

**WESTERN STATES CONTRACTING ALLIANCE
PARTICIPATING ADDENDUM
FOR WIRELESS COMMUNICATIONS SERVICES AND EQUIPMENT
Contract #2585**

**Between
The State of Oregon, acting by and through
the Department of Administrative Services, State Procurement Office
and
TESSCO, Inc. (Name of Contractor)**

This Participating Addendum ("Addendum") will add the State of Oregon, acting by and through the Department of Administrative Services, State Procurement Office, as a Participating State to purchase from the WSCA Price Agreement, Number MA 1907, with TESSCO, Inc ("Contractor"). This Addendum is effective when fully executed by the Parties and all required State of Oregon approvals have been obtained ("Addendum Effective Date")

1. Scope:

Unless otherwise defined, all capitalized terms in this Participating Addendum have the meanings ascribed to them in the Western States Contracting Alliance, Wireless Communication Services and Equipment Master Price Agreement, # 1907 ("WSCA Master Agreement").

The following are authorized Purchasing Entities under this Participating Addendum: the State of Oregon and all state agencies, including the Department of Administrative Services, State Procurement Office ("DAS SPO") and all state agencies under the purchasing authority of the Department of Administrative Services and all Independent State Agencies, and all members of the Oregon Cooperative Purchasing Program ("ORCPP").

This Addendum is not exclusive. The State currently may have one or more price agreements for the Goods, Services, or both. Purchasing Entities may purchase Goods, Services, or both from Contractor or from any other contractor depending upon which contractor offers the best value to Purchasing Entity as set forth in OAR 125-246-0120(5), and Contractor may provide Goods, Services, or both to any third party, provided:

- Contractor may not sacrifice the quality of or network availability of the Services or the quality or quantity of the Goods or Services provided to Purchasing Entity for the benefit of another Contractor customer;
- DAS SPO shall not be responsible, directly or indirectly, for payment for the Goods or Services provided or delivered to Purchasing Entities; and
- Goods or Services acquired from a third party not under this Addendum are not covered by or included under the terms and conditions of this Addendum, unless otherwise specifically agreed.

2. Changes:

Please see Exhibit No. 1 for Participating State Modification or Additions: these modifications or additions apply only to the Contracts and Purchase Orders entered into between Purchasing Entities and Contractor within the State of Oregon.

3. Lease Agreements: NONE

4. **Primary Contact /Contract Administrator:** The primary contact/Contract Administrator for this Participating Addendum is:

Name: Lori Nordlien State Procurement Analyst
Department of Administrative Services, State Services Division, State Procurement
Office
Address: 1225 Ferry Street SE, U 140
Salem, Oregon 97301
Phone: (503) 378-6781
Fax: (503) 378-1626
E-mail: lori.nordlien@state.or.us

Contractor
Name: TESSCO Inc
Address: 11126 McCormick Road
Hunt Valley, MD 21031-1494

Phone: 800-316-2830
Fax: 410-527-0005
E-mail: bid@tessco.com

Contractor – Ordering/Purchasing Contact

Name: Sales Support
Fax: 410-527-0005
E-mail: SalesSupport@tessco.com

5. **Subcontractors:** The following subcontractor(s) are authorized to perform services: NONE.

6. **Price Agreement Number:** All Contracts or Purchase Orders issued by Purchasing Entities within the jurisdiction of this Participating Addendum must include WSCA Master Agreement number: 1907 and the State of Oregon Contract #2585.

7. **Purchase Orders:** All Purchasing Entities issuing valid Contracts or Purchase Orders will be bound by the terms and conditions of the WSCA Master Agreement including, without limitation, the obligation to pay Contractor for Service and Equipment provided. The parties acknowledge and agree that orders submitted to Contractor from a Purchasing Entity through the Purchasing Entity's Business Procurement Card are authorized Purchase Orders under the WSCA Master Agreement.

8. **Order of Precedence:** The parties acknowledge and agree that:

(a) In the event of a conflict between the terms contained in the WSCA Master Agreement and this Participating Addendum, the terms and conditions of this Participating Addendum will control as between Contractor and the Participating Entity; and

(b) This §8 specifically supersedes §5 of the WSCA Master Agreement.

9. **Vendor Collected Administration Fee: 1 %**

10. **Entire Agreement:** This Participating Addendum and the WSCA Master Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the WSCA Master Agreement, together with its exhibits, will not be added to or incorporated into this Participating Addendum or the WSCA Master Agreement and its exhibits, by any subsequent Purchase Order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the WSCA Master Agreement and its exhibits will prevail and govern in the case of any such

inconsistent or additional terms.

