

PARTICIPATING ADDENDUM
to NASPO ValuePoint
Mailroom Equipment, Supplies & Maintenance
Master Agreement No. CTR058805
Between
DMT Solutions Global Corporation dba BlueCrest
And
The State of Colorado
Contract # 179408

1. PARTIES AND SCOPE

This Participating Addendum, including all of its attached exhibits and other documents incorporated by reference (the “Participating Addendum”), is entered into by and between the **DMT Solutions Global Corporation dba BlueCrest** and the **State of Colorado, acting by and through the State Purchasing & Contracts Office** (the “State”). This Participating Addendum covers usage of the **Mailroom Equipment, Supplies & Maintenance** Master Agreement led by the State of **Arizona** (the “Master Agreement”), for use by State agencies and other entities located in Colorado which are authorized by law to utilize State contracts with the prior approval of the Chief Procurement Officer. The specific Goods and Services provided under the Master Agreement are listed in **Exhibit C, Products and Price List**, of this Participating Addendum.

2. PARTICIPATION

Agencies, political subdivisions and other entities (including cooperatives) authorized by the State’s statutes to use State contracts may make purchases under this Participating Addendum as of its Effective Date. The Participating Entity hereby represents that all such entities authorized to use statewide contracts shall be bound by all of the terms and conditions of this Participating Addendum, as if each such entity were an original signatory hereto. Issues of interpretation and eligibility for participation are solely within the authority of the Chief Procurement Officer.

3. STATE MODIFICATIONS TO MASTER AGREEMENT AND APPLICABILITY

- A.** The Master Agreement and all its terms and conditions shall apply to this Participating Addendum. If any term of this Participating Addendum conflicts with the Master Agreement, then this Participating Addendum shall control for all transactions between the State and the Contractor under this Participating Addendum. All terms defined in the Master Agreement shall have the meaning given to them in the Master Agreement, except for those terms specifically defined differently in this Participating Addendum.
- B.** The following modifications shall be made to the Master Agreement with respect to Contractor’s performance pursuant to this Participating Addendum:
 - i.** Section 7 of the Master Agreement, Lead State (State of Arizona) Terms & Conditions, shall be struck in its entirety.

- ii. All Additional Participating States' Terms and Conditions shall be struck in their entirety.

4. EQUIPMENT, MAINTENANCE AND SOFTWARE OPTIONS

- A. A Purchasing Entity may purchase or lease Equipment and software under this Participating Addendum. Fair Market Value (FMV) and \$1 Buyout Leases are both authorized.
- B. Purchasing Entity's may take immediate ownership of Equipment through an up-front purchase by use of **Attachment 1, Blue Crest Sales Order Form**. In addition, Attachment 1 shall also be used for the acquisition of Maintenance, Application Software and Professional Services, which terms and provisions are attached hereto as **Attachment 1A, BlueCrest On-Site Maintenance Services Terms and Provisions, Attachment 1B, Blue Crest On-Call Maintenance Services Terms and Provisions, Attachment 4, Blue Crest Application Software License Terms and Provisions, and Attachment 5, Blue Crest Professional Services Terms and Conditions**.
- C. The State has reviewed and approved the terms and conditions in the Contractor's documents, which are attached hereto as Attachments 1 through 6, and incorporated by reference. Purchasing Entities are still advised however, to conduct their own internal review of Contractor's documents prior to entering into any type of Order. No other Contractor documents are permissible under this Participating Addendum unless mutually agreed to in writing by Contractor and the State. Should there be a conflict between the terms and conditions of this Participating Addendum, and Attachments 1 through 6, this Participating Addendum shall govern.
- D. In the event the Purchasing Entity receives or obtain copies of the language in Attachments 1 through 6, and the language varies from what is listed in said Attachments, the language in the Attachments incorporated into this Participating Addendum, shall prevail.

5. PRIMARY CONTACTS AND PERSONNEL RESPONSIBILITIES

The primary contacts for this Participating Addendum are the individuals named in this section. Either Party may change its primary contacts or primary contacts contact information by notice submitted to the other party in writing no later than 5 days following the date on which the change occurs, without a formal amendment to this Participating Addendum. The Contractor's primary contact shall be ultimately responsible for ensuring that all Services are completed in accordance with this Participating Addendum.

Primary Contact for the State:

Nikki Pollack
Colorado State Purchasing & Contracts Office
1525 Sherman Street, 5th Floor
Denver, CO 80203
Phone: 303-866-5671
E-mail: nikki.pollack@state.co.us

Primary Contact for the Contractor:

Jacob Halbur
DMT Solutions Global Corporation dba BlueCrest
37 Executive Drive
Danbury, CT 06810
Phone: 847-212-6890
E-mail: jacob.halbur@bluecrestinc.com

Each individual identified in this §5 of the Participating Addendum shall be the primary contact of the designated Party. All notices required or permitted to be given under this Participating Addendum shall be in writing and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's primary contact at the address set forth above or **(C)** as an email with

read receipt requested to the primary contact at the email address, if any, set forth above. If a Party delivers a notice to another through email and the email is undeliverable then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's primary contact at the address set forth above. Unless otherwise provided in this Participating Addendum, notices shall be effective upon delivery of the written notice.

6. RESERVED

7. ORDERS

Any Order placed by a Purchasing Entity in the State of Colorado for Goods and Services available under this Participating Addendum shall be deemed to be a sale (and governed by the prices and other terms and conditions) under the Master Agreement and this Participating Addendum unless the parties to the Order agree in writing that another contract or agreement applies to such Order or the terms of that Order control to the extent that they conflict with the terms of the Master Agreement or this Participating Addendum.

Notwithstanding anything to the contrary herein, Contractor shall not be subject to any terms and conditions appearing on or referenced in (via a link or otherwise) a Purchase Order unless and until Contractor affirmatively accepts such terms and conditions in writing.

8. ORDER OF PRECEDENCE

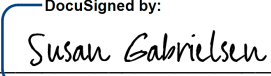
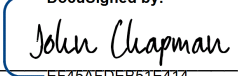
In the event of a conflict of inconsistency between this Participating Addendum, any Exhibits, and the Master Agreement and any of its Attachments, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- A.** Colorado Special Provisions in **§20 of Exhibit A** to this Participating Addendum, State Specific Terms;
- B.** The provisions of this Participating Addendum;
- C.** All other sections of **Exhibit A**, State Specific Terms;
- D.** **Exhibit B** of this Participating Addendum, Information Technology Provisions;
- E.** **Exhibit C** of this Participating Addendum, Statement of Work;
- F.** **Section 6** of the Master Agreement, NASPO ValuePoint Master Agreement Terms and Conditions;
- G.** **Exhibit D** of this Participating Addendum, Products and Price List;
- H.** A Purchasing Entity's Order;
- I.** **Attachment 1 through Attachment 5** of this Participating Addendum, with no particular order of precedence;
- J.** Contractor's Proposal; and
- K.** **Attachment 6**, Sample D&A Certificate.

Notwithstanding anything to the contrary herein, the State and Purchasing Entities shall not be subject to any provision incorporated in any terms and conditions appearing on Contractor's or Subcontractor's website, any provision incorporated into any click-through or online agreements, or any provisions incorporated into any other document or agreement between the Parties that **(i)** requires

the State to indemnify or hold harmless Contractor or any other party, **(ii)** is in violation of State law as, regulations, rules, fiscal rules, policies, or other State requirements as deemed solely by the State or **(iii)** is contrary to any of the provisions incorporated into **Exhibit A, §19** or the main body of this Participating Addendum.

THE PARTIES HERETO HAVE EXECUTED THIS PARTICIPATING ADDENDUM

CONTRACTOR DMT Solutions Global Corporation dba BlueCrest By: Susan Gabrielsen Title: SVP Sales, North America DocuSigned by:  7F5C1D5A5A0C4B3... Signature Date: 10/14/2022	STATE OF COLORADO Jared S. Polis, Governor Department of Personnel and Administration State Purchasing and Contracts Office Tony Gherardini, Executive Director DocuSigned by:  EF45AFDEB51E414... By: John Chapman, State Purchasing Manager Date: 10/18/2022
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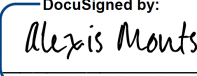
STATE OF COLORADO

Governor's Office of Information Technology

In accordance with §24-30-202, C.R.S., if this Contract is for a Major Information Technology Project, this Contract is not valid until signed and dated below by the Chief Information Officer or an authorized delegate.

STATE CHIEF INFORMATION OFFICER

Anthony Neal-Graves, Chief Information Officer and Executive Director

Signed: 
4235987998F1488...
Printed Name: Alexis Monts

Date: 10/19/2022

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

§24-30-202, C.R.S. requires the State Controller to approve all State Contracts. This Participating Addendum is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: 
2C13912416524B1...
Name: Chelsea Gilbertson
Delegate

Effective Date: 10/20/2022

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EXHIBIT A, STATE SPECIFIC TERMS

1. AUTHORITY

Authority to enter into this Participating Addendum exists in the Colorado Procurement Code, §24-102-202, C.R.S. and 1 CCR 101-9 R-24-102-202-01., and its associated rules.

2. PURPOSE

The Parties are entering into this Participating Addendum for the Contractor to provide mailing Equipment, supplies and maintenance to Purchasing Entities. The Contractor was selected as a result of the State of Arizona's solicitation, **BPM003137**.

3. TERM

A. Initial Term - Work Commencement

The Parties' respective performances under this Participating Addendum shall commence on the Effective Date and shall be co-terminus with the NASPO ValuePoint Master Agreement **#CTR058805**. Unless this Participating Addendum is terminated earlier, as described herein, or the Lead State cancels its participation as described in the Master Agreement (the "Term"), the term of the Participating Addendum shall follow the Master Agreement initial term and will be automatically extended beyond the initial term if the Master Agreement term is extended, per **§3.B**.

B. Extension of Term

If the term of NASPO ValuePoint Master Agreement is extended for any reason, the Term of this Participating Addendum shall be automatically modified to account for that extension, so long as such extension complies with the Colorado Procurement Code.

C. Order Term

Orders may only be placed prior to the expiration or earlier termination of this Participating Addendum, but may have a delivery date or performance period that extends no longer than 120 calendar days following that expiration or earlier termination date. Regardless of whether this Participating Addendum has expired or has been terminated, the Contractor shall comply with all Orders that extend past the expiration or termination, as described in this section, and all requirements of this Participating Addendum necessary to complete outstanding Orders shall survive the expiration or termination of this Participating Addendum until all Orders are complete.

D. Early Termination in the Public Interest

The State is entering into this Participating Addendum to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Participating Addendum by the State for breach by Contractor, which shall be governed by **§14.i**.

i. Method and Content

The State shall notify Contractor of such termination in accordance with **§5** of this Participating Addendum. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Participating Addendum, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in **§14**.

iii. Payments

If the State terminates this Participating Addendum in the public interest, the Purchasing Entities shall pay Contractor according to their orders with the Contractor. The sum of any payment shall not exceed the maximum amount payable to Contractor under each order.

4. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Administration Fee”** means the fee that is due to the State for the administration of this Participating Addendum, as described in **§7.A.** of this **Exhibit A**.
- B. “Attachments”** means the following Attachments to this Participating Addendum:
- i. Attachment 1**, BlueCrest Sales Order Form
 - ii. Attachment 1A**, BlueCrest On-Site Maintenance Services Terms and Provisions
 - iii. Attachment 1B**, BlueCrest On-Call Maintenance Services Terms and Provisions
 - iv. Attachment 2**, MAM Tax Exempt \$1 Buyout Lease Agreement
 - v. Attachment 3**, MAM FMV Lease Agreement
 - vi. Attachment 4**, BlueCrest Application Software License Terms and Provisions
 - vii. Attachment 5**, BlueCrest Professional Services Terms and Provisions
 - viii. Attachment 6**, Sample D&A Certificate
- C. “Breach of Contract”** means the failure of a Party to perform any of its material obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- D. “Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- E. “Ceiling Price”** means the maximum price a Contractor or a Subcontractor may charge for a Service under this Participating Addendum.
- F. “Chief Procurement Officer”** means the individual to whom the Executive Director of the Department of Personnel & Administration has delegated his or her authority pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.
- G. “CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of

Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under §24-72-302, C.R.S.

- H. **“Confidential Information”** means any and all information that is normally considered confidential in nature, and includes, but is not limited to, all State Records not subject to disclosure under the Colorado Open Records Act, §§24-72-200.1, et seq., C.R.S. (“CORA”).
- I. **“Contract”** means this Participating Addendum, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- J. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by a Purchasing Entity for Orders placed under this Participating Addendum.
- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, et. seq., C.R.S.
- L. **“Effective Date”** means the date Contract is signed by the State Controller or their designee.
- M. **“Environmentally Preferable Products”** means products that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose, as defined in §24-103-904, C.R.S.
- N. **“Equipment”** refers to the base unit, either with or without optional accessories and/or software.
- O. **“Equipment Trade-In”** is an agreed upon transaction between the Purchasing Entity and Contractor, in which Contractor takes ownership of Purchasing Entity’s owned device, often for a discounted amount.
- P. **“Equipment Upgrade or Downgrade”** is a replacement of the Purchasing Entity’s existing lease Equipment, with a different piece of Equipment, of either greater or lesser value. A new lease is then originated for the new piece of Equipment, with the remaining lease payments on the old Equipment wrapped into it. The old lease is closed out, and the Equipment is returned to Contractor.
- Q. **“Exhibits”** means the following exhibits attached to this Contract:
 - i. **Exhibit A**, State Specific Terms;
 - ii. **Exhibit B**, Information Technology Provisions;
 - iii. **Exhibit C**, Statement of Work; and
 - iv. **Exhibit D**, Products and Price List.
- R. **“Extension Term”** means the period defined in §3.B.
- S. **“Goods”** means any moveable material acquired, produced, or delivered by Contractor as set forth in this Participating Addendum, and shall include any moveable material acquired, produced, or delivered by Contractor in connection with the Services.
- T. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et. seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State

system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

- U. **"Initial Term"** means the period of time defined in §3.A of this **Exhibit A**.
- V. **"Lead State"** means the State of Arizona, which is centrally administering the Master Agreement.
- W. **"Leasing Partner"** means the financial entity (PNC Bank or Municipal Asset Management) that holds title to the Equipment and whom the Purchasing Entity has entered into an FMV or \$1 Buyout Lease arrangement with.
- X. **"Order"** means any delivery order, purchase order, contract, agreement or other binding document used by a Purchasing Entity to order the Services described in this Participating Addendum from the Contractor, and shall include any modification to such a document.
- Y. **"Party"** means the State or Contractor, and "Parties" means both the State and Contractor.
- Z. **"Purchasing Entity"** means any entity or organization that has been authorized by the State to place Orders with the Contractor, and may include, without limitation, agencies of the State, government supported institution of higher education within the State, political subdivisions of the State, authorized non-profit organizations and other authorized entities.
- AA. **"PCI"** means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- BB. **"PII"** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- CC. **"Renewal Lease Term"** means a month to month extension of the Initial Lease Term.
- DD. **"Services"** means the services to be performed by Contractor as set forth in this Participating Addendum.
- EE. **"State Confidential Information"** means any State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PCI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- FF. **"State Fiscal Rules"** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13) (a), C.R.S.
- GG. **"State Fiscal Year"** means a 12-month period beginning on July 1 of each calendar year and

ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

- HH. “State Records”** means any State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- II. “Subcontractor”** means third-parties, if any, engaged by Contractor pursuant to aid in performance of the Work. The term “Subcontractor” includes, without limitation, any dealers, distributors, partners or resellers engaged by the Contractor to perform the Work.
- JJ. “Useful Life”** means the period during which the Equipment is expected to be usable for the purpose in which it was manufactured.
- KK. “Work”** means the Services performed pursuant to this Contract.
- LL. “Work Product”** means the tangible and intangible results of the Work as specifically set forth in an Order, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. Notwithstanding anything to the contrary in this Agreement, “Work Product” does not include (i) any Contractor or third party material or intellectual property that was developed prior to the Effective Date, (ii) any derivatives, modifications, improvements, enhancements, substitutions, or extensions of any such material or intellectual property, whenever developed, created, authored, conceived, reduced to practice or acquired, or (iii) any and all suggestions, feedback, recommendations and other comments with respect any such material or intellectual property.

Any other term used in this Participating Addendum that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

5. ORDERING

A. Order Fulfillment

- i.** Contractor shall provide a complete and accurate Internal Revenue Service form W9 to the State prior to accepting an Order from any Purchasing Entity. Upon a request by a Purchasing Entity, Contractor shall provide a complete and accurate Internal Revenue Service form W9 to that Purchasing Entity.
- ii.** Each Purchasing Entity may complete an Order in accordance with its own rules and policies, as available to Contractor, using the appropriate documentation for that organization to issue an Order.
- iii.** Contractor shall communicate directly with each Purchasing Entity related to that Purchasing Entity’s Orders.
- iv.** Contractor shall ensure that all Orders it accepts have the proper information contained in them for Contractor to be able to comply with all reporting requirements of this Exhibit A.
- v.** If Contractor provides for Ordering through an internet-based portal or electronic catalog, Contractor shall maintain all of Contractor’s necessary hardware, software, backup-capacity and network connections required to operate that internet-based portal or electronic catalog.

- vi. Contractor's internet-based portal and electronic catalogs, if any, shall clearly designate if they are part of this Participating Addendum. Contractor shall ensure that all Environmentally Preferable Products are clearly listed on internet-based portal and electronic catalogs.
- vii. If Contractor's catalog will be either hosted on or accessed through the State's eCommerce system, when available, then Contractor shall comply with all policies, procedures and directions from the State in relation to hosting its catalog on or making its catalog accessible through that system. Contractor shall ensure that all information made available through the State's eCommerce system is accurate and complies with this Participating Addendum.

6. PAYMENTS TO CONTRACTOR

A. Payments Under Orders

- i. Contractor shall allow Purchasing Entities to use a procurement card or other credit card to make payments under any Order, in addition to any other payment procedure available to the Purchasing Entity.
- ii. The Purchasing Entity shall not pay any amount to Contractor under this Participating Addendum unless the Purchasing Entity issues an Order, at which time it shall pay Contractor in accordance with that Order. The State shall not be responsible for payment under any Order that is issued by a Purchasing Entity, and the Contractor shall seek no payment or other compensation from the State for any Work performed under any Order issued by a Purchasing Entity.

B. Payment Procedures

i. Invoices

Contractor shall invoice each Purchasing Entity in accordance with that Purchasing Entity's Order. Contractor shall not invoice the State under any Order. Contractor shall allow 45 days for Purchasing Entities to pay an invoice following the receipt of the invoice, unless the Purchasing Entity specifically agrees to a shorter time in an Order. State law and regulations provide that Purchasing Entity payments made within 45 days are not considered delinquent, and unless otherwise agreed, Purchasing Entities will pay interest on any unpaid balance beginning on the 46th day at the rate of 1% per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are the subject of a good faith dispute regarding the obligation to pay all or a portion of the liability. Contractor shall invoice the Purchasing Entity separately for accrued interest on delinquent amounts due. The billing shall reference the delinquent payment, the number of day's interest to be paid, and the applicable interest rate. (§24-30-202(24), C.R.S., as amended.)

ii. Payment Disputes

Unless different procedures are specified in an Order, if Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the Purchasing Entity issuing the Order in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the determination or calculation of the payment by that Purchasing Entity. The Purchasing Entity will review the information presented, including any accounting transpositions, by Contractor and may

make changes to its determination based on this review. No payment subject to a dispute under this subsection shall be due until after the Purchasing Entity has concluded its review, and the Purchasing Entity shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iii. Available Funds-Contingency-Termination of Order

- a. Purchasing Entities, except for authorized non-profit entities, are prohibited by law from making commitments beyond the term of the current Purchasing Entity's Fiscal Year. Payment to Contractor beyond the current Purchasing Entity's Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year (See Colorado Special Provision). If federal funds, non-State funds or funds from any other source constitute all or some of the Contract Funds, the Purchasing Entity's obligation to pay Contractor shall be contingent upon such funding continuing to be made available for payment. Orders under this Participating Addendum shall be made only from Contract Funds, and the Purchasing Entity's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other Purchasing Entity funds are not appropriated, or otherwise become unavailable to fund an Order under this Participating Addendum, the Purchasing Entity may, upon written notice, terminate the Order, in whole or in part, without incurring further liability. The Purchasing Entity shall, however, remain obligated to pay for Services that are delivered and accepted prior to the effective date of notice of termination of Order. A Purchasing Entity Order termination shall otherwise be treated as if the Order was terminated in the public interest as described in **§3.D.** of this **Exhibit A.**
- b. The Purchasing Entity may effect such termination by giving Contractor a written notice of termination, to the Contractor's primary contact in accordance with **§5** of the Participating Addendum, and by paying to Contractor any amounts which are due and have not been paid through the last day of the Fiscal Year for which appropriated funds are available. The Purchasing Entity shall endeavor to give notice of such termination not less than 30 days prior to the day of non-availability of funds, and shall notify Contractor of any anticipated termination.

iv. Discount and Delinquency Period

Any applicable cash discount period or delinquency period for the amounts shown on an invoice shall begin on the date the Purchasing Entity's approves of the invoice, or from the date of receipt of acceptable Goods or Services at the specified destination by an authorized Purchasing Entity representative, whichever is later.

7. PAYMENTS TO STATE

A. Administrative Fees

- i. Each State Fiscal Year quarter, Contractor shall, using a form as directed by the State, calculate an Administrative Fee equal to 1% of the Total Sales made under Orders during that State Fiscal Year quarter. Contractor shall pay the State the Administrative Fee for each State Fiscal Year quarter within 30 days following the end of that State Fiscal Year quarter.
- ii. Contractor shall remit all Administrative Fees to the State's primary contact identified in **§5** of the Participating Addendum and with the payee as "State of Colorado."

