confidential to DAS PS, Authorized Purchaser, or Authorized Purchaser's clients, and such information is Confidential Information as described in the Master Agreement. Contractor shall maintain the confidentiality of such Confidential Information. Confidential information does not include:

27.3.3 Information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation by Contractor;

27.3.4 Information subsequently and rightfully received from third parties who have the necessary rights to transfer the information without any obligation of confidentiality;

27.3.5 Information that was known to Contractor prior to the Effective Date of the Addendum or a Contract without obligation of confidentiality;

27.3.6 Information that is independently developed by Contractor and documented in writing without use of, or reference to, any Confidential Information; and

27.3.7 Subject to Contractor's obligation to provide notice under this Addendum, information required to be disclosed by compulsory judicial or administrative process or by law or regulation.

27.4 Contractor access to equipment is subject to Authorized Purchaser's facilities and network access policies and procedures.

27.5 **Privacy and Security Measures.** Contractor represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security, and privacy of State Agency Authorized Purchaser Data. Contractor shall monitor, periodically assess, and

update its physical, technical, and logical security controls and risk to ensure continued effectiveness of those controls.

- 27.6 **Privacy and Security Training.** Contractor shall ensure its employees, agents, and subcontractors receive periodic training on privacy and security obligations relating to the Products and/or Services.
- 27.7 **Limited Purposes.** Contractor shall limit the use or disclosure of Data to persons directly connected with the administration of the related Contract.
- 27.8 **No Overseas Access, Storage, or Transmission.** Data will not be accessed from, transmitted, or stored outside of the United States or its territories, including for any maintenance, support, disaster recovery, or data backup.
- 27.9 **Prohibition on Data Mining.** Contractor shall not capture, maintain, scan, index, share or use Data, or otherwise use any data-mining technology, for any non-authorized activity, and shall not permit its agents or subcontractors to do so. For purposes of this requirement, “non-authorized activity” means data mining or processing of data, stored or transmitted by the Product and/or Services, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Addendum or a Contract.
- 27.10 **Privacy Protections.** The information exchanged with Contractor may include Data subject to specific confidentiality protections under state or federal law, and the implementing regulations of those laws. Contractor, its employees, agents, and subcontractors shall comply with laws and regulations applicable to the information, including as those laws and regulations may be updated from time to time. Contractor shall maintain protections required by law, this Addendum, or an applicable Contract for any retained Data for so long as Contractor (including through any third party) retains it.
- 27.11 **Access.** Contractor shall not suspend an Authorized Purchaser’s access to its Data at any time during the term of the applicable Contract or the post-termination access period.
- 27.12 **Post-Termination Access to Data.** Upon Contract termination (including by expiration), Contractor shall, at the Authorized Purchaser’s discretion, either return all Data to Authorized Purchaser (or delegate) in an agreed-upon format, or ensure Authorized Purchaser has access and the ability to retrieve its Data for at least a ninety (90) Calendar Days period following termination. This 90-day period will be at no additional charge to Authorized Purchaser. Contractor shall not retain any copies of Authorized Purchaser’s Data following Authorized Purchaser’s written verification that it no longer requires post-termination access, except as necessary for audit verification purposes.
- 27.13 **Sanitization.** Subject to Section 21, Access to Records, Contractor shall not retain any copies of an Authorized Purchaser’s Data following its written authorization to destroy Authorized Purchaser property that cannot be returned following the Term of a Contract. Contractor shall notify Authorized Purchaser of any conditions that make returning all Data not feasible. Upon Authorized Purchaser’s written acknowledgement that returning all Data is not feasible and its consent, Contractor shall purge or destroy retained Data in all its forms (including copies of returned Data) in accordance with the most current version of NIST SP 800-88 or other agreed-upon standard and provide Authorized Purchaser with written certification of sanitization.
- 27.14 **Incidents and Breaches.** In the event Contractor, employees or its subcontractor or agents discover or are notified of a security incident, or a breach of security or privacy,

Contractor shall immediately notify the affected Authorized Purchaser's point of contact (or delegate) of the issue. Breaches include a failure to comply with Contractor's confidentiality obligations. If Authorized Purchaser determines that a breach requires notification of its clients, or other notification required by law, Authorized Purchaser will have sole control over the notification content, timing, and method, subject to Contractor's obligations under applicable law.