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the number shown in the Participating Addendum is Contractor's correct taxpayer identification (Contractor must provide Contractor's Social Security number unless Contractor provides a federal tax identification number. This number is requested pursuant to ORS 305.385, OAR 125-246-0330(2)(d), and OAR 150-305.100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal, and local tax laws.); (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; and (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon Tax Laws. (For purposes hereof, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.)

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

Participating Entity: STATE OF OREGON, acting by and through the Department of Administrative Services

Contractor: Tessco, Inc,

By: Lori Nordlien

By: Cynthia L. King

Name: Lori Nordlien

Name: Cynthia L. King

Title: State Procurement Analyst

Title: Vice President

Date: 6/14/12

Date: 6-14-12

Federal Tax Identification No. 52-1868893

Oregon Tax Identification No. N/A

Approved:

By: Karen Johnson
Assistant Attorney General

Date: Per eMail dated 6/14/12

EXHIBIT No. 1

Participating State Modifications or Additions to Master Agreement No. 1907

1. **Definitions.** The following terms have the meanings set forth below. Capitalized terms not defined in this Participating Addendum have the meaning ascribed to them in the Master Agreement and its exhibits.

“Contract” or “Purchase Order” means the document submitted to Contractor by a Purchasing Entity that incorporates this Addendum by reference and specifies the quantity and type of goods or services that Contractor will provide to Purchasing Entity under the terms of the Master Agreement and this Addendum.

“DAS SPO” means the State of Oregon acting by and through the Department of Administrative Services, State Procurement Office.

“Independent State Agency” means an agency, board, commission, department or subdivision of the State of Oregon with independent procurement authority pursuant to ORS 279A.050, 279A.170 or other provisions of applicable State law.

“Master Agreement” means Master Agreement # 1907 between Contractor and the State of Nevada, on behalf of the Western States Contracting Alliance and its attachments, which together with this Addendum sets forth terms, conditions and requirements for purchase by Purchasing Entities of the Goods and Services.

“ORCPP” means the Oregon Cooperative Purchasing Program, which recognizes certain agencies and organizations within the State of Oregon as authorized to purchase the goods and services available under a price agreement entered into by the State.

“Purchasing Entity” means entities that submit Contracts or Purchase Orders pursuant to this Addendum to Contractor, including: (a) an agency, board, commission, department or subdivision of the State of Oregon, subject to the procurement authority of the Director of the Department of Administrative Services pursuant to ORS 279A.050 and 279A.140 and with delegated authority pursuant to OAR 125-246-0170 and the Department of Administrative Services when it is engaged in Public Contracting (as defined under OAR 279A.010 (1)(y)); (b) Independent State Agencies, or (c) ORCPP members.

“Participating State” or “State” means the State of Oregon.

2. **Contracts or Purchase Orders.**

2.1 **Contracts or Purchase Orders.** Purchasing Entities may use their own forms for Contracts or Purchase Orders. Agencies, boards, commissions, departments or subdivisions of the State of Oregon may also use the general State-approved Purchase Order form. 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. Each Contract or Purchase Order must contain, on the front page, the following language:

THIS PURCHASE IS PLACED AGAINST THE WESTERN STATES CONTRACTING ALLIANCE MASTER AGREEMENT NO. 1907. THE TERMS AND CONDITIONS OF THE MASTER AGREEMENT AND THE PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, CONTRACT NO. 2585 APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

2.2 **Effect of Contract or Purchase Orders.** Participating State is only liable for purchases made by State of Oregon agencies, boards, commissions, departments or subdivisions that issue Contracts or Purchase Orders. Other Purchasing Entities are responsible for any purchases under Contracts or Purchase Orders they issue. Participating State expressly disclaims any liability for purchases made by non-State agency Purchasing Entities or any other entity.

2.3 Verification of Purchasing Entities. Contractor is responsible for verifying that it provides Goods and Services under this Addendum only to Purchasing Entities. Contractor may verify that a particular entity is an ORCPP member on-line at <http://www.oregon.gov/DAS/PFSS/SPO/coop-menu.shtml> or by using the Oregon Procurement Information Network (ORPIN) at <http://orpin.oregon.gov/open.dll/welcome>.

3. Goods and Services.

3.1 Goods. All Goods delivered under this Addendum will be new and unused, unless otherwise agreed in the Contract or Purchase Order. Contractor shall warrant the Goods as set forth in Section 7 of this Exhibit No. 1 to this Addendum and as set forth in the Master Agreement. Contractor will deliver any hard copy warranty received from the manufacturer to Purchasing Entity. Title to all Goods delivered is subject to the provisions of ORS chapter 72.