8. REPORTING – NOTIFICATION

A. Volume Reporting

The State will use a centralized method of tracking volume. Contractor shall provide a quarterly volume report to the State's primary contact identified in §5 of this Participating Addendum within 30 calendar days following the end of the State Fiscal Year quarter that the report covers. The quarterly volume report shall be submitted in a form as directed by the State, which may be modified by the State from time to time. The quarterly volume report shall contain, at a minimum, all of the following:

- i.** A summary volume report that includes, but is not limited to, all of the following for the quarter that the report covers:
 - a.** The total sales by each type of Purchasing Entity under this Participating Addendum.
 - b.** The total of the list price of all items purchased by each type of Purchasing Entity under this Participating Addendum.
 - c.** The total estimated price savings for each type of Purchasing Entity under this Participating Addendum, calculated as the total list price of all items purchased by each type of Purchasing Entity minus the total spent for that type of Purchasing Entity.
 - d.** The total paid through the use of a procurement card or credit card for each Purchasing Entity under this Participating Addendum.
 - e.** The total sales of environmentally preferable products, as defined in the State's Environmentally Preferable Purchasing Policy, for each Purchasing Entity under this Participating Addendum.
 - f.** The amount of the total quarterly Administrative Fee due to the State.
 - g.** Any additional summary information as requested by the State if available by Contractor.
- ii.** A detail report that includes, but is not limited to, all of the following for each sale that occurred during the quarter that the report covers:
 - a.** The name of the Purchasing Entity to whom the sale was made;
 - b.** The date of the sale.
 - c.** A listing of each item purchased in the sale, including the name of the item, the quantity of the item, the unit price for the item, the extended price for the item calculated by multiplying the unit price by the quantity, the list price per unit for the item, the extended list price for the item calculated by multiplying the quantity by the list price, and the savings on the item calculated by subtracting the extended cost from the extended list price.
 - d.** Any other detailed information as requested by the State, if available to Contractor.

B. Additional Operational Reporting

Upon request by the State, the Contractor shall provide operational reporting that includes all detailed and summary transaction, historical or payment information related to any of the Purchasing Entities as reasonably requested by the State. The Contractor shall provide all such additional reports within 30 Business Days following the State's request for that information, unless the State agrees to a longer period in writing.

C. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Participating Addendum or may affect Contractor's ability to perform its obligations under this Participating Addendum, Contractor shall, if lawful, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's primary contact identified in §5 of the Participating Addendum .

D. Performance Outside the State of Colorado or the United States, §24-102-206, C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State's primary contact in accordance with §5 of the Participating Addendum and in a form designated by the State, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this section shall constitute a breach of this Participating Addendum. This section shall not apply if the Participating Addendum Funds include any federal funds. Notwithstanding the foregoing, State acknowledges and agrees that Contractor's headquarters is located in the State of Connecticut and that all or a portion of Services will occur outside of the State of Colorado and that Contractor shall only be required to provide written notice to State's primary contact in accordance with §5 of the Participating Addendum if Contractor decides to perform Service outside of the United States.

By agreement of the parties, it is understood that FedEx will perform necessary and appropriate Services outside both the State of Colorado and the United States and will utilize subcontractors to the extent it deems necessary and appropriate to conduct its business operations. The State consents to such use and shall not require specific information relating to such use nor justification therefor except for the notification requirements under §24-102-206.

9. CONTRACTOR RECORDS**A. Maintenance**

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the charges for the Work (the "Contractor Records") performed by the Contractor and any Subcontractors, that are required to ensure proper charging for performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date 3 years after the date this Participating Addendum expires or is terminated, **(ii)** final payment under this Participating Addendum is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or

at other mutually agreed upon times or locations, upon no fewer than 10 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, in its discretion, may monitor Contractor's performance of its obligations under this Participating Addendum using procedures as determined by the State. The State shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Audit Report

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor's Records that relates to or affects this Participating Addendum or the Work, whether the audit is conducted by Contractor or a third party.

E. Periodic Business Reviews

- i. The State may schedule periodic business reviews to review Contractor's performance under this Participating Addendum.
- ii. Contractor shall use commercially reasonable efforts to ensure personnel assigned to the Participating Addendum are available for these meetings with the State as scheduled by the State.
- iii. Contractor's primary contact designated in §5 of this the Participating Addendum shall be reasonably available for all regularly scheduled meetings between Contractor and the State, unless the State has granted prior, written approval otherwise.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Participating Addendum, permitted by law or approved in Writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with this Participating Addendum and all applicable laws, rules, policies, publications, and guidelines. If Contractor or any of its Subcontractors will or may receive the following types of data, Contractor or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, if applicable, **(ii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, and Criminal Justice Information Services Security Policy for all CJI, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's primary contact as identified in §5 of the Participating Addendum. For the avoidance of doubt, State and each Purchasing Entity acknowledges that Contractor is not PCI compliant and hereby agrees that it shall not send, transmit, provide, or otherwise disclose any PCI to Contractor without Contractor's prior written consent. Any credit card payments accepted by Contractor are processed through a third party that is PCI compliant.

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Participating Addendum. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements or are subject to confidentiality obligations by policy or otherwise containing nondisclosure provisions at least as protective as those in this Participating Addendum, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon the State's request for such nondisclosure provisions.

C. Use, Security, and Retention

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Participating Addendum, Contractor shall return State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that neither Contractor nor any of Contractor's agents, employees, assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. After an Incident, the State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

Contractor shall ensure that all State Records in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security

practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Contractor shall be a “Third-Party Service Provider” as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. Notwithstanding the foregoing, in no event shall State or any Purchasing Entity send, transmit, provide, or otherwise disclose any PII to Contractor without Contractor’s prior written consent. In the event State discloses PII to Contractor without Contractor’s prior written consent, Contractor shall notify State of such disclosure and delete such PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Participating Addendum. Such a conflict of interest would arise when a Contractor or Subcontractor’s employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Participating Addendum.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Participating Addendum, even the appearance of a conflict of interest shall be harmful to the State’s interests. Absent the State’s prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor’s obligations under this Participating Addendum.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor has reason to believe a conflict may exist but is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction concerning the actual or apparent conflict constitutes a breach of this Participating Addendum.

12. INSURANCE

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Participating Addendum and until all orders for Services or both have been delivered and accepted, regardless of whether this Participating Addendum has expired or has been terminated. Insurance companies as approved by the State shall issue all insurance policies required by this Participating Addendum.

A. Workers’ Compensation

Workers’ Compensation insurance as required by state statute, and employers’ liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment. Insurance must stay in place and in effect even if the contract terms expires, until all product or terms of the contract are completed and satisfied up to 120 days after contract term expires.

B. General Liability

Commercial general liability insurance for the acts and omissions of Contractor's employees covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$2,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance, which may be self-insured, covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Cyber Liability

Liability insurance covering all loss of State Confidential Information, such as PII, PCI, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

E. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

G. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.

H. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §5 of the Participating Addendum within 7 days of Contractor's receipt of such notice.

I. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Participating Addendum shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies,

institutions, organizations, officers, agents, employees, and volunteers.

J. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, *et seq.*, C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Participating Addendum such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Participating Addendum, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

K. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Participating Addendum within 7 Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Participating Addendum within 7 Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Participating Addendum within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Participating Addendum, upon request by the State, Contractor shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Participating Addendum to the contrary, the State, in its discretion in order to protect the public interest of the State, need not provide notice or a cure period and may immediately terminate this Participating Addendum in whole or in part or institute any other remedy in this Participating Addendum; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

14. REMEDIES

A. State's Remedies

If Contractor is in breach under any provision of this Participating Addendum and fails to cure such breach, the State, following the notice and cure period set forth in §13 and the dispute resolution process in §15, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Participating Addendum or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

- a. In the event of Contractor's uncured breach, the State may terminate this entire Participating Addendum or any part of this Participating Addendum. Contractor shall continue performance of this Participating Addendum to the extent not terminated, if any.
- b. If after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Participating Addendum had been terminated in the public interest under **§3.D**.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and neither the State nor any Purchasing Entity shall be liable for costs incurred by Contractor after the suspension of performance.

b. Removal

Request immediate removal of any of Contractor's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Participating Addendum is deemed by the State to be contrary to the public interest or the State's best interest. In the event of such request, the parties will immediately meet in order to accommodate or resolve such a request.

B. Contractor's Remedies

If the State is in breach of any provision of this Participating Addendum and does not cure such breach, Contractor, following the notice and cure period in **§13** and the dispute resolution process in **§15** shall have all remedies available at law and equity. If a Purchasing Entity is in breach of a provision of an Order, Contractor shall have all remedies available to it under that Order and available at law and equity.

C. Purchasing Entity's Remedies

- i. If Contractor is in breach under any provision of an Order by a Purchasing Entity, the Purchasing Entity shall have all of the remedies listed in that Order, all remedies listed in **§14.A.ii** above, all remedies listed here in **§14.C** and all other remedies available by law or equity. Subject to the notice and cure period set forth in **§13** and the dispute resolution process in **§15**, the Purchasing Entity may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

ii. Payments and Damages

- a. Notwithstanding anything to the contrary, Purchasing Entities shall only pay Contractor for accepted Work received as of the date of termination. Upon prior notice to Contractor, a Purchasing Entity may withhold any amount that may be due Contractor as the Purchasing Entity deems necessary until Contractor corrects its

Work or to protect itself against loss including, without limitation, loss as a result of outstanding liens and costs incurred by the Purchasing Entity in procuring from third parties replacement Work as cover.

- b. Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State or appropriate Purchasing Entity for any damages sustained by the State or Purchasing Entity in connection with any breach by Contractor, and the Purchasing Entity may withhold payment to Contractor for the purpose of mitigating the Purchasing Entity's damages.
- c. Upon prior notice to Contractor, a Purchasing Entity may deny payment to Contractor for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

15. DISPUTE RESOLUTION

A. Order Disputes, Termination and Resolution

- i. If a dispute related to an Order arises between Contractor and a Purchasing Entity, Contractor shall meet with the Purchasing Entity to attempt to resolve the issue. If Contractor is unable to resolve the issue with the Purchasing Entity, then Contractor may request assistance from the State by submitting a request in writing, which includes the pertinent information about the dispute and the assistance sought by Contractor, in accordance with §5 of the Participating Addendum. Nothing in this section shall be interpreted as limiting the rights or obligations of Contractor, the State or any Purchasing Entity under this Contract of any Order.
- ii. A Purchasing Entity may terminate an Order if it determines that Contractor was in breach of that Order. Termination of an Order shall not terminate any other Order or this Participating Addendum.
- iii. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that breach or termination within 5 Business Days following Contractor's receipt of that notice of breach or termination.

B. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Participating Addendum which cannot be resolved by the designated Participating Addendum primary contacts, as identified in §5 of the Participating Addendum, or through a dispute on an Order shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

C. Resolution of Controversies arising under this Participating Addendum

If the initial resolution described in §15.B. fails to resolve the dispute within ten (10) Business Days, Contractor shall, without waiving any other rights or remedies it may have, submit any alleged breach of this Participating Addendum by the State to the Procurement Official of the State Purchasing and Contracts Office as described in in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), and if Contractor wishes to challenge any decision rendered by the

Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

It is understood and agreed upon by the parties that Contractor will not be providing any non-Contractor-owned or licensed intellectual property related to the Work Product in its performance of the Services.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Participating Addendum, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor's obligations in this Participating Addendum without the prior written consent of the State.

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to (i) any and all pre-existing materials and intellectual property owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable, (ii) any derivatives, modifications, improvements, enhancements, substitutions, or extensions of any such material or intellectual property, whenever developed, created, authored, conceived, reduced to practice or acquired, or (iii) any and all suggestions, feedback, recommendations and other comments with respect any such material or intellectual property (collectively, "Contractor Property"). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: **(i)** entered into as exhibits to this Contract; **(ii)** obtained by the State from the applicable third-party vendor; or **(iii)** in the case of open source software, the license terms set forth in the applicable open source license agreement.

17. OBLIGATIONS AND RIGHTS IN THE EVENT OF TERMINATION OF ORDER OR CONTRACT

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to Purchasing Entities all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Participating Addendum's terms. At the request of the State, Contractor shall assign to the appropriate Purchasing Entity all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the appropriate Purchasing Entity has an interest. At the State or Purchasing Entity's request, Contractor shall return materials owned by the Purchasing Entity that Contractor possesses at the time of any

termination. Contractor shall deliver all completed Work Product to the appropriate Purchasing Entity at the State or Purchasing Entity's request.

18. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply to the extent applicable to Contractor or the services provided by Contractor hereunder. Contractor agrees to be governed by and comply with the provisions of §§24-102-206, 24-106-103, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract information in the State's contract management system ("Contract Management System" or "CMS"). Contractor's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

19. GENERAL PROVISIONS

A. Assignment

Contractor's rights and obligations under this Participating Addendum are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the State shall be subject to the provisions of this Participating Addendum. In addition, the State may not transfer or assign this Participating Addendum or any rights or obligations hereunder without prior notification to the Contractor.

B. Subcontracts

Contractor is hereby providing notice to the State of its use of subcontractors and the State consents to such use as Contractor deems necessary and appropriate in order to provide Services. All subcontracts entered into by Contractor in connection with this Participating Addendum shall comply with all applicable federal and state laws and regulations, and shall be subject to all provisions of this Participating Addendum.

C. Binding Effect

Except as otherwise provided in §A., all provisions of this Participating Addendum, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Participating Addendum and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Participating Addendum are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Participating Addendum to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Participating Addendum may be executed in multiple, identical, original counterparts, each

of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Entire Understanding

This Participating Addendum represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Participating Addendum. Prior or contemporaneous additions, deletions, or other changes to this Participating Addendum shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

Except as otherwise provided in this Participating Addendum, any modification to this Participating Addendum shall only be effective if agreed to in a formal amendment to this Participating Addendum, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Participating Addendum, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Participating Addendum to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Participating Addendum.

K. Severability

The invalidity or unenforceability of any provision of this Participating Addendum shall not affect the validity or enforceability of any other provision of this Participating Addendum, which shall remain in full force and effect, if the Parties can continue to perform their obligations under this Participating Addendum in accordance with the intent of this Participating Addendum.

L. Survival of Certain Contract Terms

Any provision of this Participating Addendum that imposes an obligation on the Contractor or a Purchasing Entity after termination or expiration of this Participating Addendum shall survive the termination or expiration of this Participating Addendum and shall be enforceable by the other Party.

M. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State

imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Participating Addendum. Contractor shall honor any tax exemption that any Purchasing Entity has, and shall not charge any Purchasing Entity any excise, sales, or use taxes from which that Purchasing Entity is exempt.

N. Third Party Beneficiaries

Except for a Purchasing Entity and/or the Parties' respective successors and assigns described in **§19.A**, this Participating Addendum does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Participating Addendum and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Participating Addendum are incidental to this Participating Addendum, and do not create any rights for such third parties.

O. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Participating Addendum, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

P. CORA Disclosure

To the extent not prohibited by federal law, this Participating Addendum and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

Contractor shall perform its obligations under this Participating Addendum in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

R. Licenses, Permits, and Other Authorizations

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Participating Addendum, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Participating Addendum, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Participating Addendum.

S. Indemnification

i. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in connection with any claim for any death, injury, or damage to tangible property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of **§10** may

be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including reasonable attorneys' fees and costs) incurred by the State in relation to any negligent act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §10.

iii. Intellectual Property Indemnification

Subject to Sections 33(a)(1) and (2) of the Master Agreement, Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

T. Accessibility. State and Contractor acknowledge and agree that this Section T does not apply to Contractor. In the event State determines that this **§19.T** should apply to a specific Contractor product, State and Contractor shall meet in good faith to discuss a mutually acceptable application of such accessibility standards to the Contractor's product.

- i.** Contractor shall comply with: 1) the Work Product provided under this Contract 2) all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Office Of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S. and 3) all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii.** Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.
- iii.** The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

20. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall **(i)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(ii)** provide proof thereof when requested by the State, and **(iii)** be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE

Contractor agrees that Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S.

H. SOFTWARE PIRACY PROHIBITION

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq., C.R.S.

Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a

Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, et seq., C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

EXHIBIT B, INFORMATION TECHNOLOGY PROVISIONS

This Exhibit regarding **Information Technology Provisions** (the “Exhibit”) is an essential part of the agreement between the State and Contractor as described in the Contract to which this Exhibit is attached. Unless the context clearly requires a distinction between the Contract and this Exhibit, all references to “Contract” shall include this Exhibit.

1. PROTECTION OF SYSTEM DATA

- A. In addition to the requirements of the main body of this Contract, if Contractor or any Subcontractor is given access to State Information Technology resources or State Records by the State or its agents in connection with Contractor’s performance under the Contract, Contractor shall protect such Information Technology resources and State Records in accordance with this Exhibit. All provisions of this Exhibit that refer to Contractor shall apply equally to any Subcontractor performing work in connection with the Contract.
- B. The terms of this Exhibit shall apply to the extent that Contractor’s obligations under this Contract include the provision of Information Technology Goods or Services to the State. Information Technology is computer-based Equipment and related services designed for the storage, manipulation, and retrieval of data, and includes, without limitation:
 - i. Any technology, Equipment, or related services described in §24-37.5-102(2), C.R.S.;
 - ii. The creation, use, processing, disclosure, transmission, or disposal of State Records, including any data or code, in electronic form; and
 - iii. Other existing or emerging technology, Equipment, or related services that may require knowledge and expertise in Information Technology.
- C. Contractor shall, and shall cause its Subcontractors to meet all of the following if, and only if, Contractor and/or its Subcontractors create, host, or process State Records:
 - i. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Contract.
 - ii. Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards.
 - iii. Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing.
 - iv. Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments.
 - v. Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the State’s Office of Information Security (“OIS”).
 - vi. Comply with all rules, policies, procedures, and standards issued by the Governor’s Office of Information Technology (“OIT”), including change management, project lifecycle methodology and governance, technical

standards, documentation, and other requirements posted at www.oit.state.co.us/about/policies.

- D.** Reserved
- E.** Contractor shall perform current background checks in a form reasonably acceptable to the State on all of its respective employees and agents performing services or having access to State Records provided under this Contract, including any Subcontractors or the employees of Subcontractors. A background check performed within 30 days prior to the date such employee or agent begins performance or obtains access to State Records shall be deemed to be current.
 - i.** Upon request, Contractor shall provide notice to a designated representative for the State indicating that background checks have been performed. Such notice will inform the State of any action taken in response to such background checks, including any decisions not to take action in response to negative information revealed by a background check.
 - ii.** If Contractor will have access to Federal Tax Information under the Contract, Contractor shall agree to the State's requirements regarding Safeguarding Requirements for Federal Tax Information and shall comply with the background check requirements defined in IRS Publication 1075 and §24-50-1002, C.R.S.

2. DATA HANDLING

- A.** Contractor may not maintain or forward these State Records to or from any other facility or location, except for the authorized and approved purposes of backup and disaster recovery purposes, without the prior written consent of the State. Contractor may not maintain State Records in any data center or other storage location outside the United States for any purpose without the prior express written consent of OIS.
- B.** Contractor shall not allow remote access to State Records from outside the United States, including access by Contractor's employees or agents, without the prior express written consent of OIS. Contractor shall communicate any request regarding non-U.S. access to State Records to the Security and Compliance Representative for the State. The State shall have sole discretion to grant or deny any such request.
- C.** Upon request by the State made any time prior to 60 days following the termination of this Contract for any reason, whether or not the Contract is expiring or terminating, Contractor shall make available to the State a complete download file of all State data.
 - i.** This download file shall be made available to the State within 10 Business Days of the State's request, shall be encrypted and appropriately authenticated, and shall contain, without limitation, all State Records, Work Product, and system schema and transformation definitions, or delimited text files with documents, detailed schema definitions along with attachments in its native format.
 - ii.** Upon the termination of Contractor's provision of data processing services, Contractor shall, as directed by the State, return all State Records provided by the State to Contractor, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If any legal obligation imposed upon Contractor prevents it from returning or destroying all or part of the State Records provided by the State to Contractor, Contractor shall

guarantee the confidentiality of all State Records provided by the State to Contractor and will not actively process such data anymore. Contractor shall not interrupt or obstruct the State's ability to access and retrieve State Records stored by Contractor.

- D.** Upon request of the State or of the supervisory authority and if, and only if, Contractor and/or its Subcontractors create, host, or process State Records, Contractor shall (i) provide State with copies of State Records stored on Contractor's infrastructure, and (ii) submit its data processing facilities for an audit of the measures referred to in this Exhibit in accordance with the terms of this Contract.

3. DELIVERY AND ACCEPTANCE

- A.** Contractor shall provide and maintain a quality assurance system acceptable to the State for any Work or Deliverables under this Contract and shall provide to the State only such Work or Deliverables that have been inspected and found to conform to the specifications identified in this Contract and any applicable solicitation, bid, offer, or proposal from which this Contract results.
- B.** Contractor's delivery of any Work or Deliverables to the State shall constitute certification that such Work or Deliverable has been determined to conform to the applicable specifications, and Contractor shall make records of such quality assurance available to the State upon request during the term of the Contract or at any time within three years following expiration or termination of the Contract.
- C.** For any Work or Deliverables other than the purchase or license of commercially available Goods or software, acceptance of the Work or Deliverable shall require affirmative written communication from the State to the Contractor that such Work or Deliverable has been accepted by the State. Absent receipt of such communication within thirty (30) days, the delivery of the Work or Deliverable shall be deemed rejected. Acceptance by the State shall be final, except in cases of Contractor's failure to conduct proper quality assurance, latent defects that could not reasonably have been detected upon delivery, or Contractor's gross negligence or willful misconduct.