- 27.15 **Background Checks.** Contractor has completed a criminal background check on its employees, agents, and subcontractors providing Products and/or Services and who have access to Data. Upon reasonable written request of DAS PS or an Authorized Purchaser, Contractor shall certify in writing that such background checks have been completed, and the checks revealed no negative findings pertaining to dishonesty, fraud, or theft on employees, agents, or contractors providing Products and/or Services.
- 27.16 **Network and Services.** Contractor networks and systems and Data will not be accessed from, transmitted, or stored outside of the United States or its territories, including for any maintenance, support, disaster recovery, or data backup. This is a material representation of fact upon which DAS PS and all Authorized Purchasers may rely. Contractor shall not transfer or materially modify the location or access restrictions on its networks or systems or Data without advance written consent from DAS PS and any affected Authorized Purchaser.
- 27.17 **Hosting Services.** Hosting Services are provided by networks and facilities located within the continental United States. This is a material representation of fact upon which State Agency Authorized Purchaser may rely. Contractor shall not transfer or materially modify these Hosting Services without advance written consent from State Agency Authorized Purchaser's Authorized Representative. Contractor networks and systems and State Agency Authorized Purchaser Data will not be accessed from, transmitted, or stored outside of the United States or its territories, including for any maintenance, support, disaster recovery, or data backup.
- 27.18 **Third Party Audit.** Contractor shall ensure it and its subservice organizations undergo annual examination from an independent auditor to assess the Product and/or Services' compliance with at least NIST 800-53 "Moderate" security controls (National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53). Contractor shall provide an exact copy of the most recent examination results report to State Agency Authorized Purchaser upon request.
- 27.19 **Security Logs and Reports.** Contractor shall allow State Agency Authorized Purchaser access to system security logs that affect the Products and/or Services, State Agency Authorized Purchaser Data, or processes. This includes the ability for State Agency Authorized Purchaser to request a report of the records that a specific user accessed over a specified period to the extent technically feasible.
- 27.20 **State Agency Authorized Purchaser Audit Rights and Access.** Contractor shall maintain records in such a manner as to clearly document its compliance with and performance under this Addendum, and provide State Agency Authorized Purchaser, the Oregon Secretary of State and their duly authorized representatives access to Contractor's officers, agents, contractors, subcontractors, employees, facilities and records to:
- Determine Contractor's compliance with this Addendum,
 - Validate Contractor's written security risk management plan, or

- Gather or verify any additional information State Agency Authorized Purchaser may require meeting any state or federal laws, rules, or orders, including those regarding State Agency Authorized Purchaser Data.

27.21 **Notice.** Except as stated below for security logs, access to facilities, systems, and records under this section will be granted following reasonable notice to Contractor. Records include paper or electronic form, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

27.22 **System Security Logs.** Contractor shall provide designated State Agency Authorized Purchaser staff to system security logs, to the extent technically feasible, in report form for the Products and/or Services, including user-level access logs for both State Agency Authorized Purchaser and Contractor users.

28 **Waiver.** No waiver, consent, modification or change of terms of this Addendum binds either party unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made is effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Addendum does not constitute a waiver by the State of that or any other provision.

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Exhibit 2

Insurance

Contractor shall at Contractor's expense the insurance specified in this Exhibit 2 prior to performing under any Contract, and shall maintain it in full force and at its own expense throughout the duration of this Addendum and any Contract, and as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS PS. Coverage must be primary and non-contributory with any other insurance and self-insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

1. INSURANCE REQUIRED.

1.1 Workers' Compensation & Employers' Liability. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and require and ensure that each of its out-of-state subcontractors complies with these requirements.

1.2 Professional Liability. Contractor shall provide Technology Errors & Omissions insurance in an amount of not less than \$3,000,000 per claim covering Contractor's liability arising from acts, errors or omissions in rendering or failing to render computer or information technology Services, including the failure of technology products to perform the intended function or serve the intended purpose as set forth in this Contract. This insurance must include coverage for violation of intellectual property rights including trademark and software copyright, privacy liability, the failure of computer or network security to prevent a computer or network attack, misrepresentations, and unauthorized access or use of computer system or networks. This insurance must also include coverage for unauthorized disclosure, access or use of Authorized Purchaser data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format. Coverage must extend to Business Associates (if applicable) and independent contractors providing Products and/or Services on behalf of or at the direction of Contractor.

1.3 Commercial General Liability. Contractor shall provide Commercial General Liability Insurance covering bodily injury, and property damage in a form and with coverage that are satisfactory to the State. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage, in each case arising out of Contractor's negligence, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence and \$4,000,000 aggregate.

1.4 AUTOMOBILE LIABILITY INSURANCE. Contractor shall provide Automobile Liability Insurance covering Contractor's business use including for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$2,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

2. EXCESS/UMBRELLA INSURANCE. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

3. ADDITIONAL INSURED. The Commercial General Liability, and Automobile Liability insurance required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations but only with respect to Contractor's activities under this Addendum and any Contract. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

4. TAIL COVERAGE. If any of the required insurance is on a claims-made basis and does not include an extended reporting period of at least twenty-four (24) months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Addendum, for a minimum of twenty-four (24) months following the later of (i) Contractor's completion and Authorized Purchaser's acceptance of all Product and/or Services required under all Contracts entered into under this Addendum, or, (ii) The expiration of all warranty periods provided under a Contract entered into under this Addendum.