3.2 Services. See Exhibit 2.

3.3 Account Representative. At DAS SPO's request, on a regular basis Contractor's account representative or team shall be prepared to meet to conduct a broad review of all the sales, Goods and Services, and ongoing operations, performance and billing accuracy.

3.4 Pricing. See Exhibit 3.

4. Payment Provisions.

4.1 Purchasing Entity shall pay Contractor the rates and charges set forth in Master Agreement for the Goods or Services.

4.2 Invoices. Purchasing Entity shall pay Contractor not more than once each month all undisputed amounts due upon Contractor's submission of detailed invoices that set forth the Goods and Services accepted by Purchasing Entity. Such invoices will describe the Goods or Services delivered and accepted by Purchasing Entity for which Contractor seeks compensation. Contractor shall request payment only for Goods or Services accepted by Purchasing Entity. Contractor shall submit invoices electronically to Purchasing Entity's Authorized Representative or as otherwise designated by Purchasing Entity. Purchasing Entity has the right to review all invoices for compliance with the requirements of this Addendum, and in the event of a discrepancy may dispute the invoice as set forth below. Invoices will include the following information:

Fields Required

Contractor Name, Bill Number, Invoice Number, Account Number, Sub-Account Number (if applicable), Balance Due, Total Charges, Total Per Sub-Account (if applicable)

For each line item: State Purchasing Entity name, Equipment Description (including Type, Quantity, User, Accessories, Equipment Charges) and applicable Taxes/Surcharges

4.3 Upon review of an invoice, if Purchasing Entity discovers a discrepancy, Purchasing Entity may dispute that portion of the invoice. Purchasing Entity will not pay disputed claims until the dispute is resolved. Purchasing Entity will pay undisputed portions of disputed or incorrect invoices where the undisputed portion can be easily identified by Purchasing Entity. Payment of an amount less than the total amount due on all unpaid invoices shall be credited as directed by Purchasing Entity. In no event shall Contractor apply any payment or portion thereof to any particular amount or item that is subject to any claim of error or dispute between the parties. Contractor shall have 3 months from the date of any disputed billing item to give notice and initiate a dispute against Purchasing Entity. Once Contractor has given notice of Contractor's intention to initiate a dispute against Purchasing Entity, the dispute shall be resolved within 6 months. Purchasing Entities shall have 2 years from the date of any disputed billing item to give notice and initiate a dispute against Contractor. Once Purchasing Entity has given notice of Purchasing Entity's intention to initiate a dispute with Contractor, the dispute shall be resolved within 6 months.

4.4 All payments to Contractor are subject to ORS 293.462.

5. Funds available and authorized/non-appropriation. The Participating State's payment obligations under this Addendum are conditioned upon Purchasing Entity receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Purchasing Entity, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any Contract or Purchaser Order issued under this Addendum. Nothing in this Addendum or Contract or Purchaser Order 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. Purchasing Entity represents that it has sufficient appropriations and limitation for the current biennium to make payments under any Contract or Purchaser Order issued under this Addendum.

6. Volume Sales Reports (VSRs) and Vendor Collected Administrative Fee (VCAF).

6.1 Volume Sales Reports (VSRs).

6.1.1 Contractor shall submit to DAS SPO a Volume Sales Report (VSR) no later than thirty (30) calendar days from the end of each calendar quarter, containing:

- Complete and accurate details of all receipts (sales and refunds) for the reported period;
- The information as identified in the DAS SPO document titled Volume Sales Report Template - Data Requirement, Format and Layout; and
- Such other information as DAS SPO may reasonably request.

Contractor shall send a VSR to DAS SPO each quarter, whether or not there are sales. When no sales have been recorded for the quarter, a report must be submitted stating "No Sales for the Quarter." For the purposes of this Addendum, quarters end March 31, June 30, September 30, and December 31.

6.1.2 Data Medium and Delivery Medium: Contractor shall provide VSRs in MS Excel (.xls) format. VSRs must be submitted by e-mail. Delivered print outs of VSRs are not acceptable. Hard copies of VSRs on CDs are only acceptable if the size of the file precludes transmission by email. Approval from the Contract Administrator must be obtained for deviations from these requirements.

6.1.3 Receipt/Acceptance: The first VSR submitted by Contractor must be submitted to the Contract Administrator for review and approval. Approved first VSRs and subsequent VSRs must be submitted to vcaf.reporting@state.or.us. A separate section follows describing the administrative charge if it is applicable. The Contract Administrator's receipt or acceptance of any of the VSRs furnished pursuant to this Addendum does not preclude DAS SPO from challenging the validity thereof at any time.