4. WARRANTY

- A.** Notwithstanding the acceptance of any Work or Deliverable, or the payment of any invoice for such Work or Deliverable, Contractor warrants that any Work or Deliverable provided by Contractor under this Contract shall be free from material defects and shall function in material accordance with the applicable specifications. Contractor warrants that any Work or Deliverable shall be, at the time of delivery, free from any harmful or malicious code, including without limitation viruses, malware, spyware, ransomware, or other similar function designed to interfere with or damage the normal operation of Information Technology resources. Contractor's warranties under this section shall apply to any defects or material nonconformities discovered within 180 days following delivery of any Work or Deliverable.
- B.** Upon notice during the warranty term of any defect or material nonconformity, Contractor shall submit to the State in writing within 10 business days of the notice one or more recommendations for corrective action with sufficient documentation for the State to ascertain the feasibility, risks, and impacts of each recommendation. The State's remedy for such defect or material non-conformity shall be that:

- i. Contractor shall re-perform, repair, or replace such Work or Deliverable (or the applicable module or component thereof). Contractor shall deliver, at no additional cost to the State, all documentation required under the Contract as applicable to the corrected Work or Deliverable; or
 - ii. Contractor shall refund to the State all amounts paid for such Work or Deliverable, as well as pay to the State any additional amounts reasonably necessary for the State to procure alternative Goods or Services of substantially equivalent capability, function, and performance.
- C. Any Work or Deliverable delivered to the State as a remedy under this section shall be subject to the same quality assurance, acceptance, and warranty requirements as the original Work or Deliverable. The duration of the warranty for any replacement or corrected Work or Deliverable shall run from the date of the corrected or replacement Work or Deliverable.

5. COMPLIANCE

- A. In addition to the compliance obligations imposed by the main body of the Contract, Contractor shall comply with:
 - i. All Colorado Office of Information Security (OIS) policies and procedures which OIS has issued pursuant to §§24-37.5-401 through 406, C.R.S. and 8 CCR §1501-5 and posted at <http://oit.state.co.us/ois>
 - ii. All information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any specifically incorporated industry standards or guidelines, as applicable based on the classification of the data relevant to Contractor's performance under the Contract. Such obligations may arise from:
 - a. Health Information Portability and Accountability Act (HIPAA)
 - b. IRS Publication 1075
 - c. FBI Criminal Justice Information Service Security Addendum
 - d. CMS Minimum Acceptable Risk Standards for Exchanges
 - e. Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with The Social Security Administration
- B. Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the standards and guidelines applicable to Contractor's performance under the Contract.
- C. If, and only if, Contractor and/or its Subcontractors create, host, or process State Records on Contractor's systems, Contractor shall allow the State reasonable access and shall provide the State with information reasonably required to assess Contractor's compliance. Such access and information shall include

the performance of security audit and penetration tests, as requested by OIS.
- D. If, and only if, Contractor and/or its Subcontractors create, host, or process State Records, Contractor will provide OIS with the results of all security assessment activities when conducted on such information systems, including any code-level vulnerability scans,

application level risk assessments, and other security assessment activities as required by this Contract or reasonably requested by OIS. Contractor will make reasonable efforts to remediate any vulnerabilities or will request a security exception from the State. The State will work with Contractor and OIS to prepare any requests for exceptions from the security requirements described in this Contract and its Exhibits, including mitigating controls and other factors, and OIS will consider such requests in accordance with their policies and procedures referenced herein.

6. TRANSITION OF SERVICES

The parties each acknowledge and agree that any transition of services will likely result in unavoidable disruption to the Services. Upon request by the State prior to expiration or earlier termination of this Contract or any Services provided in this Contract, Contractor shall provide reasonable and necessary assistance to accomplish a complete transition of the Services from Contractor to the State or any replacement provider designated solely by the State without BlueCrest intentionally causing any interruption of or adverse impact on the Services. Contractor shall cooperate fully with the State or any successor provider and shall promptly take all steps required to assist in effecting a complete transition of the Services designated by the State. All Services related to such transition shall be performed at no additional cost beyond what would be paid for the Services in this Contract; provided, however, (i) that Contractor shall be compensated for any services beyond those which Contractor normally provides under this Contract at its normal rates then in effect, and (ii) to the extent such transition services continue after the expiration or earlier termination of this Contract then Contractor shall be compensated for such transition services from and after the expiration or termination date at its normal rates then in effect.

7. LICENSE OR USE AUDIT RIGHTS

- A.** To the extent that Contractor, through this Contract or otherwise as related to the subject matter of this Contract, has granted to the State any license or otherwise limited permission to use any Contractor Property, the terms of this section shall apply.
- B.** Contractor shall have the right, at any time during and throughout the Contract Term, but not more than once per Fiscal Year, to request via written notice in accordance with the notice provisions of the Contract that the State audit its use of and certify as to its compliance with any applicable license or use restrictions and limitations contained in this Contract (an "Audit Request"). The Audit Request shall specify the time period to be covered by the audit, which shall not include any time periods covered by a previous audit. The State shall complete the audit and provide certification of its compliance to Contractor ("Audit Certification") within 120 days following the State's receipt of the Audit Request.
- C.** If upon receipt of the State's Audit Certification, the Parties reasonably determine that:
 - (i)** the State's use of licenses, use of software, use of programs, or any other use during the audit period exceeded the use restrictions and limitations contained in this Contract ("Overuse") and **(ii)** the State would have been or is then required to purchase additional maintenance and/or services ("Maintenance"), Contractor shall provide written notice to the State in accordance with the notice provisions of the Contract identifying any Overuse or required Maintenance and request that the State bring its use into compliance with such use restrictions and limitations.

EXHIBIT C, STATEMENT OF WORK

1. CONTRACTOR PERSONNEL

1.1. Contractor personnel shall work cooperatively with State and Purchasing Entity staff to ensure the completion of the Work.

1.2. Key Personnel

Contractor shall appoint a Primary Point of Contact for the following duties:

1.2.1. Serve as the individual responsible for addressing all questions and concerns for the State and Purchasing Entities, unless an Order specifies another point of contact for that Order.

1.2.2. Ensure the completion of all Work in accordance with the Participating Addendum requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all Work.

1.2.3. Oversee all other personnel and ensure proper staffing levels throughout the term of the Participating Addendum.

1.2.4. Ensure the completeness and accuracy of the Quarterly Volume Reports described in this **Exhibit C**.

1.2.5. Ensure the final submission of the Quarterly Volume Reports described in this **Exhibit C** by the appropriate due date for that report.

2. ORDERING AND ORDER FULFILLMENT

2.1. Ordering

2.1.1. Contractor shall provide a complete and accurate Internal Revenue Service form W9 to the State prior to accepting an Order from any Purchasing Entity. Upon a request by a Purchasing Entity, Contractor shall provide a complete and accurate Internal Revenue Service form W9 to that Purchasing Entity.

2.1.2. Each Purchasing Entity may complete an Order in accordance with its own rules and policies, as available to Contractor, using the appropriate documentation for that organization to issue an Order.

2.1.3. Contractor shall have the capability to accept procurement credit cards.

2.1.4. Contractor shall communicate directly with each Purchasing Entity related to that Purchasing Entity's Orders.

2.1.5. Contractor shall ensure that all Orders it accepts have the proper information contained in them for Contractor to be able to comply with all reporting requirements of this Participating Addendum.

2.1.6. If Contractor provides for ordering through an internet-based portal or electronic catalog, Contractor shall maintain all of Contractor's necessary hardware, software,

backup-capacity and network connections required to operate that internet-based portal or electronic catalog.

- 2.1.7. Contractor's internet-based portal and electronic catalogs shall clearly designate that they are part of this Participating Addendum and shall have a link to the State's price agreement web location, as determined by the State. Contractor shall ensure that all Environmentally Preferable Products are clearly listed on internet-based portal and electronic catalogs.
- 2.1.8. If Contractor provides an internet-based portal or electronic catalog, Contractor shall also provide paper catalogs or catalogs on other digital media to each Purchasing Entity upon request by that Purchasing Entity.
- 2.1.9. If Contractor's catalog will be either hosted on or accessed through the State's eCommerce system, then Contractor shall comply with all policies, procedures and directions from the State in relation to hosting its catalog on or making its catalog accessible through that system. Contractor shall ensure that all information made available through the State's eCommerce system is accurate and complies with this Participating Addendum.

2.2. **Equipment Leasing**

2.2.1. **Overview**

- a) A Purchasing Entity may lease Equipment pursuant to the terms and conditions identified herein, and in **Attachments 2 and 3**.
- b) In the event that the term of a Lease Agreement extends beyond the term of the Participating Addendum, the terms and conditions of the Participating Addendum shall continue to apply.
- c) A Lease Agreement issued prior to the expiration or termination of this Participating Addendum shall survive the termination of this Participating Addendum and the Master Agreement.
- d) A Purchasing Entity shall have the option to renew a FMV Lease on a month-to-month basis after the Initial Lease Term, but at no time shall the renewal period exceed the Useful Life of the Equipment.
- e) A Lease Agreement shall not be subject to automatic renewals.
- f) With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, a Purchasing Entity shall return the Equipment at the end of the Initial Lease Term, or at the end of the Renewal Lease Term, or the Contractor may pick the Equipment up, without any further financial obligations to the Purchasing Entity.
- g) Equipment pickups must be performed within thirty (30) calendar days of the end of the Initial or Renewal Term, or, if the Purchasing Entity is responsible for returning the Equipment, then it must be returned within thirty (30) calendar days of receiving the return shipping instructions from the Contractor

and/or Leasing company.

- h)** Any Equipment that is returned to the Contractor shall be at the Purchasing Entity's sole expense.
- i)** The total lease term, including any renewals, shall not exceed 120 months.

2.2.2. Leasing Options

a) FMV Lease

- i.** A Purchasing Entity shall have the option to enter into an initial 24, 36, 48, 60, 72, 84, 96, 108, or 120 month-term at the sole discretion of the Contractor or, as applicable, the third party lease provider.
- ii.** Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
 - 1)** Exercise their purchase option;
 - 2)** Renew the lease on a month-to-month basis; or
 - 3)** Return the Equipment to a location designated by the Contractor and/or the leasing company, or have the Contractor pick the Equipment up.

b) \$1 Buyout Lease

- i.** A Purchasing Entity shall have the option to enter into an initial 24, 36, 48, 60, 72, 84, 96, 108, or 120 month-term at the sole discretion of the Contractor or, as applicable, the third party lease provider.
- ii.** Upon the expiration of the Initial Lease Term, the Contractor or, as applicable, the third party lease provider shall provide title to the Equipment to the Purchasing Entity, and the Purchasing Entity shall not be subject to any additional expense in order to assume possession of the Equipment.

2.2.3. Leasing Terms and Conditions

a) Possession and Return of Lease Equipment

- i.** The Purchasing Entity shall have possession of the Equipment for the term set forth in **Attachments 2 or 3**, unless the applicable Order is terminated early, such as with the case of Non-Appropriation of Funds.
- ii.** Prior to the end of the Initial FMV Lease Term, the Purchasing Entity shall provide the Contractor or, as applicable, the third party lease provider with a 30-day written notice regarding their intent to renew, purchase or return the Equipment. If the Purchasing Entity fails to send Contractor or, as applicable, the third party lease provider a written notice, then Contractor or, as applicable, the third party lease provider shall ensure that the Purchasing Entity receives instructions to return the Equipment at the end of the initial term.

- iii. If the Purchasing Entity has renewed their FMV Lease Agreement beyond the initial term, then they shall provide the Contractor with or, as applicable, the third party lease provider a 30-day prior written notice of their intent to terminate the renewal term.
 - iv. Contractor warrants that it, or their Leasing Partner, has good title to the Equipment.
 - v. At the expiration of the Initial Lease or Renewal Term, Contractor or, as applicable, the third party lease provider shall provide the Purchasing Entity with return shipping and packaging instructions, or arrange for pickup at the Purchasing Entity's location.
 - vi. Risk of loss of the Equipment rests with Contractor until the Equipment is delivered to the Purchasing Entity's designated location and the Purchasing Entity accepts delivery.
 - vii. The term for a lease Order shall commence upon acceptance of the Equipment as stated in §2.4 of this Exhibit C.
 - viii. The return of lease Equipment shall be subject to any applicable data handling and disposition obligations under the NASPO ValuePoint Master Agreement and this Participating Addendum.
- b) **Warranty and Maintenance of Equipment.** All Services performed under the Lease Agreement shall be of competent quality, consistent with the standards of the trade, profession or industry. Contractor shall assign to the Purchasing Entity, all Manufacturer's warranties on the Equipment as stated in Section X., Warranty, of the Master Agreement, which shall not be less than a full twelve (12) months warranty. Contractor shall be responsible for ongoing service and maintenance of the Equipment for the duration of the Lease provided that an Equipment maintenance agreement is purchased by the State, the applicable Purchasing Entity, or the applicable Participating Entity.
- c) **Equipment Upgrade or Downgrade.** Subject to the terms of the lease, Purchasing Entity may do an Equipment Upgrade or Downgrade on a Lease at anytime throughout the term of the Lease Agreement. The Purchasing Entity and the Contractor or, as applicable, the third party lease provider shall negotiate the price of the Equipment Upgrade or Downgrade.
- d) **Equipment Trade-In.** A Purchasing Entity may, at the Contractor's or, as applicable, the third party lease provider's sole discretion, and based upon State regulations and laws, and Purchasing Entity policies, to do an Equipment Trade-In, when entering into a new Lease Agreement. The value for the Equipment Trade-In shall be negotiated by the Purchasing Entity and the Contractor, and shall not include any disposal or shipping fees.
- e) **Reserved**

2.3. Delivery of Equipment and Performance of Services

- 2.3.1.** Unless specifically agreed to otherwise in an Order, Contractor shall deliver all Equipment under an Order in good, working and undamaged condition. All Equipment shall be free on board (“F.O.B.”) destination to the location specified in the Order.
- 2.3.2.** Contractor shall use commercially reasonable efforts to install Equipment within the delivery time mutually agreed upon, in writing, between Purchasing Entity and Contractor.
- 2.3.3.** Software related to the Equipment must be installed within five (5) working days of Equipment installation, or as mutually agreed upon between the Contractor and the Purchasing Entity. Any unforeseen delay on the part of the Purchasing Entity shall not constitute a breach of this section.
- 2.3.4.** Moves, and Equipment Trade-Ins, shall be performed on a mutually beneficial timeframe. Subject to agreement by all parties on any associated costs and the consent of the owner of the Equipment, Equipment pickups shall be performed by Contractor on a mutually beneficial timeframe.
- 2.3.5.** If the ordered Equipment is out of stock, Contractor may only provide substitute Equipment if it has notified the Purchasing Entity, in writing, that the Equipment is out of stock and has received the Purchasing Entity’s approval to provide the substitute Equipment. Purchasing Entities may request additional information comparing the substitute Equipment with the original Equipment in the Purchasing Entity’s sole discretion.

2.4. Inspection and Acceptance

- 2.4.1.** Equipment delivered to a Purchasing Entity under an Order shall not be deemed accepted prior to that Purchasing Entity inspecting the Equipment in accordance with the Order and accepting the Equipment in accordance with the terms and conditions set forth in the Master Agreement.
- 2.4.2.** A Purchasing Entity shall be deemed to have accepted any Equipment to which it does not indicate non-conformity within thirty (30) days of delivery of said Equipment.
- 2.4.3.** Services provided to a Purchasing Entity under an Order shall not be deemed completed until that Purchasing Entity has reviewed the Services, ensured that all Services were completed in accordance with the Order and have been accepted by the Purchasing Entity in accordance with the terms and conditions set forth in the Master Agreement.

2.5. Ordering Support

- 2.5.1.** Contractor shall provide the State and each Purchasing Entity with the contact information for the individual or individuals within Contractor’s organization who are assigned to handle questions and resolve problems that Purchasing Entity may

have in relation to the Work or an Order.

- 2.5.2. Contractor shall make personnel available from 8:00 a.m. to 5:00 p.m. Mountain Time, as adjusted for daylight savings time, at a minimum, each Business Day as necessary to handle questions and resolve problems received by Contractor.
- 2.5.3. Contractor shall make all of these individuals available by phone (both through a local number and a toll-free number), and email at all times that the individual is available to handle questions and resolve problems received by Contractor.
- 2.5.4. Contractor shall provide all of these individuals with the ability to access the account information and other information relating to the State or Purchasing Entities to be able to respond to questions and resolve problems relating to any Order, including, without limitation, the status of Orders, delivery, back-orders, pricing, discounts, product availability, product information, and accounts and billing.
- 2.5.5. Contractor shall provide all training to Purchasing Entities necessary for those Purchasing Entities to place Orders and properly use the Goods and Services.
- 2.5.6. Training on placing Orders shall include, without limitation, training on aspects of ordering, online ordering, product delivery, product returns, and Contractor's customer service processes, as requested by the Purchasing Entity.
- 2.5.7. Training on properly using the Goods and Services shall include, without limitation, training and providing information on energy efficiency of Goods, new features, opportunities for manufacturer/certified set up and training, Environmentally Preferable Products, and other services or options that are offered or available related to the Goods and Services, as requested by the Purchasing Entity.
- 2.5.8. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that breach or termination within five (5) Business Days following Contractor's receipt of that notice of breach or termination.

2.6. Marketing

- 2.6.1. If Contractor desires to distribute any materials, notices or literature with the intent to market the Goods or Services ("Marketing Materials"), Contractor shall deliver all such Marketing Materials to the State for review and approval prior to distributing any such materials to a Purchasing Entity.
- 2.6.2. The State will review submitted Marketing Materials and may approve, deny or request changes to any Marketing Materials in its sole discretion. If the State requests changes, Contractor may make those changes or may choose to rescind its submission for review and approval.
- 2.6.3. Contractor shall not distribute any marketing materials to any Purchasing Entity prior to receiving the State's approval of those Marketing Materials.
- 2.6.4. The State shall not be responsible for maintaining any mailing lists or creating,

printing, mailing or distributing any of Contractor's Marketing Materials, though the State may distribute Marketing Materials in its sole discretion.

3. EQUIPMENT COMPLIANCE

3.1. EnergyStar

All Equipment identified as EnergyStar compliant shall be delivered and installed with the EnergyStar or similar power management features enabled.

3.2. Remanufactured Equipment

3.2.1. Contractor shall offer Remanufactured or Refurbished Equipment that is certified by the Manufacturer. All Remanufactured or Refurbished Equipment will be clearly labeled as Remanufactured Equipment.

3.2.2. Pricing will be based on a quote and on an Individual Case Basis (ICB). All quotes will also provide the fixed annual maintenance rate, per the Master Agreement, for years 2-5.

3.2.3. Remanufactured Equipment shall come with a one (1) year all-inclusive as new-warranty and Contractor shall be able to provide maintenance for years 2-5 that includes all service, labor, software maintenance, and parts.

3.2.4. Any replacement Equipment shall have the equal or greater performance and functionality as the original Equipment, and shall incorporate the remaining duration of the original five (5) year maintenance plan (including maintenance on the replacement Equipment) at no additional charge.

4. TRAINING

4.1. Training

4.1.1. Upon delivery and installation of specified Equipment, the Contractor shall provide training to personnel designated by the Purchasing Entity.

4.1.2. Operational training shall be provided to the designated personnel in accordance with Contractor's standard practices and consistent with the initial training it has provided other similarly situated customers.

4.1.3. The amount of training is determined by the complexity of the Equipment.

4.1.4. Installed product and system training shall be included in the price.

4.1.5. All training will be performed at the Purchasing Entity's specified location, or via remote or electronic delivery.

4.1.6. Contractor shall provide additional training at the Purchasing Entity's request and cost, throughout the life of the Equipment.

4.1.7. Upon the mutual agreement of Contractor and Purchasing Entity, additional training outside of initial installation will be at the Purchasing Entity's expense. Contractor will be responsible for the cost of all travel, lodging, and food; no charges will be passed on to the Purchasing Entity, unless the Purchasing Entity has provided prior

written approval to Contractor of such charges.

4.2. Instruction Manuals

A detailed Instruction Manual shall be provided to the Purchasing Entity at no additional cost for each piece of Equipment that is purchased or leased.

5. INSTALLATION AND INTEGRATION

- 5.1.** All Equipment prices shall include installation, with the exception of integrated software solutions.
- 5.2.** Contractor may charge the contracted rate for integrated software and Production Equipment installation. The total number of hours/days needed shall be agreed to, in writing, before any installation or integration services may be initiated. The Contractor shall charge only for actual costs incurred.
- 5.3.** If a Contractor needs to utilize special rigging (e.g. a crane) where the Purchasing Entity does not have an elevator accessible for moving the Equipment, they may charge the hourly installation/integration rate. However, all rigging charges shall be mutually agreed to, in writing, before Work begins.
- 5.4.** Contractor shall affix a label or a decal to the Equipment at the time of installation which shows warranty period by dates, and the name, address, and telephone number of Contractor or Authorized Dealer responsible for warranty service of the Equipment.
- 5.5.** Contractor and the Purchasing Entity shall, prior to Order placement, review the installation location to ensure the proposed location meets the Manufacturer's installation criteria.
- 5.6.** If special installation is required, the Contractor and Purchasing Entity shall agree in writing, to the total cost of the installation.
- 5.7.** Should the proposed installation location not meet established installation criteria, the Contractor and the Purchasing Entity shall attempt to locate an alternate mutually agreeable location for the Equipment.