5. CERTIFICATE(S) AND PROOF OF INSURANCE. Contractor shall provide to DAS PS and any requesting Authorized Purchaser Certificate(s) of Insurance for all required insurance before delivering any Products or performing any Services required under this Addendum or any Contract entered into under this Addendum. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured as specified in this exhibit. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance DAS PS and any Authorized Purchaser party to a Contract has the right to request copies of insurance policies and endorsements relating to these insurance requirements and any additional insurance required under any applicable Contract.

6. NOTICE OF CHANGE OR CANCELLATION. Contractor or its insurer must endeavor to provide at least thirty (30) Calendar Days written notice to DAS PS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

7. INSURANCE REQUIREMENT REVIEW. Contractor agrees to periodic review of insurance requirements by DAS PS under this Addendum and to meet updated requirements as agreed upon by Contractor and DAS PS.

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Exhibit 3

Contractor Data

Contractor Information. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Contractor Name (exactly as filed with the IRS): _____

TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.

Street address: 25530 Commercentre Drive

City, state, zip code: Lake Forest, CA 92630

Email address: gem@tabs.toshiba.com

Telephone: (949) 462-6000 Fax: (949) 462-2557

Is Contractor a nonresident alien, as defined in 26 U.S.C. § 7701(b)(1)?

(Check one box): YES NO

Business Designation: (Check one box):

- | | | |
|--|--|--|
| <input type="checkbox"/> Professional Corporation | <input type="checkbox"/> Nonprofit Corporation | <input type="checkbox"/> Limited Partnership |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Sole Proprietorship |
| <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Partnership | <input type="checkbox"/> Other |

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PARTICIPATING ADDENDUM #9492**

Exhibit 4

Purchase Order



STATE OF OREGON

PURCHASE ORDER
(PO) NO.

PAGE #

Authorized Purchaser's Authorized Representative

Purchase Order Date

Requisition No.

Contractor Name and Address

Authorized Purchaser's Invoicing Address

Contractor FEIN

Participating Addendum No.

Authorized Purchaser's Authorized Representative
Email Address

Deliver to Address

Authorized Purchaser's Authorized Representative
Phone and Fax Number

Delivery Schedule or Delivery Date

Item	Description	Quantity	U/M	Unit Price	Net Price
				Sub Total	

	Freight	
	Total	

THIS PURCHASE IS PLACED AGAINST THE STATE OF COLORADO MASTER AGREEMENT NO. 140604 ON BEHALF OF THE MEMBERS OF NASPO VALUE POINT. THE TERMS AND CONDITIONS OF THE MASTER AGREEMENT TOGETHER WITH ITS EXHIBITS AND ATTACHMENTS AND THE ASSOCIATED PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, CONTRACT NO. 9492 APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

Agency's Authorized Representative to Make Purchase	Date	
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PARTICIPATING ADDENDUM #9492

Exhibit 5

**Vendor Collected Administrative Fee and
Volume Sales Report**

1) Volume Sales Reports. Contractor shall submit a Volume Sales Report (“VSRs”) to DAS on a quarterly basis. The quarterly report is due no later than thirty (30) Calendar Days from the end of the quarter. (For purposes of this Addendum, quarters end March 31, June 30, September 30 and December 31.) Upon written notice from DAS, Contractor shall submit the VSRs on a monthly basis no later than five (5) Business Days from the end of the preceding month, as directed by DAS.

The VSRs must contain:

- Complete and accurate details of all receipts (sales and refunds) for the reported period; and
- Such other information as DAS may reasonably request.

Contractor is responsible for timely reporting and shall submit VSRs whether or not there are sales. When no sales have been recorded for the reporting period, a report must be submitted stating “No Sales for the Reporting Period.”

2) Vendor Collected Administrative Fee. Contractor shall submit a Vendor Collected Administrative Fee (“VCAF”), as directed by DAS. Contractor may not reflect the VCAF fee as a separate line item charge to Authorized Purchasers. Contractor’s prices must reflect all Contractor’s charges to Authorized Purchasers.

Contractor is responsible for timely payment of the VCAF, regardless of entity that actually reports or makes VCAF payment to DAS. The form of payment must be specifically approved by the Contract Administrator. Late payments from Contractor will accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full.

Vendor Collected Administrative Fee Percentage. The VCAF Percentage is a charge equal to two percent (2.0%) of Contractor’s gross total sales, less any credits, made to Authorized Purchasers during the reporting period.

Additional Information regarding VSRs and VCAF is located at:

<https://www.oregon.gov/das/Procurement/Pages/Supplier.aspx>