6.2 Vendor Collected Administrative Fee (VCAF).

6.2.1 Vendor Collected Administrative Fee (VCAF) percentage: The VCAF is a charge equal to One Percent (1.0 %) of Contractor's Gross total sales, less any credits, made to Purchasing Entities during the calendar quarter.

6.2.2 VCAF Amount / Payment Due Date: During the term of this Participating Addendum and for the sales during the last calendar quarter of the term of this Participating Addendum, the Contractor shall remit VCAF payment to DAS SPO within forty-five (45) calendar days after the end of each calendar quarter.

6.2.3 Contractor may not reflect the VCAF fee as a separate line item charge to Purchasing Entities. Contractor's prices will reflect all Contractor's charges to Purchasing Entities, including the VCAF. DAS SPO will invoice Contractor for the VCAF on a State generated invoice from the information submitted on the VSR. Contractor is responsible for timely reporting and payment, regardless of the entity that actually reports or makes VCAF payment to DAS SPO.

6.2.3.1 Payment Format: The fee shall be in the form of a check remitted to:

State of Oregon
Department of Administrative Services
Attn: State Procurement Office
1225 Ferry Street SE, U140
Salem, Oregon 97301-4285

or to such other address as designated by the Contract Administrator. Any other form of payment must be specifically approved by the Contract Administrator.

6.3 Audit. DAS SPO shall have the right during regular business hours, at Contractor's premises, and upon reasonable notice, by itself or by a person authorized by it, to 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 thereon at the rate provided in Section 6.2.3.2. At DAS SPO'S request, Contractor shall pay the reasonable cost of an audit, but only if such audit reveals that an underpayment may exist as determined by DAS SPO.

7. Warranties. Purchasing Entities are entitled to the warranties, rights, remedies, and benefits under the Master Agreement and this Addendum for any purchases made by such Purchasing Entities pursuant to Contracts or Purchase Orders. Without limiting the generality of the warranty provisions of the Master Agreement, Contractor represents and warrants to Purchasing Entity that:

- Contractor has the power and authority to enter into and perform this Addendum and that this Addendum, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms;
- Contractor will, at all times during the term of this Addendum, be qualified to do business in the State of Oregon, professionally competent and duly licenses to perform the Services under this Addendum;
- Goods or Service will be new, unused, current production models, where applicable, and will be free from defects in materials, design and manufacture for manufacturer's standard warranty period, and through the expiration of the warranty period, all Goods or Services delivered by Contractor to Purchasing Entity will materially conform to the acceptance criteria set forth in the Master Agreement, and any documentation provided by Contractor;
- all Services to be performed under this Addendum will be performed in accordance with the highest applicable professional or industry standards, and that only workmanship of the first quality shall be employed in the performance of this Addendum and Contractor's performance under this Addendum creates no potential or actual conflict of interest, as defined by ORS 244, for either Contractor or any Contractor personnel that will perform the Services under this Addendum;
- Contractor shall transfer to Purchasing Entity all manufacturer warranties covering Goods or Products, if any at time of delivery at no charge;
- all Goods or Services, if any, are free and clear of any liens or encumbrances, and that Contractor has full legal title to such Goods or Services, and that no other person has any right, title or interest in the Goods or Services which is superior to or infringe upon the rights granted to Purchasing Entity hereunder;
- Except as otherwise permitted or provided in this Addendum, Contractor shall transfer all Goods or Services to Purchasing Entity free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind;
- When used as authorized by this Addendum, no Good or Service delivered by Contractor to Purchasing Entity infringes, nor will Purchasing Entity's use, duplication, or transfer of such Goods or Services infringe, any copyright, patent, trade secret, or other proprietary right of any third party; and
- Except as otherwise set forth in this Addendum, any subcontractors performing work for Contractor under this Addendum have assigned all of their rights in the Goods or Services to Contractor or Purchasing Entity and no third party has any right, title or interest in any Goods or Services supplied to Purchasing Entity.

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 the Master Agreement or in this Addendum are cumulative and will be interpreted expansively so as to afford Purchasing Entity the broadest warranty protection available.

8. Indemnities.

8.1 General Indemnity. Contractor will defend, save, hold harmless and indemnify Purchasing Entity and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the negligent or intentional activities of Contractor or its officers, employees, subcontractors or agents under the Addendum.

8.2 Infringement Indemnity. Contractor will defend, save, hold harmless and indemnify Purchasing Entity and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against any and all claims, suits, actions, losses, damages, liabilities, costs and expenses resulting from, arising out of, or relating to a claim that any aspect of the Goods or Services furnished under a Contract or Purchase Order 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 ("Infringement Claim").