6. SOFTWARE PURCHASES OR SUBSCRIPTIONS

- 6.1.** Software acquired under this Participating Addendum shall be specific to the needs of mail operations.
- 6.2.** All Orders shall reference a manufacturer's most recent release or version of the product, unless the Purchasing Entity specifically requests in writing a different version.
- 6.3.** Maintenance shall be available for all software licenses purchased.
- 6.4.** Software subscriptions shall not be subject to automatic renewals.
- 6.5.** Software maintenance shall include all software updates and patches and shall be available to all Purchasing Entities. Any new releases of software versions (upgrades) would be chargeable to all Purchasing Entities.
- 6.6.** Contractor shall be responsible for communicating all updates, patches, and new

releases/versions to all Purchasing Entities.

- 6.7.** No additional fee shall be charged for installation of the software upgrades.

7. EQUIPMENT MAINTENANCE AGREEMENTS

7.1. Overview

- 7.1.1.** Contractor shall offer a full service maintenance agreement, which includes, but is not limited to, all parts, labor and time, and Preventative Maintenance.
- 7.1.2.** It shall be at the Purchasing Entity's discretion as to whether they choose to enter into a maintenance agreement with Contractor for purchased Equipment.
- 7.1.3.** Contractor shall provide technical support throughout the duration of the maintenance agreement.
- 7.1.4.** If a Purchasing Entity requires a 24 hr/7 days per week maintenance agreement, then Contractor shall provide pricing based on an Individual Case Basis (ICB), through a quote process.
- 7.1.5.** Maintenance shall be available from Contractor for five (5) years beyond the Equipment purchase date, and ten (10) years beyond the purchase date of Legacy (already purchased under a separate agreement) Equipment.
- 7.1.6.** All leased and rented Equipment shall come with a full-service maintenance agreement.
- 7.1.7.** Consumable Supplies shall be billed separately from maintenance payments.

7.2. Coverage Exclusions

- 7.2.1.** De-installation or Equipment moves.
- 7.2.2.** Maintenance or repairs due to Purchasing Entity's failure to maintain or use the Equipment according to Contractor specifications.
- 7.2.3.** Maintenance or repairs due to Purchasing Entity's changes to the design of the Equipment, or mechanical, electrical, electronic interconnections, or the attachment of other parts or components to the Equipment.
- 7.2.4.** Maintenance repairs due to Purchasing Entity negligence, accidents, or relocation of products.
- 7.2.5.** Maintenance or repairs due to Purchasing Entity or third-party performing unauthorized maintenance on Equipment.
- 7.2.6.** Maintenance or repairs due to Purchasing Entity exceeding published performance specifications or recommended monthly volume limits for the Equipment.
- 7.2.7.** Maintenance or repairs due to Purchasing Entity's use of parts, consumables, or other supplies that do not comply with Contractor's specifications.

7.3. Purchased Equipment

7.3.1. The initial term of the maintenance agreement shall be for one (1) year.

7.3.2. Maintenance Agreements shall not be subject to automatic renewals.

7.4. Leased Equipment

The term of the maintenance agreement shall be equal to the term of the \$1 Buyout or FMV Lease, but there shall be a separate charge for maintenance for years 2 and beyond

8. SERVICE LEVEL STANDARDS

8.1. Contractor shall adhere to a two (2) hour response time (acknowledgement), within regular business hours, of all written or oral notices of a service requirement due to an Equipment breakdown.

8.2. A service technician shall be on site at the Purchasing Entity's location before close of business or within four (4) hours at the start of the next business day.

8.3. All parts that require maintenance by a service technician are to be included and considered part of the service repair plan. Failed and/or defective parts shall be replaced at no additional charge to the Purchasing Entity.

8.4. Contractor shall provide software support for all applicable Equipment.

8.5. Contractor shall maintain a service log for each piece of Equipment at each Purchasing Entity location, and the service log shall be available for review upon request by the State or Purchasing Entity.

8.6. If a Contractor is called due to non-performance of a device, and the Contractor determines that the issue is not with their product, they will notify the Purchasing Entity. If the Equipment is under a maintenance agreement or in the initial one-year warranty period, there will be no cost to the Purchasing Entity for the diagnostic call. If the Equipment is not under warranty or a maintenance plan, then the Contractor may charge their hourly contracted rate.

9. EQUIPMENT PERFORMANCE

9.1. Equipment at each Purchasing Entity location shall maintain, at all times, a 95% or better uptime.

9.2. Downtime shall be computed from the time the Contractor is notified of Equipment failure until the Equipment is fully operational.

10. EQUIPMENT RELOCATION SERVICES

10.1. Equipment Relocation Services include dismantling, packing, transporting and re-installing Equipment at the Purchasing Entity's request.

10.2. No additional charges shall be incurred for fuel or tolls.

10.3. Contractor shall charge for Equipment moves, according to the following table:

Move Zone	Distance from the Original Device Placement	Allowable Charge
Zone 1	100 yards or less; or within the same building	No charge allowed*
Zone 2	Between Zone 1 and 50 miles	Flat fee
Zone 3	Greater than 50 miles	Per mile fee

*Contractor may charge Purchasing Entity a mutually agreed upon price for special rigging in the event a Purchasing Entity's demographics require such rigging for Move Zone 1 relocations. The price shall be agreed upon in writing by Contractor and Purchasing Entity prior to any Equipment relocation in Zone 1.

11. REPLACEMENT OF UNSATISFACTORY EQUIPMENT

- 11.1.** Contractor shall grant a credit for any Equipment which fails to perform at the effectiveness level defined in §9.1 of this Exhibit C.
- 11.2.** The credit shall be equivalent to the percentage of down time experienced within that month.
- 11.3.** Contractor may elect to replace an individual component or section that is defective in Production Equipment. The Purchasing Entity shall notify the Contractor in writing if the repair does not resolve the issue. This written notification will act as a cure letter allowing thirty (30) days to have resolution plan in place.
- 11.4.** During the warranty period, unsatisfactory Equipment performance will require an even exchange of Equipment of equal or greater performance at no additional cost.
- 11.5.** After the warranty period, the credit value shall be the amount paid at the time of purchase.
- 11.6.** If Equipment or software is not functional after sixty (60) days of delivery, the Purchasing Entity may return it for a full refund, or cancel any lease agreement with no fees or charges of any kind.

12. SUPPLIES RETURN POLICY

- 12.1.** Contractor shall reimburse Purchasing Entity for the price paid for supplies (excluding consumable supplies) received back in resalable condition (unused/unopened) within ninety (90) days of the purchase date.
- 12.2.** Shipping and handling charges associated with the product shall not be reimbursed by Contractor, unless the return is due to damaged/defective product, or as a result of an incorrect shipment. All reimbursements will be applied to the original method of payment for the product.

13. VOLUME AND OPERATIONAL REPORTING

- 13.1.** Volume Reporting Information. The State will use a centralized method of tracking volume. The quarterly volume report template, which may be modified by the State from time to time, shall be provided to Contractor within thirty (30) days of Contract execution. The

quarterly volume report shall contain, at a minimum, all of the following:

13.1.1. A Quarterly Volume Report, using the format as specified by the State, for each State Fiscal Year Quarter that contains, at a minimum, all of the following:

- a) The total spent by each type of Purchasing Entity under this Participating Addendum.
- b) The total of the list price of all items purchased by each type of Purchasing Entity under this Participating Addendum.
- c) The total estimated price savings for each type of Purchasing Entity under this Participating Addendum, calculated as the total list price minus the total spent for that Purchasing Entity.
- d) The total paid through the use of a procurement card or credit card for each Purchasing Entity under this Participating Addendum.
- e) The total sales of Environmentally Preferable Products, as defined in the State's Environmentally Preferable Purchasing Policy, for each Purchasing Entity under this Participating Addendum.
- f) The amount of the Administrative Fee due to the State.
- g) Any additional summary information as requested by the State.

13.1.2. A detail report that includes, but is not limited to, all of the following for each sale that occurred during the quarter that the report covers:

- a) The name of the Purchasing Entity.
- b) The date of the sale.
- c) A listing of each item purchased in the sale, including the name of the item, the quantity of the item, the unit price for the item, and the extended price for the item.
- d) Any other detail information as requested by the State.

13.2. Volume Reporting Submission

13.2.1. Contractor shall deliver the Quarterly Volume Report and the detail report to the State on a quarterly basis.

13.2.2. The Quarterly Volume Report shall be due within thirty (30) calendar days following the end of the State Fiscal Year quarter that the report covers.

13.2.3. If any due date for a Quarterly Volume Report falls on a day that is not a Business Day, then the due date shall be automatically extended to the next Business Day, unless otherwise directed by the State.

13.2.4. All data and information contained in a Quarterly Volume Report shall be the property of the State and shall not be considered proprietary.

13.3. Additional Operational Reporting

13.3.1. Upon request by the State, the Contractor shall develop and deliver to the State Ad-

Hoc Operational Reports that include all detailed and summary transaction, historical or payment information related to the State or any of the Purchasing Entities as requested by the State.

- 13.3.2.** The Ad-Hoc Operational Report shall be due as mutually agreed by State and Contractor.

14. PERIODIC BUSINESS REVIEWS

- 14.1.** The State may schedule periodic business reviews, not to exceed one such review per quarter, to review Contractor's performance under this Participating Addendum.
- 14.2.** Contractor shall ensure personnel assigned to the Participating Addendum are available for these meetings with the State as scheduled by the State.
- 14.3.** Contractor's key personnel designated in **§1.2** of this **Exhibit C** shall be available for all regularly scheduled meetings between Contractor and the State, unless the State has granted prior, written approval otherwise.

15. CLOSEOUT PERIOD

- 15.1.** This Participating Addendum shall have a Closeout Period that begins thirty (30) days prior to the expiration of this Participating Addendum and continues until the State has determined that all Work has been completed.
- 15.2.** During the Closeout Period, Contractor shall complete all of the following, as directed by the State:
- 15.2.1.** Notify any Subcontractors of the termination of the Participating Addendum, as directed by the State.
- 15.2.2.** Upon expiration or termination of this Participating Addendum, remove all references to the State's Participating Addendum from its websites, materials and other documentation, and inform entities that Contractor no longer has a Participating Addendum with the State.
- 15.2.3.** The Closeout Period may extend past the termination of the Participating Addendum. The State will perform a closeout review to ensure that Contractor has completed all requirements of the Closeout Period. If Contractor has not completed all of the requirements of the Closeout Period by the date of the termination of the Participating Addendum, then any incomplete requirements shall survive termination of the Participating Addendum.

16. PRICING AND PRODUCTS

16.1. Price Lists

- 16.1.1.** The pricing is located on the State's dedicated website, and is incorporated into this Participating Addendum by reference.
- 16.1.2.** The State may publish any pricing information under this Participating Addendum, including, without limitation, the pricing shown in **Exhibit D, Product and Price**

List, on the State's website and any other website as the State determines is necessary or efficient to facilitate the use of this Participating Addendum by Purchasing Entities.

16.1.3. If Contractor modifies any of its prices in accordance with the Master Agreement, or discontinues any item shown on the existing pricing information, Contractor shall provide updated pricing information to the State for the State to publish.

16.1.4. Changes in product and pricing must be approved by the lead state and shall be effective when published on the dedicated State website.

16.2. Ceiling Prices

The prices listed in **Exhibit D** are Ceiling Prices. Contractor may offer lower prices to Purchasing Entities, and Purchasing Entities may negotiate lower prices with Contractor, without the review or approval of the State.

17. ADDITIONAL TERMS

17.1. Contractor shall complete the Work as described in this Participating Addendum and in accordance with any Purchasing Entity's Order. Contractor personnel shall work cooperatively with State and Purchasing Entity staff to ensure the completion of the Work.

17.2. Any additional terms and conditions on any invoice, statement, Contractor time-sheet, website, electronic license or use agreement or any other form, including, without limitation, terms regarding indemnification, limitation of liability, cancellation fees, choice of law and binding arbitration shall be void and unenforceable except to the extent that they are specifically included in this Participating Addendum or an Order. The signature of any employee of a Purchasing Entity on any such form shall be effective to establish completion of Services and shall not make any term of that form enforceable.

EXHIBIT D, PRODUCTS AND PRICE LIST

1. PRODUCT CATEGORIES

A. Inserters - Production

- i) Processes up to 5,500 sheets per hour minimum.
- ii) Feeds, collates, folds and inserts material into envelopes.
- iii) Jobs can be pre-programmed.

B. Folder/Inserters – Medium Volume

- i) Automatic.
- ii) Completes standard or custom folds.
- iii) Handles paper from 3-1/8" x 4" x 9.5" x 14"
- iv) Processes up from 1,501 – 4,999 sheets per hour minimum.
- v) Feeds, collates, folds and inserts material into envelopes.
- vi) Jobs can be pre-programmed.

C. Folders/Inserters – High Volume

- i) Automatic.
- ii) Completes standard or custom folds.
- iii) Handles paper from 3-1/8" x 4" x 9.5" x 14"
- iv) Processes up from 5,000 – 9,999 sheets per hour minimum.
- v) Feeds, collates, folds and inserts material into envelopes.
- vi) Jobs can be pre-programmed.

D. Folders/Inserters - Production

- i) Automatic.
- ii) Completes standard or custom folds.
- iii) Handles paper from 3-1/8" x 4" x 9.5" x 14"
- iv) Processes over 10,000 sheets per hour minimum.
- v) Feeds, collates, folds and inserts material into envelopes.
- vi) Jobs can be pre-programmed.

E. Pre-sorting Equipment - Production

- i) Minimum monthly volume of 100,000.
- ii) Ability to sort various sizes of envelopes, flats and packages.

- iii) Multiple Stations.
- iv) Various rates of speed.
- v) Ability to process the entire range of USPS.

F. Software, License and Subscription

- i) Commercial off-the-shelf (COTS) and customized mail room related software utilized by mailing Equipment (e.g. tracking software or accounting software) and purchased/leased on either a monthly or annual basis.
- ii) All software is specifically utilized only for mailing Equipment operations.
- iii) Includes licensing, software maintenance, technical support, and updates.
- iv) All installations performed by Contractor.
- v) Updates performed by Contractor or Purchasing Entity.

G. Software Integration

Consulting services provided by Contractor that includes, but is not limited to, the process of ensuring that mailroom applications are synergistic.

H. Supplies/Consumables

- i) All Supplies/Consumables needed to operate the mailing device or Equipment.
- ii) Regular paper is not included.
- iii) Labels for addressing and other mail room purposes are included.

I. Additional Services

Additional services may include, but not be limited to, professional services, software development, and/or any customized solutions requested by State.

2. PRICING

The pricing is located on the State's dedicated website, and is incorporated into this Participating Addendum by reference.

ATTACHMENT 1, BLUECREST SALES ORDER FORM

DMT SOLUTIONS GLOBAL CORPORATION (d/b/a BlueCrest)			
MAINTENANCE, SOFTWARE, AND PROFESSIONAL SERVICES ORDER FORM ("Order")			
			DATED:
BILL TO		INSTALL ADDRESS (if different)	
Client Name:	 	Client Install Facility:	
Address:	 	Address:	
City, State, Zip:	 	City, State, Zip:	
Client Acct #:	 	Client Acct #:	
Phone #:	 	Phone #:	
Contact Name:	 	Contact Name:	

EQUIPMENT					
Qty	Item	Equipment Description (Model)	Unit Price	Discount/ Trade-In Allowance	Net Equipment Price
 	 	 	 	 	
 	 	 	 	 	
 	 	 	 	 	
Requested Install Date:		Special Billing Requirements:		Aggregate Net Equipment Price Subtotal	
TAX EXEMPT: ☐ State ☐ County ☐ City (Attach Certificate)				Total Net Equipment Price	
EQUIPMENT PAYMENT TERMS					
One Hundred Percent (100%) of the Total Net Equipment Price shall be due and payable within thirty (30) days of the date of such BlueCrest invoice, which invoice shall be issued following installation and acceptance of the Equipment.					

MAINTENANCE SERVICES					
Equipment Description (Model)	Equipment Serial Number	Equipment Location	Maximum Annual Cycles included in Maintenance Fee	On-Call Maintenance or On-Site Maintenance	Annual Maintenance Service Fees
 	 	 	 	 	
 	 	 	 	 	
TAX EXEMPT: ☐ State ☐ County ☐ City (Attach Certificate)		Special Billing Requirements:		Net Subtotal	
				Total Price	
MAINTENANCE SERVICES PAYMENT TERMS					
One hundred percent (100%) of the Total Price for the initial one (1) year term of Maintenance Services set forth on this Order shall be due and payable within thirty (30) days of the date of BlueCrest's invoice, which invoice shall be issued upon installation of the Equipment. The Maintenance Service fees for any renewal period are as set forth in the Maintenance Services Terms and Provisions (as defined below).					

APPLICATION SOFTWARE & MAINTENANCE SERVICES									
Qty	Licensed Product	Production License / Non- Production License	License Term (Perpetual / Term)	Number of [Users] [Transactions] [Customers (if Service Provider)]	License Fee Perpetual /Annual Term	Annual Maintenance Fee (if applicable)	On Prem / Cloud	DELETE	Aggregate Fees
 	 	 	 	 	 	 	 	 	
 	 	 	 	 	 	 	 	 	
 	 	 	 	 	 	 	 	 	
Installation Site and Requested Install Date:			Special Billing Requirements:			Total Net Application Software & Maintenance Services Fees			

TAX EXEMPT: ☐ State ☐ County ☐ City (Attach Certificate)		(Excluding Tax)	
APPLICATION SOFTWARE & MAINTENANCE PAYMENT TERMS			
The Total Net Application Software & Maintenance Services Fees set forth on this Order shall be due and payable within thirty (30) days of the date of BlueCrest's invoice.			

PROFESSIONAL SERVICES				
Description	Billing Schedule			Estimated Fees
	Fixed Fee	Retainer	Time & Materials	
		Hours: _____; Hourly Rate: _____ Days: _____; Daily Rate: _____	Minimum Hours: _____ Hourly Rate: _____ Daily Rate: _____	
		Hours: _____; Hourly Rate: _____ Days: _____; Daily Rate: _____	Minimum Hours: _____ Hourly Rate: _____ Daily Rate: _____	
Termination Date (if any):		Total Estimated Professional Services Fees (Excluding Tax)		
PAYMENT TERMS				
All Professional Services Fees shall be due and payable within thirty (30) days of the date of BlueCrest's invoice, and such fees shall be invoiced to Client in accordance with the PS Terms and Provisions (as defined below).				

APPROVAL	
The Client hereby acknowledges and agrees that this Order is subject to, incorporated with and governed by the NASPO Mailing Equipment, Supplies, and Maintenance Agreement Master Agreement (CTR058805), the State of Colorado Participating Addendum, and the On-Call or On-Site Maintenance Services Terms and Provisions, Professional Services Provisions, and/or the Software License Terms and Provisions, as applicable, (collectively, referred to as, the "Agreement"). The Client further acknowledges and agrees that BlueCrest shall not be subject to any terms and conditions appearing on or referenced in (via a link or otherwise) Client's purchase order or other Client form(s) unless and until BlueCrest affirmatively accepts such terms and conditions in writing	
DMT SOLUTIONS GLOBAL CORPORATION d/b/a BlueCrest ("BlueCrest")	<i>[Insert Client Name]</i> (the "Client")
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

ATTACHMENT 1A, BLUE CREST ON-SITE MAINTENANCE SERVICES TERMS AND PROVISIONS

These On-Site Equipment Maintenance Services Terms and Provisions are attached as Attachment 1A to the BlueCrest Equipment, Maintenance, Software & Professional Services Order Form, dated as of _____, 20__ (the "Order", and together with the BlueCrest Terms and Provisions, the Statement of Work (if applicable), these On-Site Maintenance Services Terms and Provisions, the Application Software License Terms and Provisions (if applicable), and the Professional Services Terms and Provisions (if applicable), the "Agreement"), by and between DMT Solutions Global Corporation (d/b/a BlueCrest) ("BlueCrest") and _____ ("Client"). Any capitalized term used herein without definition shall have meaning assigned to such term in the Agreement.

1. SCOPE AND TERM OF AGREEMENT

1.1 These On-Site Equipment Maintenance Services' Terms and Provisions (the "On-Site Terms") apply to the products on the Order for which the annual maintenance service fees have been paid by Client to BlueCrest (the "Products").

1.2 These On-Site Terms shall be effective and on-site maintenance services (the "On-Site Maintenance Services" or "Services") shall commence as of the date on which the Products have been delivered and installed ("Service Date"), if, and only if, BlueCrest has received a correct purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) from Client with respect to such annual On-Site Maintenance Services at least five (5) business days prior to the Service Date, and shall continue for an initial term of one (1) year. Thereafter, On-Site Maintenance Services may be renewed for additional one (1) year terms at the sole discretion of the Client. If the Client fails to provide notice of their intent to renew On-Site Maintenance Services within thirty (30) days' of the expiration of the Services, then the Services shall automatically terminate upon expiration of the then current Service term. Upon notice of the Client to continue On-Site Maintenance, Services shall continue uninterrupted provided that BlueCrest has received a correct purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) from Client with respect to such renewed On-Site Maintenance Services at least five (5) business days prior to the applicable anniversary of the Service Date.

1.3 Notwithstanding anything contained herein to the contrary, BlueCrest may terminate the On-Site Maintenance Services upon one (1) business day's written notice to Client if Client breaches the payment provision of the Agreement and such payment breach is not cured within thirty (30) days after receipt of written notice of such breach from BlueCrest.

2. BASIC SERVICE SUPPORT

2.1 BlueCrest shall perform the On-Site Maintenance Services using trained and qualified Client Service Representatives ("CSRs") and such maintenance services shall be performed in a good and workmanlike manner. Actual CSR work hours, subject to the terms stated herein, will be as described in Schedule 1 hereto. BlueCrest and Client will use commercially reasonable efforts to maintain CSR hours on a regular schedule. Changes in CSR work hours and additional charges therefor, subject to the terms stated herein, will be billed according to the BlueCrest rates outlined in the Master Agreement, unless otherwise mutually agreed upon in writing by BlueCrest and Client ten (10) working days prior to implementation.