8.3 Participation. Purchasing Entity may retain its own counsel and participate in the defense of any Infringement Claim. If the Purchasing Entity reasonably concludes that its interests are not being properly protected, it may enter any action. Contractor may not settle any Infringement Claim on the State of Oregon's behalf without the prior written consent of the Oregon Attorney General. Further, if principles of governmental or public law are involved, the State of Oregon may participate in the defense of any Infringement Claim. Any participation of the State of Oregon pursuant to this subsection will not relieve Contractor of its obligation to defend, save, hold harmless and indemnify the State of Oregon under this section, provided that the State of Oregon may not settle any Infringement Claim or action without Contractor's prior written consent, which will not be unreasonably withheld.

8.4 Remedies for Infringement Claims. If any Goods or Services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if an Purchasing Entity is prevented from exercising its rights under this Addendum based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, procure for the Purchasing Entity the right to continue using the allegedly infringing Goods or Services, or replace or modify the Goods or Services so that they become non-infringing; provided that the replacement or modified Good or Service meets the specifications set forth in the applicable Contract or Purchase Order to the satisfaction of Purchasing Entity. If the foregoing remedies are not available, then Purchasing Entity will return the allegedly infringing Goods or terminate the allegedly infringing Services, and Contractor will refund Purchasing Entity's payments, in full, for the allegedly infringing Goods or Services.

8.5 LIMITATION OF LIABILITY. EXCEPT FOR LIABILITY ARISING OUT OF OR RELATED TO SECTIONS 8.1 AND 8.2, CONFIDENTIALITY OR CLAIMS FOR PERSONAL INJURY, INCLUDING DEATH, OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY ARISING FROM THE NEGLIGENCE, RECKLESS CONDUCT OR INTENTIONAL ACTS OF CONTRACTOR, ITS OFFICERS, EMPLOYEES OR AGENTS, CONTRACTOR'S LIABILITY FOR DAMAGES TO THE STATE FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE GREATER OF ONE MILLION DOLLARS OR TWO TIMES THE AGGREGATE VALUE OF ALL PAYMENTS MADE BY ALL PURCHASING ENTITIES UNDER THIS ADDENDUM OVER THE TWO YEAR PERIOD PRIOR TO NOTICE OF A CLAIM.

NO PARTY IS LIABLE TO ANY OTHER PARTY FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES.

9. Term and Termination of Participating Addendum.

9.1 Term. This Addendum remains in effect until the earlier of (a) the expiration or termination of the Master Agreement, or (b) termination of this Addendum in accordance with its terms.

9.2 Termination. In addition to the termination rights set forth in the Master Agreement, DAS SPO may terminate this Addendum, in whole or in part, upon thirty (30) days written notice to Contractor, or at such later date as DAS SPO may establish in such notice, for no reason or for any reason. DAS SPO may also terminate this Addendum immediately upon notice and the occurrence of any of the following events:

- Participating State fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Goods or Services to be acquired under the Addendum; or
- Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of Goods or delivery of the Services under this Addendum is prohibited or Participating State is prohibited from paying for such Goods or Services from the planned funding source.

Upon receipt of written notice of termination, Contractor shall stop performance under all Contracts or Purchase Orders as directed by State.

9.3 Termination under any provision of this Addendum does not extinguish or prejudice State's or a Purchasing Entity's right to enforce this Addendum or a Contract or Purchase Order 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 Purchasing Entity to indemnification by Contractor. If this Addendum or a Contract or Purchase Order is so terminated, the State or a Purchasing Entity will pay Contractor in accordance with the terms of this Addendum for Goods delivered or Services performed and duly accepted by Purchasing Entity.

10. Termination of Individual Contracts or Purchase Orders.

10.1. Purchasing Entity may, at its sole discretion, terminate individual Contracts or Purchase Orders, in whole or in part, upon 30 days written notice to Contractor.

10.2. Purchasing Entity may terminate individual Contracts or Purchase Orders, in whole or in part, immediately upon notice to Contractor, or at such later date as Purchasing Entity may establish in such notice, upon the occurrence of any of the following events:

- Purchasing Entity fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Goods or Service to be acquired under the Contract or Purchase Order;
- Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of Goods or Services under the Contract or Purchase Order is prohibited or Purchasing Entity is prohibited from paying for such Goods or Services from the planned funding source; or
- Contractor commits any material breach of this Addendum or a Contract or a Purchase Order

10.3 Upon receipt of written notice of termination, Contractor will stop performance under the Contract or Purchase Order as directed by Purchasing Entity.