2.2 On-Site maintenance services activities will include reasonable remedial maintenance and preventative maintenance necessitated by normal usage. Remedial maintenance will include replacement of parts, excluding consumable parts, and machine enhancements. Parts provided hereunder shall be new or equivalent to new including refurbished parts.

2.3 Preventative maintenance will consist of inspecting, cleaning and periodically lubricating various components as well as replacing any worn parts. BlueCrest shall inform Client of the timing and nature of preventative maintenance required and BlueCrest and Client shall mutually agree on the scheduled time for CSRs to perform the preventative maintenance. BlueCrest shall use commercially reasonable efforts to conduct preventative maintenance as scheduled. Client shall make the Products reasonably available to BlueCrest for preventative maintenance.

2.4 Software and firmware maintenance shall be provided by BlueCrest pursuant to Section 3 of these On-Site Terms.

2.5 Notwithstanding anything in the Agreement to the contrary, BlueCrest will not be responsible: (i) for maintaining any Product that Client has failed to operate under suitable temperature, humidity, line voltage, or any specified environmental conditions; (ii) if reasonable care is not used in handling, operating, and maintaining a Product; (iii) if a Product is not used in accordance with the agreed applications and for the ordinary purpose for which it is designed; (iv) if the inability of any Product to perform is due to any act or failure to act on the part of Client, including without limitation, any alteration of or adding components to any Product; (v) unqualified operators' use of a Product; (vi) use of a Product in a manner not intended; (vii) use of a Product to process applications not previously approved in writing by BlueCrest; or (viii) use of damaged materials, such as paper or envelopes. If BlueCrest performs any repairs or maintenance as a result of any of the foregoing, the Client shall pay BlueCrest at BlueCrest's rates in effect at such time. Client shall promptly notify BlueCrest of any unauthorized alteration of or addition to a Product that occurred after Client accepted the Product. BlueCrest will not be required to maintain Products that have become obsolete, either due to age, discontinuance of Product's manufacture or irreparability, unless those Products are being leased by Client. BlueCrest shall make recommendations to Client regarding the replacement or refurbishment of such obsolete Products.

2.6 Service outside of the contracted hours or beyond what is described in Schedule 1 to these On-Site Terms will be provided at BlueCrest's rates in effect at such time.

2.7 From time to time, BlueCrest may provide notice to Client of its election, in its sole discretion, to terminate support for certain hardware, software, servers and/or databases due to obsolescence, end of life or a third-party manufacturer's election to discontinue certain servers, platforms and/or software (collectively "Obsolescence"). In the event Client's support is terminated due to Obsolescence, Client will be provided a pro-rata refund for any amounts prepaid for On-Site Maintenance Services for the obsolete hardware or software. In the event of a termination due to Obsolescence, Client will be provided an option to replace the obsolete software, servers and/or databases with replacements that meet or exceed Client's original system requirements, provided; however, additional costs, including but not limited to

installation and support fees associated with the new solution may apply. Parts and/or assemblies for the obsolete products described above or for products not sold as new will be provided only if available.

3. SOFTWARE SUPPORT

3.1 BlueCrest shall provide to Client software maintenance services ("SMS") and database services ("DBS") for the Embedded Software.

3.2 Software maintenance for the Embedded Software will consist of fixes made from time to time ("Fixes").

3.3 Fixes to the Embedded Software may include all or part of the following:

- Fixes to previously reported "bugs" to the Embedded Software; and
- Technical improvements to the Embedded Software.

3.4 Client shall be advised of required Fixes made to the Embedded Software during the term. Fixes shall be made available to Client, for implementation by Client or BlueCrest using the method deemed most appropriate; however, installation of a Fix to Embedded Software which have been modified by Client or BlueCrest at Client's request may require additional modifications, for which there will be an additional, mutually agreed upon, charge.

3.5 Upgrades and version releases to the Embedded Software may be issued periodically by BlueCrest, shall consist of additional and enhanced functions, may be available at an additional, mutually agreed upon, charge to the Client, and may be installed at Client's option. Upgrades incorporate functional and technical capability not provided in the last Version Release but deemed required prior to the next Version Release ("Upgrade(s)"). Version releases incorporate all of the Upgrades; including functionality changes, and Fixes which have been issued since the previous release ("Version Release"). Installation of an Upgrade or Version Release to Embedded Software that has been modified by BlueCrest at Client's request ("Modified Licensed Programs") may require additional modification, for which there will be an additional, mutually agreed upon, charge. All Version Releases, Upgrades, and Fixes provided under this Schedule shall be subject to the terms and conditions of the applicable agreement pursuant to which the original Embedded Software was licensed.

3.6 DBS will consist of distribution at no additional charge to Client of updates to the databases identified in the relevant purchase and/or license agreement; as such updates are made available by BlueCrest from time to time. DBS updates include postal or carrier rate changes, all zip or zone changes, and changes in service provided by carriers, provided that BlueCrest does not warrant the availability, accuracy or timely dissemination of non-BlueCrest originated source data incorporated in the databases.

3.7 Notwithstanding anything in the Agreement to the contrary, BlueCrest will not be responsible: (i) for maintaining any Embedded Software that Client has failed to operate properly on the approved platform; (ii) if the Embedded Software is not used in accordance with the agreed applications and for the ordinary purpose for which they are designed; (iii) if the inability of Embedded Software to perform is due to any act or failure to act on the part of Client, including without limitation, any alteration of or adding components to Embedded Software or failure to install updates, Version Releases, Upgrades or Version releases; (iv) unqualified operators' use of the Embedded Software; (v) use of the Embedded Software in a manner not intended; (vi) use of the Embedded Software to process applications not previously approved in writing by BlueCrest; (vii) if the Embedded Software has been operated with other media, not meeting or not maintained in accordance with the manufacturer's specifications; or (viii) where Client's service issue results from a problem other than from the Embedded Software. If BlueCrest performs any SMS or DBS as a result of any of the foregoing, the Client shall pay BlueCrest at BlueCrest's rates in effect at such time. BlueCrest is not responsible for maintaining any third-party software and/or hardware that communicates or operates with the Embedded Software. Client shall promptly notify BlueCrest of any unauthorized alteration of or addition to the Embedded Software that occurred after Client accepted the Embedded Software.

3.8 If Client upgrades to a new release, i.e., major enhancements and/or new functionality of the Embedded Software licensed by BlueCrest, the SMS provided hereunder may be transferred to the new release at the then current Master Agreement subscription fee for the new release less credit for fees previously paid hereunder.

4. MAINTENANCE CHARGES AND PAYMENTS

4.1 Reserved

4.2 For each successive term of On-Site Maintenance Services, BlueCrest will invoice Client for the maintenance fees in advance on the applicable anniversary of the Service Date. Payment on such invoices is due thirty (30) days after the date of the invoice. If Client payment is not made in full by the 45th day from date of invoice, Blue Crest may charge Client a 1% late fee of the outstanding invoice amount and/or BlueCrest may suspend all On-Site Maintenance Services until such time as all past due maintenance fees are paid in full. For each dishonored or returned payment, Client will pay BlueCrest the applicable returned item fee. In the event that charges due and owing have not been paid by Client and BlueCrest brings an action to collect such charges, Client shall pay BlueCrest for all costs and fees (including reasonable attorneys' fees) incurred in the collection of any unpaid amount.

4.3 For Products added after the Service Date, BlueCrest will invoice Client for monthly maintenance charges on a *pro rata* basis. Extended hours of coverage (as described below) will also be invoiced by BlueCrest on a monthly basis.

4.4 BlueCrest will also invoice Client for additional fees that result from annual cycle volume overages (as set forth in the Maintenance Services Payment Terms section of the Order) and Client shall pay all such invoices within thirty (30) days after the date of each such invoice regardless of whether or not a purchase order has been issued for or is required in connection with such additional services.

4.5 Each of BlueCrest and Client acknowledge and agree (a) that Client shall issue to BlueCrest a purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) for the annual on-site maintenance fees at least five (5) business days prior to the Service Date and each anniversary thereof unless these On-Site Terms have expired or have otherwise been terminated, and (b) that these On-Site Terms sets forth all of the terms and conditions with respect to the provision of On-Site Maintenance Services.

5. MAINTENANCE FACILITIES AND SPARE PARTS

5.1 Client shall provide, at no charge to BlueCrest, adequate, lockable storage space for maintenance equipment, spare parts and working space at the Client site where the Products are located. Upon mutual agreement between Client and BlueCrest, Client shall not have access to such storage space and shall not remove any item therefrom. BlueCrest shall maintain spare parts and testing equipment at Client's site as it deems necessary to perform maintenance services. All right, title and interest in and to such spare parts (until incorporated into Client's equipment), testing and maintenance equipment and all tools shall remain with BlueCrest, and such parts, equipment and/or tools may be removed or maintained by BlueCrest at its discretion.

5.2 Client hereby agrees that it shall maintain a Suitable Environment (as defined below) in which the Products shall be maintained and the CSRs shall operate. For the purposes of this Agreement, "Suitable Environment" means a working area, including the space in which the Products are operated and serviced by the CSRs, any related offices, break rooms, restrooms or other locations to be utilized by the CSRs under this Agreement, which (i) complies with the Occupational Safety and Health Act ("OSHA") and any related statutes, rules and regulations in all respects, (ii) is designed to minimize the effects of Product and other occupational safety and health stressors such as noise, chemical, biological, radiation, or other recognizable hazards on CSRs, (iii) is constructed and maintained in accordance with applicable fire and building code requirements, and (iv) does not otherwise present a material health or safety risk to the CSRs. In the event that BlueCrest concludes, after conference with the relevant CSRs and Client or after inspections of the work area under normal operating conditions by BlueCrest personnel or their safety and health designees, either of which shall be performed in BlueCrest's sole discretion, that Client has not maintained a Suitable Environment, BlueCrest shall have the right, in its sole discretion to (A) temporarily remove any and all CSRs without penalty or delay in payment, until Client has remedied the unsuitable conditions, or (B) terminate this Agreement without penalty if such non-complying conditions are not remedied by Client within sixty (60) days of BlueCrest's notice to Client of the existence of the unsuitable conditions.

6. EXTENDED HOURS OF COVERAGE

Client may, upon not less than seven (7) days' prior written notice, request BlueCrest to extend the hours during which maintenance services are available for equipment beyond the agreed maintenance hours ("Extended Hours of Coverage"). If BlueCrest agrees to provide Extended Hours of Coverage, Client will pay additional fees as may be agreed by the parties, and Client acknowledges and agrees that it shall pay all such additional fees within thirty (30) days after the date of the applicable invoice therefore regardless of whether or not a purchase order has been issued for or is required in connection with such additional services.

7. OUTAGES

7.1 The appropriate CSR will promptly respond to any request for service received from Client's operators during the agreed maintenance hours and record the service call in the BlueCrest service management system via a handheld device for any Outage (as defined below) of fifteen (15) minutes duration or longer. The Outage period will begin to run from the time the CSR receives proper notification thereof. For the purposes of this Agreement, "Outage" means a complete cessation of the Product's ability to perform its prescribed Applications due to software, hardware or mechanical failure.

7.2 If the Outage extends beyond one hundred twenty (120) consecutive minutes, the CSR will contact the area Regional Technical Specialist ("RTS") for assistance. The RTS will provide telephone support as required in the determination of CSR and RTS.

7.3 If the Outage extends beyond two hundred forty (240) consecutive minutes, the RTS will contact the Service Manager and Division Technical Specialist ("DTS"). The Service Manager will review the Product's condition with the RTS, plan the necessary corrective action and notify Client as to the action being taken.

7.4 If the Outage extends beyond four hundred eighty (480) consecutive minutes, BlueCrest will notify the Division Services Director and will determine whether additional on-site support is required.

7.5 If the Outage extends beyond seven hundred twenty (720) consecutive minutes, a Vice President responsible for client service will be notified and appropriate additional on-site support will be supplied at no expense to Client.

8. TERMS AND CONDITIONS

8.1 Indemnification

(a) BlueCrest shall indemnify and defend Client and its officers, directors, and employees (collectively referred to in this Section as "Client"), against any and all liabilities, claims, damages, costs, and expenses (including reasonable attorneys' fees) of third parties resulting from bodily injury or death to any person or tangible personal property damage, to the extent that such injury or damage is caused by BlueCrest's gross negligence or willful misconduct in its performance of the On-Site Maintenance Services while on Clients' business premises.

(b) In the event that Client becomes aware of any claim alleging bodily injury or death or tangible personal property damage as described above, Client shall immediately notify BlueCrest. BlueCrest shall have the right and option in the first instance, through counsel of its own choosing and its own expense, to deal with, defend, settle or compromise any such claim. If BlueCrest does not appoint counsel to deal with, defend, settle or compromise any such claim after receiving notice thereof, Client may then deal with, defend, settle or compromise such claim through counsel of its own choosing at the expense of BlueCrest. In such event, (i) Client shall be permitted to control the defense of such claim and shall keep BlueCrest advised with respect to the conduct of such defense, settlement or compromise; (ii) any settlement or compromise shall be for the account of BlueCrest; and (iii) no settlement or compromise shall be made without the prior written consent of BlueCrest, which consent shall not be unreasonably withheld.

8.2 Reserved

8.3 Limitation of Liability

BLUECREST'S TOTAL LIABILITY FOR ANY COST, LOSS DAMAGE OR OTHER POTENTIAL OR ACTUAL EXPENSES ARISING DIRECTLY OUT OF THE ON-SITE MAINTENANCE SERVICES SHALL NOT EXCEED THE AMOUNT OF THE PAYMENTS MADE BY CLIENT TO BLUECREST FOR SUCH ON-SITE MAINTENANCE SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE EVENTS GIVING RISE TO THE CLAIM. THE LIMITATION OF LIABILITY OF THIS AGREEMENT SHALL BE IN ADDITION TO ANY INSURANCE COVERAGE REQUIRED UNDER THE PARTICIPATING ADDENDUM, BUT IN NO EVENT WILL THE LIABILITY COVERAGE EXCEED ACTUAL DAMAGES INCURRED. REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, BLUECREST SHALL IN NO EVENT BE LIABLE FOR ANY DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF BLUECREST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.4 Independent Contractor Relationship

On-Site Maintenance Services by BlueCrest's employees, or persons under contract to BlueCrest, shall be performed hereunder as independent contractors of Client, and no such employees or persons doing such work or subcontractors shall be considered employees of Client.

Schedule 1 To On-Site Maintenance Services' Terms and Provisions

Annual On-Site Maintenance Fee: [\$TBD]

COVERAGE HOURS: [TBD]

BlueCrest will invoice Client for any coverage requests outside of defined service personnel hours as follows.

- Coverage can be purchased per eight hour shift, per technician with two weeks prior written notice.
- Coverage during observed holidays can be purchased per eight hour shift, per technician with two weeks prior written notice.
- Coverage outside of defined service personnel hours requested without prior notification will be billed at the BlueCrest standby rates in effect at such time. Stand-by charges reserve a technician to remain on-call outside service personnel hours for one shift, eight hours in length. Hourly charges are calculated from portal to portal, two hour minimum.

ATTACHMENT 1B, BLUE CREST ON-CALL MAINTENANCE SERVICES TERMS AND PROVISIONS

These On-Call Equipment Maintenance Services Terms and Provisions are attached as Attachment 1B to the BlueCrest Equipment, Maintenance, Software & Professional Services Order Form, dated as of _____, 20__ (the "Order", and together with the BlueCrest Terms and Provisions, the Statement of Work (if applicable), these On-Call Maintenance Services Terms and Provisions, the Application Software License Terms and Provisions (if applicable), and the Professional Services Terms and Provisions (if applicable), the "Agreement") , by and between DMT Solutions Global Corporation (d/b/a BlueCrest) ("BlueCrest") and _____ ("Client"). Any capitalized term used herein without definition shall have meaning assigned to such term in the Agreement.

1. SCOPE AND TERM OF AGREEMENT

1.1 These On-Call Equipment Maintenance Services' Terms and Provisions (the "On-Call Terms") apply to the products on the Order for which the annual maintenance service fees have been paid by Client to BlueCrest (the "Products").

1.2 These On-Call Terms shall be effective and the on-call maintenance services (the "On-Call Maintenance Services" or "Services") shall commence as of the date on which the Products have been delivered and installed ("Service Date"), if, and only if, BlueCrest has received a correct purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) from Client with respect to such annual On-Call Maintenance Services at least five (5) business days prior to the Service Date, and shall continue for an initial term of one (1) year. Thereafter, the On-Call Maintenance Services may be renewed for additional one (1) year terms at the sole discretion of the Client. If the Client fails to provide notice of their intent to renew On-Call Services within sixty (60) days' of the expiration of the Services, then the Services shall automatically terminate upon expiration of the then current Service terms. Upon notice from the Client to continue On-Call Maintenance, Services shall continue uninterrupted provided that BlueCrest has received a correct purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) from Client with respect to such renewed On-Call Maintenance Services at least five (5) business days prior to the applicable anniversary of the Service Date.

1.3 Notwithstanding anything contained herein to the contrary, BlueCrest may terminate the On-Call Maintenance Services upon one (1) business day's written notice to Client if Client breaches the payment provision of the Agreement and such payment breach is not cured within thirty (30) days after receipt of written notice of such breach from BlueCrest.

2. BASIC SERVICE SUPPORT

2.1 BlueCrest shall perform the On-Call Maintenance Services using trained and qualified Client Service Representatives ("CSRs") and such maintenance services shall be performed in a good and workmanlike manner.

2.2 On-Call Maintenance Services activities will include reasonable remedial maintenance and preventative maintenance necessitated by normal usage. Remedial maintenance will include replacement of parts, excluding consumable parts, and machine enhancements. Parts provided hereunder shall be new or equivalent to new including refurbished parts.

2.3 Preventative maintenance will consist of inspecting, cleaning and periodically lubricating various components as well as replacing any worn parts. BlueCrest shall inform Client of the timing and nature of preventative maintenance required and BlueCrest and Client shall mutually agree on the scheduled time for CSRs to perform the preventative maintenance. BlueCrest shall use commercially reasonable efforts to conduct preventative maintenance as scheduled. Client shall make the Products reasonably available to BlueCrest for preventative maintenance.

2.4 Software and firmware maintenance shall be provided by BlueCrest pursuant to Section 3 of these On-Call Terms.

2.5 Notwithstanding anything in the Agreement to the contrary, BlueCrest will not be responsible: (i) for maintaining any Product that Client has failed to operate under suitable temperature, humidity, line voltage, or any specified environmental conditions; (ii) if reasonable care is not used in handling, operating, and maintaining a Product; (iii) if a Product is not used in accordance with the agreed applications and for the ordinary purpose for which it is designed; (iv) if the inability of any Product to perform is due to any act or failure to act on the part of Client, including without limitation, any alteration of or adding components to any Product; (v) unqualified operators' use of a Product; (vi) use of a Product in a manner not intended; (vii) use of a Product to process applications not previously approved in writing by BlueCrest; or (viii) use of damaged materials, such as paper or envelopes. If BlueCrest performs any repairs or maintenance as a result of any of the foregoing, the Client shall pay BlueCrest at BlueCrest's normal rates in effect at such time. Client shall promptly notify BlueCrest of any unauthorized alteration of or addition to a Product that occurred after Client accepted the Product. BlueCrest will not be required to maintain Products that have become obsolete, either due to age, discontinuance of Product's manufacture, or irreparability; provided, however, that BlueCrest shall use commercially reasonable efforts to maintain any such Products being leased by Client. BlueCrest shall make recommendations to Client regarding the replacement or refurbishment of such obsolete Products.

2.6 Service outside of the contracted hours or beyond what is described in Schedule 1 to these On-Call Terms will be provided at BlueCrest's rates in effect at such time.

2.7 From time to time, BlueCrest may provide notice to Client of its election, in its sole discretion, to terminate support for certain hardware, software, servers and/or databases due to obsolescence, end of life or a third-party manufacturer's election to discontinue certain servers, platforms and/or software (collectively "Obsolescence"). In the event Client's support is terminated due to Obsolescence, Client will be provided a pro-rata refund for any amounts prepaid for On-Call Maintenance Services for the obsolete hardware or software. In the event of a termination due to Obsolescence, Client will be provided an option to replace the obsolete software, servers and/or databases with replacements that meet or exceed Client's original system requirements, provided; however, additional costs, including but not limited to installation and support fees associated with the new solution may apply. Parts and/or assemblies for the obsolete products described above or for products not sold as new will be provided only if available.

3. SOFTWARE SUPPORT

3.1 BlueCrest shall provide to Client software maintenance services ("SMS") and database services ("DBS") for the Embedded Software.

3.2 Software maintenance for the Embedded Software will consist of fixes made from time to time ("Fixes").

- 3.9 Fixes to the Embedded Software may include all or part of the following:
- Fixes to previously reported "bugs" to the Embedded Software; and
 - Technical improvements to the Embedded Software.

3.10 Client shall be advised of required Fixes made to the Embedded Software during the term. Fixes shall be made available to Client, for implementation by Client or BlueCrest using the method deemed most appropriate; however, installation of a Fix to Embedded Software which have been modified by Client or BlueCrest at Client's request may require additional modifications, for which there will be an additional, mutually agreed upon, charge.

3.11 Upgrades and version releases to the Embedded Software may be issued periodically by BlueCrest, shall consist of additional and enhanced functions, may be available at an additional, mutually agreed upon, charge to the Client, and may be installed at Client's option. Upgrades incorporate functional and technical capability not provided in the last Version Release but deemed required prior to the next Version Release ("Upgrade(s)"). Version releases incorporate all of the Upgrades, including functionality changes, and Fixes which have been issued since the previous release ("Version Release"). Installation of an Upgrade or Version Release to Embedded Software that has been modified by BlueCrest at Client's request ("Modified Licensed Programs") may require additional modification, for which there will be an additional, mutually agreed upon, charge. All Version Releases, Upgrades, and Fixes provided under this Schedule shall be subject to the terms and conditions of the applicable agreement pursuant to which the original Embedded Software was licensed.

3.12 DBS will consist of distribution at no additional charge to Client of updates to the databases identified in the relevant purchase and/or license agreement; as such updates are made available by BlueCrest from time to time. DBS updates include postal or carrier rate changes, all zip or zone changes, and changes in service provided by carriers, provided that BlueCrest does not warrant the availability, accuracy or timely dissemination of non-BlueCrest originated source data incorporated in the databases.

3.13 Notwithstanding anything in the Agreement to the contrary, BlueCrest will not be responsible: (i) for maintaining any Embedded Software that Client has failed to operate properly on the approved platform; (ii) if the Embedded Software is not used in accordance with the agreed applications and for the ordinary purpose for which they are designed; (iii) if the inability of Embedded Software to perform is due to any act or failure to act on the part of Client, including without limitation, any alteration of or adding components to Embedded Software or failure to install updates, Version Releases, Upgrades or Version releases; (iv) unqualified operators' use of the Embedded Software; (v) use of the Embedded Software in a manner not intended; (vi) use of the Embedded Software to process applications not previously approved in writing by BlueCrest; (vii) if the Embedded Software has been operated with other media, not meeting or not maintained in accordance with the manufacturer's specifications; or (viii) where Client's service issue results from a problem other than from the Embedded Software. If BlueCrest performs any SMS or DBS as a result of any of the foregoing, the Client shall pay BlueCrest at BlueCrest's normal rates in effect at such time. BlueCrest is not responsible for maintaining any third-party software and/or hardware that communicates or operates with the Embedded Software. Client shall promptly notify BlueCrest of any unauthorized alteration of or addition to the Embedded Software that occurred after Client accepted the Embedded Software.

3.14 If Client upgrades to a new release, i.e., major enhancements and/or new functionality of the Embedded Software licensed by BlueCrest, the SMS provided hereunder may be transferred to the new release at the then current Master Agreement subscription fee for the new release less credit for fees previously paid hereunder.

4. MAINTENANCE CHARGES AND PAYMENTS

4.1 Client may terminate the On-Call Maintenance Services by delivering to BlueCrest written notice of its desire to terminate, which notice must include the Client account number and be sent to each of the BlueCrest Accounts Receivable Department, the BlueCrest Service Department and the BlueCrest Legal Department, at 37 Executive Drive, Danbury, Connecticut 06810, by certified mail, return receipt requested. Any such termination by Client shall be effective ten (10) business days after BlueCrest's receipt of the notice of termination. If no such notice is received, the On-Call Maintenance Services shall terminate at the end of the Service term then in effect. In the event Client notifies BlueCrest that it desires to have additional Products covered under these On-Call Terms, modifications to the Agreement will be made by mutual agreement.

4.2 For each successive term of On-Call Maintenance Services, BlueCrest will invoice Client for the maintenance fees in advance on the applicable anniversary of the Service Date. Payment on such invoices is due thirty (30) days after the date of the invoice. If Client payment is not made in full by the 45th day from date of invoice, BlueCrest may charge Client a 1% late fee on the outstanding invoice amount, and/or BlueCrest may suspend all On-Call Maintenance Services until such time as all past due maintenance fees are paid in full. For each dishonored or returned payment, Client will pay BlueCrest the applicable returned item fee. In the event that charges due and owing have not been paid by Client and BlueCrest brings an action to collect such charges, Client shall pay BlueCrest for all costs and fees (including reasonable attorneys' fees) incurred in the collection of any unpaid amount.

4.3 For Products added after the Service Date, BlueCrest will invoice Client for monthly maintenance charges on a *pro rata* basis.

4.4 If Client requests any On-Call Maintenance Services outside of defined service personnel hours (Monday through Friday 8:00am – 5:00pm excluding BlueCrest observed holidays), BlueCrest will invoice Client for additional fees that result from such services according to Schedule 1 and Client acknowledges and agrees that it shall pay all such additional fees within thirty (30) days after the date of the applicable invoice therefore.

4.5 BlueCrest will also invoice Client for additional fees that result from annual cycle volume overages (as set forth in the Maintenance Services Payment Terms section of the Order) and Client shall pay all such invoices within thirty (30) days after the date of each such invoice regardless of whether or not a purchase order has been issued for or is required in connection with such additional services.

4.6 Each of BlueCrest and Client acknowledge and agree (a) that Client shall issue to BlueCrest a purchase order (and/or any other document required by Client for the issuance and payment of a BlueCrest invoice) for the annual on-call maintenance fees at least five (5) business days prior to the Service Date and each anniversary thereof unless these On-Call Terms have expired or has otherwise been terminated, and (b) that these On-Call Terms set forth all of the terms and conditions with respect to the provision of Maintenance Services.

5. OUTAGES

5.1 Once at the Client site, the CSR has sixty (60) minutes to diagnose the problem. Once the problem is diagnosed, a time estimate for resolution shall be provided to the Client.

5.2 If the problem is not diagnosed within sixty (60) minutes, the CSR will escalate to a Region Technical Specialist ("RTS") and the service manager. The RTS shall try to diagnose the problem over the phone based on the symptoms described by the site CSR. A decision will be made by the senior CSR to go to the site if unresolved. The Client and service manager shall be notified of the status as well as the estimated time of arrival of the senior CSR.

5.3 Once at the Client site, the RTS has sixty (60) minutes to diagnose the problem. If the senior CSR does not diagnose the problem, the Service Manager, and the Division Director shall be notified for the purpose of determining whether additional support is required.

5.4 If parts are required for diagnoses, confirmation on parts availability must be made and the Client, as well as service management, must be informed.

6. TERMS AND CONDITIONS

5.1 Indemnification

(a) BlueCrest shall indemnify and defend Client and its officers, directors, and employees (collectively referred to in this Section as "Client"), against any and all liabilities, claims, damages, costs, and expenses (including reasonable attorneys' fees) of third parties resulting from bodily injury or death to any person or tangible personal property damage, to the extent that such injury or damage is caused by BlueCrest's gross negligence or willful misconduct in its performance of the On-Call Maintenance Services while on Clients' business premises.

(b) In the event that Client becomes aware of any claim alleging bodily injury or death or tangible personal property damage as described above, Client shall immediately notify BlueCrest. BlueCrest shall have the right and option in the first instance, through counsel of its own choosing and its own expense, to deal with, defend, settle or compromise any such claim. If BlueCrest does not appoint counsel to deal with, defend, settle or compromise any such claim after receiving notice thereof, Client may then deal with, defend, settle or compromise such claim through counsel of its own choosing at the expense of BlueCrest. In such event, (i) Client shall be permitted to control the defense of such claim and shall keep BlueCrest advised with respect to the conduct of such defense, settlement or compromise; (ii) any settlement or compromise shall be for the account of BlueCrest; and (iii) no settlement or compromise shall be made without the prior written consent of BlueCrest, which consent shall not be unreasonably withheld.

6.2 No Implied Warranties

BLUECREST DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE

6.3 Limitation of Liability

BLUECREST'S TOTAL LIABILITY FOR ANY COST, LOSS DAMAGE OR OTHER POTENTIAL OR ACTUAL EXPENSES ARISING DIRECTLY OUT OF THE ON-CALL MAINTENANCE SERVICES SHALL NOT EXCEED THE AMOUNT OF THE PAYMENTS MADE BY CLIENT TO BLUECREST FOR SUCH ON-CALL MAINTENANCE SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE EVENTS GIVING RISE TO THE CLAIM. THE LIMITATION OF LIABILITY OF THIS AGREEMENT SHALL BE IN ADDITION TO ANY INSURANCE COVERAGE REQUIRED UNDER THE PARTICIPATING ADDENDUM, BUT IN NO EVENT WILL THE LIABILITY COVERAGE EXCEED ACTUAL DAMAGES INCURRED, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, BLUECREST SHALL IN NO EVENT BE LIABLE FOR ANY DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF BLUECREST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.4 Independent Contractor Relationship

On-Call Maintenance Services by BlueCrest's employees, or persons under contract to BlueCrest, shall be performed hereunder as independent contractors of Client, and no such employees or persons doing such work or subcontractors shall be considered employees of Client.

**Schedule 1
To
On-Call Maintenance Services' Terms and Provisions**

Annual on-Call Maintenance Fee: [\$TBD]

Price includes: On-call maintenance service coverage, parts and labor, Monday through Friday 8:00am – 5:00pm excluding BlueCrest observed holidays.

Extended Hours of Coverage at the rates described in the table below:

BlueCrest shall invoice Client for any coverage requests outside of defined service personnel hours as follows.

- Coverage can be purchased per eight-hour shift, per technician with two weeks prior written notice.
- Coverage during observed holidays can be purchased per eight-hour shift, per technician with two weeks prior written notice.
- Coverage outside of defined service personnel hours requested without prior notification will be billed at the standard BlueCrest standby rates listed. Stand-by charges reserve a technician to remain on-call outside service personnel hours for one shift, eight hours in length. Hourly charges are calculated from portal to portal, two hour minimum.

ATTACHMENT 2, MUNICIPAL ASSET MANAGEMENT TAX EXEMPT \$1 BUYOUT LEASE AGREEMENT

Tax-Exempt Lease/Purchase Agreement, Dated <<Start Date>>

Accepted by Lessor: (the "Lessor") _____ - _____ - By: Name: Title: Telephone:	Agreed to by Lessee: <<Lessee>> ("Lessee") <<Lessee Address 1>> <<Lessee Address 2>> <<Lessee City>>, <<Lessee State>> <<Lessee Zip>> By: Name: Title: Telephone:
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AGREEMENT: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor all the Property described in Property Schedule incorporated herein by reference, upon the terms and conditions set forth herein and as supplemented by the terms and conditions set forth in the Property Schedule. This Tax-Exempt \$1 Buyout Lease Agreement together with the Property Schedule shall be defined as the Agreement.

LEASE TERM: The Lease Term of the Property listed in the Property Schedule shall commence upon the commencement date of the Property by Lessee and continue for the time period set forth in the Property Schedule. This Agreement cannot be canceled or terminated by Lessee except as expressly provided herein. This Agreement is a triple net lease.

LEASE PAYMENTS: Lessee shall pay rent to Lessor for the Property in the amounts, and on the dates specified, in the Property Schedule. Lessee agrees to pay any fees associated with the use of a payment system other than check, wire transfer, or ACH. Lessor and Lessee intend that the obligation of Lessee to pay Lease Payments hereunder shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee.

NO OFFSET: SUBJECT TO THE RIGHT TO NON-APPROPRIATE, SET FORTH BELOW, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THE PROPERTY SCHEDULE AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED IN THIS AGREEMENT SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY VENDOR. Lessee shall pay when due all taxes, fees and governmental charges assessed or levied against or with respect to the Property.

LATE CHARGES: Should Lessee fail to duly pay any part of any Lease Payment or other sum to be paid to Lessor under this Agreement on the date on which such amount is due hereunder, then Lessee shall pay late charges on such delinquent payment beginning 15 days after the due date thereof until paid at the rate of 1% per month of the outstanding balance.

MAINTENANCE OF PROPERTY: At all times during the Lease Term, Lessee shall, at Lessee's own cost and expense, maintain, preserve, and keep the Property in good working order, and condition, and from time to time make or cause to be made all necessary and proper repairs, replacements, and renewals to the Property, which shall become part of the Property. The Property is and will remain personal property.

INSURANCE OF PROPERTY: All risk of loss to the Property shall be borne by the Lessee. At all times during the Lease Term, Lessee shall, at Lessee's own cost and expense, cause casualty, public liability, and property damage insurance to be carried and maintained (or shall provide Lessor with a certificate stating that adequate self-insurance has been provided) with respect to the Property, sufficient to protect the full replacement value of the Property and to protect from liability in all events for which insurance is customarily available. Lessee shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term. Any insurance policy to be carried and maintained pursuant to this Agreement shall be so written or endorsed as to make losses, if any, payable to Lessee and Lessor as their respective interests may appear. All such liability insurance shall name Lessor as an additional insured. Each insurance policy carried and maintained pursuant to this Agreement shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially or adversely to the interest of the Lessor without first giving written notice thereof to Lessor at least 30 days in advance of such change of status.

QUIET ENJOYMENT AND TERMINATION OF LESSOR'S INTEREST: To secure Lessee's obligations hereunder, Lessor is granted a security interest in the Property, including substitutions, repairs, replacements and renewals, and the proceeds thereof, which is a first lien thereon. Lessee hereby authorizes Lessor to file all financing statements which Lessor deems necessary or appropriate to establish, maintain and perfect such security interest. Provided there does not exist an Event of Default as defined herein, the Lessee shall have the right of quiet enjoyment of the Property throughout the Lease Term. If Lessee shall have performed all of its obligations and no default shall have occurred and be continuing under this Agreement, and this Agreement shall not have been earlier terminated with respect to the Property, then, at the end of the Lease Term with respect to any item of Property, Lessor's interest in such Property shall terminate. Unless otherwise required by law, title to the Property shall be in the name of Lessee, subject to Lessor's interest hereunder.

TAX EXEMPTION: The parties contemplate that interest payable under this Agreement will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The tax-exempt status of this Agreement provides the inducement for the Lessor to offer financing at the interest rate set forth herein. Therefore, should this Agreement be deemed by any taxing authority not to be exempt from taxation, Lessee agrees that the interest rate shall be adjusted, as of the date of loss of tax exemption, to an interest rate calculated to provide Lessor or its assignee an after tax yield equivalent to the tax exempt rate and Lessor shall notify Lessee of the taxable rate. Provided, however, that the provision of the preceding sentence shall apply only upon a final determination that the interest payments are not excludable from gross income under Section 103(a) of the Code, and shall not apply if the determination is based upon the individual tax circumstances of the Lessor, or a finding that the party seeking to exclude such payments from gross income is not the owner and holder of the obligation under the Code.

REPRESENTATIONS AND WARRANTIES OF LESSEE: Lessee hereby represents and warrants to Lessor that: (a) Lessee is a State, possession of the United States, the District of Columbia, or political subdivision thereof as defined in Section 103 of the Code and Treasury Regulations and Rulings related thereto. If Lessee is incorporated, it is duly organized and existing under the Constitution and laws of its jurisdiction of incorporation and will do or cause to be done all things necessary to preserve and keep such organization and existence in full force and effect. (b) Lessee has been duly authorized by the Constitution and laws of the applicable jurisdiction and by a resolution of its governing body (which resolution, if requested by Lessor, is attached hereto), to execute and deliver this Agreement and to carry out its obligations hereunder. (c) All legal requirements have been met, and

procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement. (d) The Property will be used by Lessee only for essential governmental or proprietary functions of Lessee consistent with the scope of Lessee's authority and will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use. Lessee's need for the Property is not expected to diminish during the term of the Agreement. (e) Lessee has funds available to pay Lease Payments until the end of its current appropriation period, and it intends to request funds to make Lease Payments in each appropriation period, from now until the end of the term of this Agreement. (f) The Lessee shall comply at all times with all applicable requirements of the Code, including but not limited to the registration and reporting requirements of Section 149, to maintain the federal tax-exempt status of the Agreement. The Lessee shall maintain a system with respect to this Agreement, which tracks the name, and ownership interest of each assignee who has both the responsibility for administration of, and ownership interest in this Agreement. (g) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days prior written notice to Lessor.

RISK OF LOSS COVENANTS: Lessee shall not be required to indemnify or hold Lessor harmless against liabilities arising from the Agreement. However, as between Lessor and Lessee, and to the extent permitted by law, Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Property, including, but not limited to, the possession, ownership, lease, use or operation thereof, and the loss of federal tax exemption of the interest on any of the Lease Payments, except that Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after Lessee has surrendered possession of the Property in accordance with the terms of the Agreement to Lessor or that arise directly from the gross negligence or willful misconduct of the Lessor.

NON-APPROPRIATION: If sufficient funds are not appropriated to make Lease Payments under this Agreement, this Agreement shall terminate and Lessee shall not be obligated to make Lease Payments under this Agreement beyond the then current fiscal year for which funds have been appropriated. Upon such an event, Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property to Lessor. If Lessee fails to deliver possession of the Property to Lessor, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee.

ASSIGNMENT BY LESSEE: Without Lessor's prior written consent, Lessee may not, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of the Property, this Agreement or any interest therein.

ASSIGNMENT BY LESSOR: Lessor may assign, sell or encumber all or any part of this Agreement, the Lease Payments and any other rights or interests of Lessor hereunder. Such assignees may include trust agents for the benefit of holders of certificates of participation.

EVENTS OF DEFAULT: Lessee shall be in default under this Agreement upon the occurrence of any of the following events or conditions ("Events of Default"), unless such Event of Default shall have been specifically waived by Lessor in writing: (a) Default by Lessee in payment of any Lease Payment or any other indebtedness or obligation now or hereafter owed by Lessee to Lessor under this Agreement or in the performance of any obligation, covenant or liability contained in this Agreement and the continuance of such default for thirty (30) consecutive days after written notice thereof by Lessor to Lessee, or (b) any warranty, representation or statement made or furnished to Lessor by or on behalf of Lessee proves to have been false in any material respect when made or furnished, or (c) actual or attempted sale, lease or encumbrance of any of the Property, or the making of any levy, seizure or attachment thereof or thereon, or (d) dissolution, termination of existence, discontinuance of the Lessee, insolvency, business failure, failure to pay debts as they mature, or appointment of a receiver of any part of the property of, or assignment for the benefit of creditors by the Lessee, or the commencement of any proceedings under any bankruptcy, reorganization or arrangement laws by or against the Lessee.

REMEDIES OF LESSOR: Upon the occurrence of any Event of Default and at any time thereafter, Lessor may, without any further notice, exercise one or more of the following remedies as Lessor in its sole discretion shall elect: (a) terminate the Agreement and all of Lessee's rights hereunder as to any or all items of Property; (b) proceed by appropriate court action to personally, or by its agents, take possession from Lessee of any or all items of Property wherever found and for this purpose enter upon Lessee's premises where any item of Property is located and remove such item of Property free from all claims of any nature whatsoever by Lessee and Lessor may thereafter dispose of the Property; provided, however, that any proceeds from the disposition of the Property in excess of the sum required to (i) pay to Lessor an amount equal to the total unpaid principal component of Lease Payments under the Property Schedule, including principal component not otherwise due until future fiscal years, (ii) pay any other amounts then due under the Property Schedule and this Agreement, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property and the Event of Default, shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee; (c) proceed by appropriate court action or actions to enforce performance by Lessee of its obligations hereunder or to recover damages for the breach hereof or pursue any other remedy available to Lessor at law or in equity or otherwise; (d) declare all unpaid Lease Payments and other sums payable hereunder during the current fiscal year of the Lease Term to be immediately due and payable without any presentment, demand or protest and / or take any and all actions to which Lessor shall be entitled under applicable law. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any right or remedy herein or at law or in equity or otherwise provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise and may be enforced concurrently therewith or from time to time. Lessee agrees to pay to Lessor or reimburse Lessor for, upon mutual agreement, in addition to all other amounts due hereunder, all of Lessor's costs of collection, whether or not suit or action is filed thereon. Lessee and Lessor hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement.

NOTICES: All notices, and other communications provided for herein shall be deemed given when delivered or mailed by certified mail, postage prepaid, addressed to Lessor or Lessee at their respective addresses set forth herein or such other addresses as either of the parties hereto may designate in writing to the other from time to time for such purpose.

AMENDMENTS AND WAIVERS: This Agreement and the Property Schedule executed by Lessor and Lessee constitute the entire agreement between Lessor and Lessee with respect to the Property and this Agreement may not be amended except in writing signed by both parties. If there is a conflict between any terms and conditions of this Agreement and the Participating Addendum or Master Agreement # , the Participating Addendum and/or Master Agreement shall prevail.

CONSTRUCTION: This Agreement shall be governed by and construed in accordance with the laws of the Lessee's State. Titles of sections of this Agreement are for convenience only and shall not define or limit the terms or provisions hereof. Time is of the essence under this Agreement. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns. This Agreement may be simultaneously executed in counterparts, each shall be an original with all being the same instrument.

ALL STATE CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. Lessor is not authorized to begin performance until such time. If Lessor begins performing prior thereto, the State of Colorado is not obligated to pay Lessor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPS, MBA, JD.

By: _____

Date: _____

1. Property Schedule to Tax-Exempt Lease/Purchase Agreement

This **Property Schedule** is entered into pursuant to Tax-Exempt Lease/Purchase Agreement dated as of <<Start Date>> between Lessor and Lessee.