10.4 Termination of a Contract or Purchase Order does not extinguish or prejudice Purchasing Entity's right to enforce the Contract or Purchase Order 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 Purchasing Entity to indemnification by Contractor. In addition, termination of a Contract or Purchase Order does not extinguish or prejudice Purchasing Entity's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this Addendum. If a Contract or Purchase Order is so terminated, Purchasing Entity will pay Contractor in accordance with the terms of this Addendum for Goods delivered or Services performed and accepted by Purchasing Entity.

11. Compliance with Applicable Law. Contractor will comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Goods and Services under this Addendum, and a Purchasing Entity's

performance under a Contract or Purchase Order is conditioned on Contractor's compliance with the provisions of ORS 279B.220, 279B.235, 279B.230, and 279B.270. In addition, Contractor warrants the Goods and Services provided under this Addendum will comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Division. Contractor also agrees to comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section v of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659.425, (d) all regulations and administrative rules established pursuant to the foregoing laws and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

In addition, if or when Contractor is notified by Purchasing Entity that a specific purchase or purchases are being made with American Recovery and Reinvestment Act of 2009 ("ARRA") funds, Contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Purchasing Entity is responsible for informing Contractor as soon as Purchasing Entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to Purchasing Entity with the invoice presented to Purchasing Entity for payment. Contractor, as it relates to purchases under this Addendum, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

12. Application of Public Records Law. Contractor acknowledges that any disclosures Contractor makes to Purchasing Entity under this Addendum are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.410 – 192.505, 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 Purchasing Entity may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to Purchasing Entity'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.

13. Recycled Products. Contractor will use, to the maximum extent economically feasible in the performance of this 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)).

14. Notices. Except as otherwise provided in a Contract or Purchase Order, any formal communications between the parties to or notices to be given under a Contract or Purchase Order will be given in writing by personal delivery or a facsimile transmission or the notice or mailing the notice, postage prepaid, at the address or number set forth on the Contract or Purchase Order. Any communication so addressed and mailed will be deemed to have been received five (5) calendar days after mailing. Any communication delivered by facsimile 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 facsimile transmission must be confirmed by telephone notice to the receiving party's authorized representative, as set forth in the Contract or Purchase Order. 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 Participating State with respect to this Addendum, the Primary Contacts of Contractor and State are set forth above.

15. Dispute Resolution.

Except as provided below and otherwise in the Master Agreement, in the event that there is any disagreement, dispute, breach or claim of breach, non-performance, or repudiation arising from, related to or in connection with the Addendum or any of the terms or conditions hereof, or any transaction hereunder including but not limited to any party's failure or alleged failure to comply with any of the provisions of the Addendum (hereinafter collectively the "Dispute"), other than one related to the release of Confidential Information, DAS SPO and Contractor shall first conduct the following procedure in an attempt to resolve the Dispute:

- DAS SPO and Contractor shall make every effort to settle any dispute through their respective managers, within five (5) calendar days of one party notifying the other party of a dispute.

- If the dispute is not resolved between the managers, then either party may initiate formal dispute resolution discussions by advising the other party in writing. The contact point for these discussions shall be DAS SPO's and Contractor's Authorized Representatives. DAS SPO and Contractor shall attempt to resolve the dispute within 5 calendar days of the notice from the other party that they are initiating this second level of dispute resolution discussions. If DAS SPO and Contractor mutually agree in writing that there has been substantial progress toward resolution of the dispute, this second level may be extended for an additional 5 business day period which shall commence at the conclusion of the first 5 day period.

Nothing in this Section 15: (a) shall in any way limit a party's rights to seek injunctive relief of any kind, at any time, with respect to any matter; or (b) in any way limit a party's right to suspend or terminate the Addendum or pursue other remedies available under the Master Agreement and Addendum, by law or otherwise; or (c) remove the requirement to provide notices or filings to meet deadlines otherwise required by law; or (d) constitute a waiver of the sovereign immunity of the State of Oregon.

Purchasing Entities and Contractor also shall attempt to resolve all Disputes related to Contracts or Purchase Orders under the above described Dispute Resolution process.

16. Governing Law. This Addendum and resulting Contracts are governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

17. Jurisdiction and Venue. Any claim, action, suit or proceeding (collectively, "Claim") between Participating State or any other agency, board, commission, department or subdivision of the State of Oregon, and Contractor, that arises from or relates to this Addendum or a Contract or Purchase Order 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 OR ACCEPTANCE OF A CONTRACT OR PURCHASE ORDER HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.** This section is not a waiver by the State of Oregon of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

Any Claims between Contractor and a Purchasing Entity other than the State of Oregon or one of its agencies, boards, commissions, department or subdivisions that arise from or are related to individual Contracts or Purchase Orders 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 Purchasing Entity resides or has its principal office, or at Purchasing Entity's option, within such other county as Purchasing Entity 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. This section is not a waiver by Purchasing Entity of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

18. 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. A Purchasing Entity may withhold final payment under a Contract or Purchase Order until Contractor has provided the Oregon Department of Revenue with the required information.

19. Merger Clause; Waiver. This Addendum, including the Master Agreement and the exhibits attached to this Addendum, constitutes the entire agreement between the parties on the subject matter hereof, and supersedes all prior agreements, oral or written. There are no understandings, agreements, or representations, oral or written, between these parties that are not specified in this Addendum. 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.

20. Independent Contractor. Contractor shall act at all times as an independent contractor and not as an agent or employee of Purchasing Entity. Contractor has no right or authority to incur or create any obligation for or legally bind the State or Purchasing Entity in any way. Contractor is not an "officer", "employee", or "agent" of Purchasing Entity (or any other 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, or 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 Contracts or Purchase Orders in accordance with generally accepted accounting principles and will maintain any other records relating to Purchase Orders in such a manner as to clearly document Contractor's performance thereunder. The Purchasing Entity, the State and its agencies, and their 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. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law following final payment and termination of this Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum, whichever date is later.

22. Severability. If any term or provision of this Addendum 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 did not contain the particular term or provision held to be invalid.

23. Survival. Any terms of this Addendum, which by their nature are intended to survive termination or expiration including but not limited to warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, termination and remedies provisions survive the termination or expiration of this Addendum.

24. Insurance. Insurance requirements are listed in Section 26 of the Master Contract.

25. Anticipated Amendments. The parties may need to amend this Addendum to modify selected terms, conditions, and price(s). This Addendum maybe modified by written document only.

Exhibit No. 2 – Services

The services to be provided by Contractor under this Exhibit 2 are;

1. Provide unused quality wireless accessories. Discontinued or used items will not be accepted.
2. Provide secure online access for a representative of each Purchasing Entity to manage accounts and order services/accessories/equipment.
3. Meet with DAS SPO on a semi-annual basis to evaluate and review:
 - Pricing/rates relative to prevailing full market pricing/promotions/solicitations;
 - Actual billed charges relative to prevailing available full market pricing;
 - Adjustments to maintain the original discount offered to the then prevailing available full market pricing;
 - Any other significant issue (service, billing or otherwise) that may need to be addressed; and
 - Complete the evaluation and review within twenty (20) business days. All changes/reductions to current agreement pricing shall be formalized by an Amendment to existing agreement. Amendment shall be retroactive to the date of review.
4. Assist Purchaser's with detail account information required anytime during the contract period.
5. Delivery time will not be more than five (5) calendar days, for product in stock at the time of order.
6. Provide samples of items when available and requested by DAS SPO.
7. Manufacturers' warranty will apply and shall be passed through by Seller to Buyer. Seller makes no implied warranty of merchantability or of fitness for a particular purpose with respect to the Products. While Seller makes no additional warranty, Seller will provide reasonable assistance to Buyer to help determine the extent of coverage for any warranty claim, coordinate the return of Product(s), and assist with the warranty support offered by the manufacturer. Seller's liability under this Agreement shall in no event exceed the purchase price of the nonconforming products giving rise to Seller's liability.
8. At Contractor's expense, Contractor shall arrange for pick up of products returned because of quality problems, duplicated shipments, outdated products, etc. within five (5) business days after notification with no restocking charge and replaced with specified products or the Purchaser shall be credited or refunded for the full purchase price. Standard stock products ordered in error by Purchaser must be returned for credit within fifteen (15) days of receipt. Products must be in resalable condition and in original container, unused.