1. Interpretation. The terms and conditions of the Tax-Exempt Lease/Purchase Agreement (the "Agreement") are incorporated herein.
2. Commencement Date. The Commencement date of this Property Schedule is <<Start Date>>.
3. Property Description . The Property subject to this Property Schedule is described in Exhibit A, attached hereto. It includes all replacements, parts, repairs, additions, accessions and accessories incorporated therein or affixed or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries.
4. Term and Payments. Lease Term and Lease Payments are per Amortization & Payment Schedule. [If the Payment Due Dates are not defined, they shall be defined as the _____ day of each _____ period in the Amortization & Payment Schedule commencing with the Acceptance Date as stated in the Certificate of Acceptance, attached as Exhibit B, hereto.] If the parties enter into an escrow agreement for the acquisition of the Property, then the escrow agreement shall be attached hereto. In lieu of the Acceptance Date for commencement of Lease Payments, the date of deposit of the Property Cost into the escrow by Lessor shall be used. Lessee shall have the option to prepay the Lease Payments due under this Property Schedule by paying the Termination Amount shown in the Amortization & Payment Schedule, plus any other amounts due and owing at the time of prepayment, subject to per diem adjustment.
5. Expiration. Lessor, at its sole determination, may choose not to accept this Property Schedule if the fully executed, original Agreement (including this Property Schedule and all ancillary documents) are not received by Lessor at its place of business by <<Expiration Date >>.
6. Property Cost. The total principal amount under this Property Schedule for the acquisition cost of the Property is <<Amount>>.
7. Acceptance Certificate. The form of Acceptance Certificate is attached as Exhibit B.
8. Opinion of Counsel. Lessee has provided the opinion of its legal counsel substantially in the form as attached as Exhibit C, hereto.
9. Lessee's Certificate. Lessee has provided the Lessee's Certificate in the form attached as Exhibit D, hereto.
10. Proceeds. Intentionally omitted.
11. Private Activity Issue. Lessee understands that among other things, in order to maintain the exclusion of the interest component of Lease Payments from gross income for federal income tax purposes, it must limit and restrict the rights private businesses (including, for this purpose, the federal government and its agencies and organizations described in the Code

§ 501(c)(3)) have to use the Property. Each of these requirements will be applied beginning on the later of the Commencement Date or date each portion of the Property is placed in service and will continue to apply until earlier of the end of the economic useful life of the property or the date the Agreement or any tax-exempt obligation issued to refund the Property Schedule is retired (the "Measurement Period").

Lessee will comply with the requirements of Section 141 of the Code and the regulations thereunder which provide restrictions on special legal rights that users other than Lessee or a state or local government or an agency or instrumentality of a state or a local government (an "Eligible User") may have to use the Property. For this purpose, special legal rights may arise from a management or service agreement, lease, research agreement or other arrangement providing any entity except an Eligible User the right to use the Property. Any use of the Property by a user other than an Eligible User is referred to herein as "Non-Qualified Use".

Throughout the Measurement Period, all of the Property is expected to be owned by Lessee. Throughout the Measurement Period, Lessee will not permit the Non-Qualified Use of the Property to exceed 10%.

12. Payment Schedule.

Payment No.	Due Date	Lease Payment	Principal Portion	Interest Portion	Termination Amount (After Making Payment for said Due Date)
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13. Interest Rate. <<Interest Rate>>

IN WITNESS WHEREOF, Lessor and Lessee have caused this Property Schedule to be executed in their names by their duly authorized representatives.

Lessor: «Lessor»
By:
Name:
Title:

Lessee: «Lessee»
By:
Name:
Title:

Attest:
By
Name:
Title:

EXHIBIT A
Property Description

Vendor Name: <<Vendor>>
 Street Address: <<Vendor Address 1>>
 City, State, Zip Code: <<Vendor City>>, <<Vendor State>> <<Vendor Zip>>

Property:

Equipment as described in <<Vendor>>'s Quote No. <<Quote No.>>, dated <<Quote Date>>, [incorporated herein by this reference][inserted below].

Lessee: <<Lessee>>
By:
Name:
Title:

EXHIBIT B

Certificate of Acceptance to Tax-Exempt Lease/Purchase Agreement

This **Certificate of Acceptance** is pursuant to Tax-Exempt Lease/Purchase Agreement dated as of <<Start Date>> and the related Property Schedule, between Lessor and Lessee (the "Agreement").

1. Property Acceptance. Lessee hereby certifies and represents to Lessor that the Property referenced in the Agreement has been acquired, made, delivered, installed and accepted as of the date indicated below. Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes. Lessee will immediately begin making Lease Payments in accordance with the times and amounts specified herein. LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE.

IN WITNESS WHEREOF, Lessee has caused this Certificate of Acceptance to be executed by their duly authorized representative.

Acceptance Date:
Lessee: <<Lessee>>
By:
Name:
Title:

EXHIBIT C

Lessee's Counsel's Opinion

-

[To be provided on letterhead of Lessee's counsel.]

<Start Date>

-

-

-

(the "Lessor")

<<Lessee>> ("Lessee")
<<Lessee Address 1>>
<<Lessee Address 2>>
<<Lessee City>>, <<Lessee State>> <<Lessee Zip>>

RE: Agreement between _ _ and <<Lessee>>

Ladies and Gentlemen:

We have acted as special counsel to <<Lessee>> ("Lessee"), in connection with the Tax-Exempt Lease/Purchase Agreement, and Property Schedule dated as of <<Start Date>>, between <<Lessee>>, as Lessee, and _____ as Lessor, and any amendment or addendum thereto, if any (together, the "Agreement"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

Based upon the foregoing, we are of the opinion that, under existing law:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.
2. Lessee has all requisite power and authority to enter into the Agreement and to perform its obligations thereunder.
3. All proceedings of Lessee and its governing body relating to the authorization and approval of the Agreement, the execution thereof and the transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws.
4. The Agreement has been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of general application, or of application to municipalities or political subdivisions such as the Lessee, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.
5. As of the date hereof, based on such inquiry and investigation as we have deemed sufficient, no litigation is pending, (or, to our knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Agreement; (b) questioning the authority of Lessee to execute the Agreement, or the validity of the Agreement, or the payment of principal of or interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Agreement; or (d) affecting the provisions made for the payment of or security for the Agreement.

This opinion may be relied upon by Lessor, its successors and assigns, and any other legal counsel who provides an opinion with respect to the Agreement and the Property Schedule.

Very truly yours,

By:

EXHIBIT D

Lessee's Evidence of Authority

[TO BE REPLACED BY
COPY OF PURCHASING
STATUTE OR
GUIDELINES.]

EXHIBIT E

Payment of Proceeds Instructions

[Intentionally Omitted]

EXHIBIT F

Please attach completed 8038G/GC Form

INSURANCE AUTHORIZATION AND VERIFICATION**1. Date: <<Start Date>>****Re: Tax-Exempt Lease/Purchase Agreement, Dated <<Start Date>>****To: <<Lessee>> (the "Lessee")****From: _____ (the "Lessor")****2. Attn: <<Documentation Specialist>>**

TO THE LESSEE: In connection with the above-referenced Property Schedule, Lessor requires proof in the form of this document, executed by both Lessee* and Lessee's agent, that Lessee's insurable interest in the financed property (the "Property") meets Lessor's requirements as follows, with coverage including, but not limited to, fire, extended coverage, vandalism, and theft:

Lessor, AND ITS SUCCESSORS AND ASSIGNS, shall be covered as both ADDITIONAL INSURED and LENDER'S LOSS PAYEE with regard to all equipment financed or leased by policy holder through or from Lessor. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification.

Lessee must carry GENERAL LIABILITY (and/or, for vehicles, Automobile Liability) in the amount of no less than \$1,000,000.00 (one million dollars).

Lessee must carry PROPERTY Insurance (or, for vehicles, Physical Damage Insurance) in an amount no less than the 'Insurable Value' \$<<Amount>>, with deductibles no more than \$10,000.00.

**Lessee: Please execute this form and return with your document package. Lessor will send this form to your insurance agency for endorsement. In lieu of agent endorsement, Lessee's agency may submit insurance certificates demonstrating compliance with all requirements. Should you have any questions, please contact <<Documentation Specialist>> at <<Documentation Specialist Phone>>.*

By signing, Lessee authorizes the Agent named below: 1) to complete and return this form as indicated; and 2) to endorse the policy and subsequent renewals to reflect the required coverage as outlined above.

Agency/Agent:		
Address:		
Phone/Fax:		
Email:		

Lessee: <<LESSEE>>
By:
Name:
Title:

TO THE AGENT: In lieu of providing a certificate, please execute this form in the space below and promptly send it to Lessor at <<Documentation Specialist-mail>>. This fully endorsed form shall serve as proof that Lessee's insurance meets the above requirements.

3. Agent hereby verifies that the above requirements have been met in regard to the Property listed below.

Print Name Of Agency: **X**

By: **X**

(Agent's Signature)

Print Name: **X**

Date: **X**

Insurable Value: \$<<Amount>>

4. ATTACHED: PROPERTY DESCRIPTION FOR PROPERTY SCHEDULE DATED <<Start Date>>

Notification of Tax Treatment to Tax-Exempt Lease/Purchase Agreement

This **Notification of Tax Treatment** is pursuant to the Tax-Exempt Lease/Purchase Agreement dated as of <<Start Date>>, between Lessor and Lessee (the "Agreement").

- _____ Lessee agrees that this Property Schedule SHOULD be subject to sales/use taxes
- _____ Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and Lessee has included our tax-exemption certificate with this document package
- _____ Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and no tax-exemption certificate is issued to us by the State
- _____ Lessee agrees that this Property Schedule is a taxable transaction and subject to any/all taxes
- _____ Lessee agrees that this Property Schedule is subject to sales/use taxes and will pay those taxes directly to the State or Vendor

IN WITNESS WHEREOF, Lessee has caused this Notification of Tax Treatment to be executed by their duly authorized representative.

Lessee: <<Lessee>>
By:
Name:
Title:

ATTACHMENT 3, MUNICIPAL ASSET MANAGEMENT FMV LEASE AGREEMENT

RENTAL AGREEMENT

Renter: «Renter Name» «Renter Address» «Renter City State Zip»	Owner: «Owner Name» «Owner Address» «Owner City State Zip»
Federal ID # _____ Dated as of «Rental Agreement Date»	Federal ID # _____

This Rental Agreement dated as of the date listed above is between Owner and Renter listed directly above. Owner desires to rent the Equipment described in Exhibit "A" to Renter and Renter desires to rent the Equipment from Owner subject to the terms and conditions of this Agreement which are set forth below.

I. Definitions:

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise: "Agreement" means this Rental Agreement and all Exhibits attached hereto.

"Budget Year" means the Renter's fiscal year.

"Commencement Date" is the date when Renter's obligation to pay rent begins.

"Equipment" means all of the items of Equipment listed on Exhibit "A" and all replacements, restorations, modifications and improvements.

"Extension Term" means the annual term which begins at the end of the Initial Term and which is simultaneous with Renter's Budget Year.

"Initial Term" means the period from the Commencement Date until the end of the Budget Year of Renter.

"Owner" means the entity originally listed above as Owner or any of its assignees.

"Original Term" means the Initial Term and all Extension Terms until all the Rental Payments are paid as set forth on Exhibit B.

"Rental Payments" means the payments Renter is required to make under this Agreement as set forth on Exhibit "B".

"Renter" means the entity listed above as Renter and which is renting the Equipment from Owner under the provisions of this Agreement. "State" means the state in which Renter is located.

II. Renter Warranties

Section 2.01. Renter represents, warrants and covenants as follows for the benefit of Owner or its assignees:

- (a) Renter is authorized to enter into this Agreement, and has used such authority to properly execute and deliver this Agreement. Renter has followed all proper procedures of its governing body in executing this Agreement. The Officer of Renter executing this Agreement has the authority to execute and deliver this Agreement. This Agreement constitutes a legal, valid, binding and enforceable obligation of the Renter in accordance with its terms.
- (b) Renter has complied with all statutory laws and regulations that may be applicable to the execution of this Agreement.
- (c) Renter presently intends to continue this Agreement for the Initial Term and all Extension Terms as set forth on Exhibit "B" hereto. The official of Renter responsible for budget preparation will include in the budget request for each Budget Year the Rental Payments to become due in such Budget year, and will use all reasonable and lawful means available to secure the appropriation of money for such Budget Year sufficient to pay the Rental Payments coming due therein. Renter reasonably believes that moneys can and will lawfully be appropriated and made available for this purpose.
- (d) If Renter cancels or terminates this Agreement prior to the expiration of the Original Term (other than for non-appropriations), Renter shall pay a termination charge equal to the net present value of the monthly Rental Payments remaining through the completion of the Original Term, discounted to present value at a rate of 5% per year.

III. Use of Equipment and Rental Payments

Section 3.01. Installation and Acceptance. Renter shall be solely responsible for the ordering of the Equipment and for the delivery and installation of the Equipment. Renter has selected or will select all of the Equipment and the manufacturer or supplier thereof (the "Supplier(s)") and therefore acknowledges that Owner has not selected, manufactured, supplied or provided any Equipment. In reliance upon Renter's execution of and compliance with this Agreement and assignment of

Renter's purchase rights for the Equipment to Owner, Owner shall issue its purchase order to the Supplier(s) for the Equipment. As soon as practicable after the date on which the Equipment have been delivered and determined by Supplier(s) to be ready for use at Renter's location (the "Acceptance Date"), Renter will execute a Certificate of Acceptance in the form attached and dated as of the Acceptance Date. If (i) no Event of Default has occurred, (ii) Owner receives such executed Certificate of Acceptance, all other documents and information required under this Agreement, and (iii) Owner receives appropriate invoices and related documents from Supplier(s), Owner shall pay the Supplier(s) for the Equipment. Renter shall arrange with the Supplier(s) for delivery and installation of Equipment. All Equipment shall be shipped directly from Supplier(s) to Renter. Owner shall have no liability for any delay or failure by the Supplier(s) to deliver and install Equipment, or to perform any services, or with respect to the selection, installation, testing, performance, quality, maintenance or support of the Equipment. Renter, at its expense, will pay all transportation, packing, applicable taxes, duties, insurance, installation, testing, maintenance and other charges in connection with the delivery, installation and use of the Equipment.

Section 3.02. Rental Payments. Renter shall pay Rental Payments exclusively to Owner or its assignees in lawful, legally available money of the United States of America. The Rental Payments shall be sent to the location specified by the Owner or its assignees. The Rental Payments shall constitute a current expense of the Renter and shall not constitute an indebtedness of the Renter. Owner shall have the option to charge interest at a rate of 1% per month on the outstanding balance of monthly payments if Renter has not submitted payment within 45 days of the invoice due date. Renter agrees to pay any fees associated with the use of a payment system other than check, wire transfer, or ACH. Renter shall pay or, if requested by Owner, reimburse Owner for any and all applicable sales, use or personal property taxes,, fees or assessments levied against or imposed upon the Equipment, its value, use or operation.

Section 3.03. Rental Payments Unconditional. Except as provided under Section 4.01, THE OBLIGATIONS OF RENTER TO MAKE RENTAL PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS CONTAINED IN THIS AGREEMENT SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE.

Section 3.04. Original Term. The Original Term of the Agreement shall be the Initial Term and all Extension Terms, until all the Rental Payments are paid as set forth on Exhibit B.

Section 3.05. Disclaimers.

- (a) OWNER, NOT BEING THE SUPPLIER OR THE AGENT OF ANY SUPPLIER, MAKES NO WARRANTY, REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATEVER, INCLUDING, BUT NOT LIMITED TO THE MERCHANTABILITY OF THE EQUIPMENT OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, THE DESIGN, QUALITY, CAPACITY OR CONDITION OF THE EQUIPMENT COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENT OF ANY LAW, RULE, SPECIFICATION OR CONTRACT, PATENT OR COPYRIGHT INFRINGEMENT, OR LATENT DEFECTS. OWNER SHALL HAVE NO LIABILITY WHATSOEVER FOR THE BREACH OF ANY REPRESENTATION OR WARRANTY MADE BY THE SUPPLIER(S). OWNER MAKES NO REPRESENTATION AS TO THE TREATMENT BY RENTER OF THIS AGREEMENT FOR FINANCIAL STATEMENT OR TAX PURPOSES. RENTER AGREES THE EQUIPMENT IS "AS IS." Renter agrees, regardless of cause, not to assert any claim whatsoever against Owner for any indirect, consequential, incidental or special damages or loss, of any kind, including, without limitation, any loss of business, lost profits or interruption of service. Any action by Renter against Owner for any default by Owner under this Agreement shall be commenced within one (1) year after any such cause of action accrues.
- (b) Renter shall look solely to the Supplier(s) for any and all claims related to the Equipment. RENTER UNDERSTANDS AND AGREES THAT NEITHER SUPPLIER(S) NOR ANY SALESPERSON OR OTHER AGENT OF SUPPLIER(S) IS AN AGENT OF OWNER, NOR ARE ANY OF THEM AUTHORIZED TO WAIVE OR ALTER THIS AGREEMENT. No representation by Supplier(s) shall in any way affect Renter's duty to pay the Rental Payments and perform its obligations under this Agreement.

Section 3.06 End of Original Term Options. Renter may, if no Event of Default then exists, (i) purchase all (but not less than all) of the Equipment by paying Owner the fair market value of the Equipment, (ii) renew this Agreement on a month to month basis, or (iii) return Equipment to the Owner pursuant to Section 3.07. Renter must provide Owner written notice of the option selected not less than 30 days prior to the end of the Original Term. If such notice is not received, Agreement will automatically terminate upon the expiration of the Original Term. If Renter elects to purchase Equipment, Renter shall, on the last day of the Original Term, pay to Owner the purchase price for Equipment in cash; and upon receipt of such payment Owner shall transfer to Renter title to the Equipment, free and clear of any claim, lien or encumbrance (other than those held by parties claiming by, through or under Renter), but without recourse, representation or any other warranty, express or implied, "AS IS", in its then condition and location. Renter shall be responsible for all applicable sales, use, and personal property taxes.

Section 3.07. Surrender. Once Renter has made all of the Rental Payments set forth under Exhibit B, Renter, at its sole expense, shall pay original supplier to teardown, remove, and for the return of Equipment to Owner's storage facility.

Owner and Renter shall inspect the Equipment upon its removal, and the results of such inspections shall be conclusive as to any damage to the Equipment above ordinary wear and tear. Renter shall be responsible for the prompt payment of any and all damages to or reduction in value of the Equipment. At the conclusion of the Agreement, the Renter hereby grants to Owner a thirty (30) day rent free period of time after termination for the Owner to remove the Equipment.

IV. Non-Appropriation

Section 4.01. Non-Appropriation. If insufficient funds are available in Renter's budget for the next budget year to make the Rental Payments for the next Extension Term and the funds to make such Rental Payments are otherwise unavailable by any lawful means whatsoever, then Renter shall have the option to non-appropriate the funds to pay the Rental Payments for the next Extension Term. Lack of a sufficient appropriation shall be evidenced by the passage of an ordinance or resolution by the governing body of Renter specifically prohibiting Renter from performing its obligations under this Agreement and from using any moneys to pay the Rental Payments due under this Agreement for a designated Budget Year and all subsequent Budget Years. If Renter chooses this option, then all obligations of the Renter under this Agreement regarding Rental Payments for all remaining Extension Terms shall be terminated at the end of the then current Initial Term or Extension Term without penalty or liability to the Renter of any kind provided that if Renter has not delivered possession of the Equipment to Owner as provided herein and conveyed to Owner or released its interest in the Equipment by the end of the last Budget Year for which Rental Payments were paid, the termination shall nevertheless be effective but Renter shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due under Exhibit "B" which are attributable to the number of days after such Budget Year during which Renter fails to take such actions. Renter shall immediately notify the Owner as soon as the decision to non-appropriate is made. If such non-appropriation occurs, then Renter shall deliver the Equipment to Owner as provided below in Section 9.04. Renter shall be liable for all damage to the equipment other than normal wear and tear. If Renter fails to deliver the Equipment to Owner, then Owner may enter the premises where the Equipment is located and take possession of the Equipment, upon a five (5) business day notice to Renter.

V. Insurance, Damage, Insufficiency of Proceeds, Indemnification

Section 5.01. Insurance. Renter shall maintain both casualty and liability insurance at its own expense with respect to the Equipment. Renter shall be solely responsible for selecting the insurer(s) and for making all premium payments and ensuring that all policies are continuously kept in effect during the period when Renter is required to make Rental Payments. Renter shall provide Owner with a Certificate of Insurance which lists the Owner and/or assigns as a loss payee and an additional insured on the policies with respect to the Equipment. Renter shall insure the Equipment against any loss or damage in an amount at least equal to the then applicable Stipulated Loss Value of the Equipment. Renter may self-insure against the casualty and liability risks described above. If Renter chooses this option, Renter must furnish Owner with a certificate and/or other documents which evidences such self insurance. Each policy issued or affected by this Section shall contain a provision that the insurance company shall not cancel or materially modify the policy without first giving thirty (30) days advance notice to Owner or its assignees. Renter shall furnish to Owner certificates evidencing such coverage throughout the Original Term.

Section 5.02. Damage to or Destruction of Equipment. Renter assumes the risk of loss or damage to the Equipment. If the Equipment or any portion thereof is lost, stolen, damaged, or destroyed by fire or other casualty, Renter will immediately report all such losses to all possible insurers and take the proper procedures to attain all insurance proceeds. At the option of Owner, Renter shall either (1) apply the Net Proceeds to replace, repair or restore the Equipment or (2) apply the Net Proceeds to the applicable Stipulated Loss Value. For purposes of this Section and Section 5.03, the term Net Proceeds shall mean the amount of insurance proceeds collected from all applicable insurance policies after deducting all expenses incurred in the collection thereof.

Section 5.03. Insufficiency of Net Proceeds. If there are no Net Proceeds for whatever reason or if the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement of the Equipment, then Renter shall, at the option of Owner, either (1) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds or (2) apply the Net Proceeds to the Stipulated Loss Value and pay the deficiency, if any, to the Owner.

Section 5.04. Indemnity. As allowed by state law, Renter assumes liability for, and agrees to and does hereby indemnify, protect and keep harmless, Owner, its successors and assigns, and their respective agents, employees, officers and directors from and against any and all claims, liability, loss, cost, damage or expense (including reasonable attorneys' fees), of whatsoever kind and nature including but not limited to those arising out of or caused by the negligence of Renter, and their respective agents or employees, arising out of the use, condition, operation, possession, control, selection, delivery or return of any item of Equipment, regardless of where, how, and by whom operated, and any failure by Renter to comply with this Agreement. The foregoing indemnities (i) include, without limitation, claims, loss, cost, damage or expense suffered or incurred as a result of any defect in the Equipment, Software or Services (whether discoverable or not) or based upon any theory of liability (including strict liability doctrines or statutes) and (ii) shall only apply with respect to events prior to the return of the Equipment.