**Exhibit No. 3 – Pricing
WSCA Discount Percentage offered by TESCO, Inc.**

See attached Excel File Titled TESCO Pricing

Contract #2585 - Exhibit 3

Item	Manufacture/Brand	Length of Warranty	WSCA Discount Percent	Aftermarket/Brand	Length of Warranty	WSCA Discount Percent
Netbook/Tablet Devices						
Blue Tooth	Motorola	1-Year	10%	Plantronics	1-Year	10%
	Samsung	1-Year	30%	Jabra	1-Year	10%
	LG	1-Year	20%	Aliph	1-Year	10%
Memory Cards	Kingston	1-Year	30%			
	Sandisk	5-Year	30%			
	Transcend	Limited Lifetime	30%			
Car Chargers	Motorola	1-Year	15%	Wireless Solutions	Limited Lifetime	15%
	Samsung	1-Year	15%	Zipcord	1-Year	5%
	Blackberry	1-Year	35%	Ifrogz	30 Day	25%
Batteries	Motorola	1-Year	15%	Kensington	2-Years	20%
	Samsung	1-Year	10%	Pantech	1-Year	20%
	HTC	1-Year	15%	Seidio	1-Year	10%
Travel Chargers	Motorola	1-Year	15%	Wireless Solutions	Limited Lifetime	15%
	Samsung	1-Year	15%	Ventev	Limited Lifetime	20%
	HTC	1-Year	30%			
Leather Cases	Motorola	1-Year	10%	Wireless Solutions	Limited Lifetime	15%
	Blackberry	1-Year	15%	Body Glove	1-Year	15%
	HTC	1-Year	30%			
Holsters	Motorola	1-Year	30%	Wireless Solutions	Limited Lifetime	15%
	Blackberry	1-Year	35%	Seidio	1-Year	10%
	HTC	1-Year	30%			
Hands Frees	Motorola	1-Year	30%	Wireless Solutions	Limited Lifetime	15%
	Blackberry	1-Year	30%	Plantronics	1-Year	15%
	Samsung	1-Year	30%			
Data Cables	Motorola	1-Year	25%	Wireless Solutions	Limited Lifetime	17%
	Samsung	1-Year	30%	Zipcord	1-Year	5%
	HTC	1-Year	35%	Kensington	2-Years	1%
Snap On Covers	Blackberry	1-Year	15%	Wireless Solutions	Limited Lifetime	15%
	HTC	1-Year	30%	Body Glove	1-Year	15%
				Otterbox	1-Year	5%
Silicone Skins	Blackberry	1-Year	15%	Wireless Solutions	Limited Lifetime	15%
	HTC	1-Year	30%	Body Glove	1-Year	15%
	Samsung	1-Year	30%	Case-mate	30 Day	10%
Stylus	HTC	1-Year	25%	Targus	1-Year	5%
				Ten One Design	1-Year	30%
				Griffin	1-Year	35%
LCD Protectors				Bodyguardz	Limited Lifetime	10%
				Invisible Gadget Guard	Limited Lifetime	35%
				Fellowes	1-Year	10%
Antennas	PCTEL/Maxrad	1-2 Years	30%			
	Laird	1-Year	20%			
	Larsen	1-2 Years	35%			

Phone Holders	Panavise	Lifetime	10%				
	Bracketron	1-Year	2%				
Phone Straps							
Car Kits	Motorola	1-Year	15%	Jabra	1-Year	20%	
				Parrot	1-Year	10%	
				Bluant	2-Years	2%	
Face Plates							
Repair Kits							

WCSA Percentage Discount for Items/manufacturers not listed above		Percentage Discount for Employee Purchases for Items/manufacturers not listed above	
Manufacturer	Item	Discount Percent	Manufacturer
	All other product	10%	Aliph
Blackberry	All other product	15%	Blackberry
Bodyguard	All other product	10%	Bodyguard
Bracketron	All other product	2%	Bracketron
Bury	All other product	15%	Bury
Case-Mate	All other product	10%	Case-Mate
Fellowes	All other product	5%	Fellowes
Griffin	All other product	15%	Griffin
HTC	All other product	15%	HTC
ifrogz	All other product	20%	ifrogz
Invisible Gadget Guard	All other product	20%	Invisible Gadget Guard
Jabra	All other product	10%	Jabra
Kensington	All other product	1%	Kensington
Kingston	All other product	20%	Kingston
Laird	All other product	15%	Laird
Larsen	All other product	20%	Larsen
LG	All other product	20%	LG
Motorola	All other product	10%	Motorola
Otterbox	All other product	5%	Otterbox
Panavise	All other product	10%	Panavise
Pantech	All other product	20%	Pantech
Parrot	All other product	10%	Parrot
PCTEL/Maxrad	All other product	20%	PCTEL/Maxrad
Plantronics	All other product	10%	Plantronics
Samsung	All other product	10%	Samsung
Seldio	All other product	10%	Seldio
Targus	All other product	5%	Targus
Ten One Design	All other product	20%	Ten One Design
Transcend	All other product	20%	Transcend
Ventev	All other product	20%	Ventev
Wireless Solutions	All other product	15%	Wireless Solutions
Zipcord	All other product	5%	Zipcord
Belkin	All products	20%	Belkin
Blueant	All products	2%	Blueant
dreamGEAR	All products	20%	dreamGEAR
JWIN Electronics	All products	10%	JWIN Electronics
OnCore	All products	2%	OnCore
Wilson Electronics	All products	15%	Wilson Electronics