VI. Title and Security Interest

Section 6.01. Title. Title to the Equipment shall vest in Owner upon execution of this Agreement. Title to the Equipment will remain with the Owner throughout the Original Term. Owner shall be responsible for the filing fees, charges, and any other costs associated with the registration of the title. Renter agrees that Owner or its Assignee may execute any additional documents including affidavits, notices, and similar instruments, for and on behalf of Renter which Owner deems necessary or appropriate to protect Owner's interest in the Equipment and in this Agreement.

Section 6.02. Owner. Renter acknowledges and agrees that Owner is sole and exclusive owner of the Equipment, and that by the execution of this Agreement, Renter shall not possess or obtain any ownership interest, legal or equitable, in the Equipment, except solely as Renter hereunder and subject to the terms hereof. The Equipment is and shall at all times be and remain, personal property, notwithstanding that the Equipment or any part thereof may now be, or hereafter become in any manner affixed or attached to real property.

VII. Assignment

Section 7.01. Assignment by Owner. All of Owner's rights, title and/or interest in the Rental Payments may be assigned and reassigned in whole or in part to one or more assignees or sub-assignees by Owner at any time without the consent of Renter. No such assignment shall be effective as against Renter until the assignor shall have filed with Renter written notice of assignment identifying the assignee. Renter shall pay all Rental Payments due hereunder relating to such Equipment to or at the direction of Owner or the assignee named in the notice of assignment. Renter shall keep a complete and accurate record of all such assignments.

Section 7.02. Assignment by Renter. None of Renter's right, title and interest under this Agreement and in the Equipment may be assigned by Renter unless Owner approves of such assignment in writing before such assignment occurs.

VIII. Maintenance of Equipment

Section 8.01. Renter shall pay any and all fees, property taxes or other applicable taxes, charges and expenses and comply with all laws related to the use, possession, and operation of the Equipment while it is in Renter's possession, including obtaining all approvals and permits related to the use and/or possession of the Equipment. Renter shall maintain and keep the Equipment in good repair and safe operating condition during the term of this Agreement in accordance to Supplier's recommendations. Renter will be liable for all damage to the Equipment, other than normal wear and tear, caused by Renter, its employees or its agents. Renter shall not during the term of this Agreement create, incur or assume any levies, liens or encumbrances of any kind with respect to the Equipment except those created by this Agreement. Renter shall allow Owner to examine and inspect the Equipment at all reasonable times.

IX. Default

Section 9.01. Events of Default defined. The following events shall constitute an "Event of Default" under this Agreement:

- (a) Failure by Renter to pay any Rental Payment listed on Exhibit "B" for fifteen (15) days after such payment is due according to the Payment Date listed on Exhibit "B" and in accordance with the Participating Addendum.
- (b) Failure to pay any other payment required to be paid under this Agreement at the time specified herein and a continuation of said failure for a period of thirty (30) days after written notice by Owner that such payment must be made. If Renter continues to fail to pay any payment after such period, then Owner may, but will not be obligated to, make such payments and charge Renter for all costs incurred plus interest in the amount of 1% on the total outstanding balance.
- (c) Failure by Renter to observe and perform any warranty, covenant, condition, promise or duty under this Agreement for a period of thirty (30) days after written notice specifying such failure is given to Renter by Owner, unless Owner agrees in writing to an extension of time. Owner will not unreasonably withhold its consent to an extension of time if corrective action is instituted by Renter. Subsection (c) does not apply to Rental Payments and other payments discussed above.
- (d) Any statement, material omission, representation or warranty made by Renter in or pursuant to this Agreement which proves to be false, incorrect or misleading on the date when made regardless of Renter's intent and which materially adversely affects the rights or security of Owner under this Agreement.
- (e) Any provision of this Agreement which ceases to be valid for whatever reason and the loss of such provision would materially adversely affect the rights or security of Owner.
- (f) Renter admits in writing its inability to pay its obligations. Renter makes a general assignment for the benefit of Owners.

Section 9.02. Remedies on Default. Whenever any Event of Default exists, Owner shall have the right to take one or any combination of the following remedial steps:

- (a) With or without terminating this Agreement, Owner may declare all Rental Payments and other amounts payable by Renter hereunder to the end of the then current Budget Year to be immediately due and payable.
- (b) With or without terminating this Agreement, Owner may require Renter at Renter's expense to redeliver any or all of the Equipment to Owner as provided below in Section 9.04. Such delivery shall take place within 30 days after the event of

default occurs. If Renter fails to deliver the Equipment, Owner may enter the premises, upon five (5) business days notice to Renter, where the Equipment is located and take possession of the Equipment and charge Renter an amount equal to the cost of returning the Equipment to the Owner, pursuant to Section 9.04 below. Notwithstanding that Owner has taken possession of the Equipment, Renter shall still be obligated to pay the remaining Rental Payments due up until the end of the then current Initial Term or Extension Term, except in the case of Non-appropriation of Funds. Renter will be liable for any damage to the Equipment caused by Renter or its employees or agents.

(c) Owner may take whatever action at law or in equity that may appear necessary or desirable to enforce its rights.

Section 9.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Owner is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or shall be construed to be a waiver thereof.

Section 9.04. Return of Equipment and Storage.

- (a) Surrender: The Renter shall, at its own expense, surrender the Equipment to the Owner in the event of a default by delivering the Equipment to the Owner to a location accessible by common carrier and designated by Owner.
- (b) Delivery: The Equipment shall be delivered to the location designated by the Owner by a common carrier unless the Owner agrees in writing that a common carrier is not needed. When the Equipment is delivered into the custody of a common carrier, the Renter shall arrange for the shipping of the item and its insurance in transit in accordance with the Owner's instructions and at the Renter's sole expense. Renter at its expense shall completely sever and disconnect the Equipment or its component parts from the Renter's property all without liability to the Owner. Renter shall pack or crate the Equipment and all of the component parts of the Equipment carefully and in accordance with any recommendations of the manufacturer. The Renter shall deliver to the Owner the plans, specifications operation manuals or other warranties and documents furnished by the manufacturer or vendor on the Equipment.
- (c) Condition: When the Equipment is surrendered to the Owner it shall be in the condition and repair required to be maintained under this Agreement, less normal wear and tear. It will also meet all legal regulatory conditions necessary for the Owner to sell or lease it to a third party and be free of all liens. If Owner reasonably determines that the Equipment or an item of the Equipment, once it is returned, is not in the condition required hereby, Owner may cause the repair, service, upgrade, modification or overhaul of the Equipment or an item of the Equipment to achieve such condition and upon written notice and mutual agreement, Renter shall promptly reimburse Owner for all amounts reasonably expended in connection with the foregoing.
- (d) Storage: Upon written request by the Owner, the Renter shall provide free storage for the Equipment or any item of the Equipment for a period not to exceed 30 days after the expiration of its lease term before returning it to the Owner. The Renter shall arrange for the insurance described to continue in full force and effect with respect to such item during its storage period and the Owner shall reimburse the Renter for the incremental premium cost of providing such insurance.

X. Miscellaneous

Section 10.01. Notices. All notices shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business as first set forth herein or as the parties shall designate hereafter in writing.

Section 10.02. Binding Effect. Renter acknowledges this Agreement is not binding upon the Owner or its assignees unless the Conditions to Funding listed on the Documentation Instructions have been met to Owner's satisfaction, and Owner has executed the Agreement. Thereafter, this Agreement shall inure to the benefit of and shall be binding upon Owner and Renter and their respective successors and assigns.

Section 10.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.04. Amendments, Addenda, Changes or Modifications. This Agreement may be amended, added to, changed or modified by written agreement duly executed by Owner and Renter.

Section 10.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.06. Captions. The captions or headings in this Agreement do not define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 10.07 ARTICLE 2A WAIVERS. In the event that Article 2A of the Uniform Commercial Code is adopted under applicable state law and applies to this Agreement, then Renter, to the extent permitted by law, waives any and all rights and remedies conferred upon a Renter by Sections 2A-508 through 2A-522 of such Article 2A, including, but not limited to, Renter's rights to: (i) cancel or repudiate this Agreement; (ii) reject or revoke acceptance of the Equipment, Software or Services; (iii) claim, grant or permit a security interest in the Equipment in Renter's possession or control for any reason; (iv) deduct from Rental payments or other amounts due hereunder, all or any part of any claimed damages resulting from Owner's default, if any, under this Agreement; (v) accept partial delivery of the Equipment; (vi) "cover" by making any purchase or Agreement of or contract to purchase or Agreement equipment in substitution for Equipment designated in this

Agreement; and (vii) obtain specific performance, replevin, detinue, sequestration, claim and delivery or the like for any Equipment identified to this Agreement. To the extent permitted by applicable law, Renter also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Owner to sell, Agreement or otherwise use any Equipment in mitigation of Owner's damages or which may otherwise limit or modify any of Owner's rights or remedies. Section 10.08. Master Rental. This Agreement can be utilized as a Master Rental Agreement. This means that the Owner and the Renter may agree to the rental of the additional Equipment under this Agreement at some point in the future by executing one or more Additional Schedules to Exhibit A, Exhibit B, Exhibit C and Exhibit D. For purposes of this section, the term "Additional Schedule" refers to the proper execution of additional Schedules to Exhibit A, Exhibit B, Exhibit C and Exhibit D required by the Owner all of which relate to the renting of additional Equipment. Additional Schedules will be consecutively numbered on each of the exhibits which make up the Additional Schedule and all the terms and conditions of the Agreement shall govern to each Additional Schedule.

Section 10.09. Entire Writing. This Agreement constitutes the entire writing between Owner and Renter. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations, conditions, or warranties, express or implied, which are not specified herein regarding this Agreement, or the Equipment rented hereunder. Any terms and conditions of any purchase order or other documents submitted by Renter in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement shall prevail. If there is a conflict between any terms and conditions in this Agreement and the Master Agreement # _____, the Master Agreement and the Participating Addendum shall prevail.

Section 10.10. Choice of Law. This Agreement shall be governed according to the laws of the State of the Renter.

Owner and Renter have caused this Agreement to be executed in their names by their duly authorized representatives listed below.

«RENTER NAME»

«OWNER NAME»

Signature

Signature

Typed Name and Title

Typed Name and Title

ALL STATE CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. Lessor is not authorized to begin performance until such time. If Lessor begins performing prior thereto, the State of Colorado is not obligated to pay Lessor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPS, MBA, JD.

By _____

Date: _____

EXHIBIT A

DESCRIPTION OF EQUIPMENT

RE: Rental Agreement dated as of «Rental Agreement Date», between «Owner Name» (Owner) and «Renter Name» (Renter)

Below is a detailed description of all the items of Equipment including quantity, model number and serial number where applicable:

«Equipment Description»

Location of Equipment:

EXHIBIT B

PAYMENT SCHEDULE

RE: Rental Agreement dated as of «Rental Agreement Date», between «Owner Name» (Owner) and «Renter Name» (Renter)

Date of First Payment:	«First Payment Due Date»
Original Balance:	\$«Loan Amount»
Total Number of Payments:	«Total Number Of Payments»
Number of Payments Per Year:	«Number of Payments Per Year»

Pmt. No.	Due Date	Rental Payment	*Stipulated Loss Value

A. «Renter Name»

i. Signature

ii. Typed Name and Title

*Assumes all Rental Payments due to date are paid

EXHIBIT C**B. CERTIFICATE OF ACCEPTANCE**

RE: Rental Agreement dated as of «Rental Agreement Date», between «Owner Name» (Owner) and «Renter Name» (Renter)

I, the undersigned, hereby certify that I am a duly qualified representative of Renter and that I have been given the authority by the Governing Body of Renter to sign this Certificate of Acceptance with respect to the above referenced Agreement. I hereby certify that:

1. The Equipment described on Exhibit A has been delivered and installed in accordance with Renter's specifications.
2. Renter has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
3. No event or condition that constitutes or would constitute an Event of Default exists as of the date hereof.
4. The governing body of Renter has approved the authorization, execution and delivery of this Agreement on its behalf by the authorized representative of Renter who signed the Agreement.
5. Please list the Source of Funds (Fund Item in Budget) for the Rental Payments that come due under Exhibit B of this Agreement.

«Source Of Funds»

If the above Source of Funds is solely a grant type fund, then the Renter, by signing below, hereby authorizes the General Fund of the Renter as a backup source of funds from which the Rental Payments can be made.

«Renter Name»

Signature

Typed Name and Title

EXHIBIT D**CERTIFICATE OF AUTHORIZATION**

RE: Rental Agreement dated as of «Rental Agreement Date», between «Owner Name» (Owner) and «Renter Name» (Renter)

[TO BE REPLACED BY
COPY OF PURCHASING
STATUTE OR GUIDELINES.]

INSURANCE REQUIREMENTS

Pursuant to Article V in the Rental Agreement, you have agreed to provide us evidence of insurance covering the property in the Agreement. A Certificate of Insurance naming all insured parties and coverages must be determined to us as soon as possible, but no later than the date on which delivery of equipment occurs. **If you have not taken possession of the equipment, please write a memo to «Owner Name» stating your carrier, insurance agent and telephone number to reach them upon delivery.**

In the case of self-insurance, the amount of liability and physical damage coverage are to be listed on some form of certificate supplied by you. In addition, information regarding the nature of your self-insurance program should also be forwarded to us as soon as possible.

INSURANCE REQUIREMENTS BY «Owner Name»:

- 1. LIABILITY**
 - ✓ *Minimum of \$1,000,000.00 combined single-limit on bodily injury and property damage.*
 - ✓ *Owner and/or Its Assigns MUST be listed as additional insured and loss payee.*
- 2. PHYSICAL DAMAGE**
 - ✓ *All risk coverage to guarantee proceeds sufficient to pay the applicable Stipulated Loss Value as set forth in Exhibit B of the Agreement. «Owner Name» MUST be listed as additional insured and loss payee.*
 - ✓ *The deductible amounts listed on the insurance policy should not exceed \$«Insurance Deductible Amount».*
- 3. ENDORSEMENT**
 - ✓ *Owner will receive at least thirty (30) days written notice from Insurer prior to alteration, cancellation or reduction of insurance coverage.*

PLEASE MAIL THE CERTIFICATE TO US AS SOON AS POSSIBLE TO:

«Owner Name»

«Owner Address»

«Owner City State Zip»

**YOUR ASSISTANCE IS GREATLY APPRECIATED TO COMPLETE THIS TRANSACTION, IF
YOU HAVE ANY QUESTIONS, PLEASE GIVE US A CALL AT [OWNER'S PHONE #].**

«Renter Name»

Insurance Company:

Agent's Name:

Telephone #:

Fax #:

Address, City, State & Zip:

ATTACHMENT 4, BLUE CREST APPLICATION SOFTWARE LICENSE TERMS AND PROVISIONS

These Application Software License Terms and Provisions are attached as Attachment 4 to the BlueCrest Equipment, Maintenance, Software & Professional Services Order Form, dated as of _____, 20__ (the "Order", and together with the BlueCrest Terms and Provisions, the Statement of Work (if applicable), these Application Software License Terms and Provisions (the "License Terms and Provisions"), the On-Call Maintenance Services Terms and Provisions or the On-Site Maintenance Services Terms and Provisions (if applicable), and the Professional Services Terms and Provisions (if applicable), the "Agreement"), by and between DMT Solutions Global Corporation (d/b/a BlueCrest) ("BlueCrest") and _____ ("Client"). Any capitalized term used herein without definition shall have meaning assigned to such term in the Agreement.

1. Definitions

"Application Software" means the application software identified in the Order.

"Computer" means the server or computer identified in an Order on which Application Software is authorized to be installed and used. If no specific computer is identified in the Order, then Computer will be any single physical server.

"Documentation" means the current technical and user guides for the Application Software, Support Guidelines and other specifications provided to Client by BlueCrest. The Documentation may be modified from time-to-time to incorporate Enhancements.

"Enhancements" means any updates, upgrades, modifications, new releases and corrective programming to the Application Software that are provided as part of Maintenance Services.

"Maintenance Services" means the maintenance services set forth in Section 6 of these License Terms and Provisions.

"Service Provider" means that Client uses the Application Software to perform services, including, to: (i) verify address information and/or provide postal-related services; (ii) provide analytics; (iii) develop, design, archive, process and/or print business documents; (iv) merge or convert print stream data; (v) append geographic coordinates or demographics to address records or other data; and/or (vi) perform other data processing services; for entities other than Client, such as an affiliate.

"Transaction" means a record or user query that is submitted to the Application Software.

"User" means an individual authorized by Client to use the Application Software in accordance with the Agreement regardless of whether the individual is actively using the Application Software at any given time.

"Warranty Period" means the ninety (90) day period following initial delivery of the Application Software.

2. License Grant. In consideration of the fees paid by Client to BlueCrest, BlueCrest hereby grants to Client a non-exclusive, non-transferable and non-sub licensable license to use the Application Software during the license term set forth in the Order in accordance with the Agreement. The grant of rights to the Application Software is not a sale of the Application Software. BlueCrest and its third-party licensors reserve all rights not expressly granted by this Agreement.

3. Use of Application Software. During the license term set forth in the Order, Client is permitted to use the Application Software only for its own internal business purposes. The Application Software will be installed only at the installation site on the Computer or in a virtual environment and utilizing the operating system set out therein. Client is permitted remote access to the Application Software unless otherwise prohibited in the Order. Use of the Application Software as a Service Provider is prohibited unless otherwise authorized in the applicable Order. Additional terms of authorized use are as set forth in the applicable Order and may include limitations on: (i) the number of Users; (ii) the applications authorized to access the Application Software; and (iii) the number of Transactions processed using the Application Software. Application Software licensed for desktop use by a specific number of Users may be installed on the number of devices equal to the specific number of User licenses purchased or may be installed on multiple devices so long as the number of individual Users does not exceed the number of licenses purchased.

Client may, upon BlueCrest's written consent and the payment of additional fees: (i) utilize the Application Software with a different operating system; (ii) process additional Transactions; or (iii) add Users. If the Installation Site is located in the United States, such Installation Site may be changed to another location within the United States upon written notice to BlueCrest, but may not be changed to a location outside the United States without BlueCrest's prior written consent. If the Installation Site set forth in the Order is located outside of the United States, such Installation Site may be changed to another location within the original country upon notice to BlueCrest, but may not be changed to a different country without BlueCrest's prior written consent.

Client may make a reasonable number of copies of the Application Software and Documentation solely for back up or disaster recovery purposes. Client must reproduce all copyright, trademark, trade secret and other proprietary notices in such copies. Client shall record the number and location of all copies of the Application Software and Documentation and take steps to prevent any unauthorized copying. The back up or disaster recovery copies can only be used to perform disaster recovery testing or if the Computer or virtual environment becomes inoperative. Except to perform disaster recovery testing in accordance with Client's disaster recovery procedures, Client is not permitted to use the back up or disaster recovery copies of the Application Software for production or testing\development concurrently with the production or testing\development copies of the Application Software.

Client may install, for a period not to exceed fifteen (15) days from date of installation, Enhancements in a test environment for the sole purpose of determining if such Enhancements will be deployed by Client in the licensed production environment. Upon conclusion of such period, Client will install and use only the number of production and test/development copies of the Enhancements set forth in the Order.

Client may permit its third party contractors to access and use the Application Software solely on behalf of, and for the benefit of, Client, so long as: (i) contractor agrees to comply fully with these License Terms and Provisions and the applicable Order(s) as if they were Client; (ii) Client remains responsible for each contractor's compliance with these License Terms and Provisions and the applicable Order(s) and any breach thereof; (iii) any User limitation includes User licenses allocated to contractors; and (iv) the contractor is not, in BlueCrest's reasonable opinion, a competitor of BlueCrest. All rights granted to any contractor shall terminate immediately upon the earlier of: (A) conclusion of the services rendered to Client that gives rise to such right; and (B) expiry or termination of the applicable license term. Upon termination of such rights, Client shall ensure that contractor immediately ceases all use of the Application Software, un-installs and destroys all copies of the Application Software and any other BlueCrest information in contractor's possession or control, and Client must certify in writing upon BlueCrest's request that it is in compliance with this Section.

4. Restrictions. Client will not: (i) make derivative works of the Application Software; (ii) reverse engineer, decompile or disassemble the Application Software or any portion thereof except as is permitted by applicable law; (iii) make copies of the Application Software or Documentation except as otherwise authorized in Section 10(c); (iv) disclose the Application Software or any other BlueCrest information to any third party except as

permitted by this Agreement; (v) sublicense, rent, lease, lend, or host the Application Software to or for other parties; (vi) attempt to unlock or bypass any initialisation system, encryption methods or copy protection devices in the Application Software; (vii) modify, alter or change the Application Software; (viii) alter, remove or obscure any patent, trademark or copyright notice in the Application Software; or (ix) use components of an Application Software independent of the Application Software they comprise.

5. Intellectual Property. Client hereby acknowledges and agrees that BlueCrest and its licensors are the sole and exclusive owners of (i) all right, title and interest in and to the Application Software, including all intellectual property rights relating thereto, (ii) any derivatives, modifications, improvements, enhancements, or extensions to the Application Software, whenever developed, created, authored, conceived, reduced to practice or acquired by BlueCrest or its licensors, and (iii) any and all suggestions, feedback, recommendations and other comments made to BlueCrest or its licensors that are incorporated into the Application Software and/or Documentation. Client further acknowledges and agrees that it shall have no rights in or to the Application Software or any intellectual property rights relating thereto other than the right to use them in accordance with the terms of the license(s) granted under the Agreement.

6. Maintenance Services. Client shall obtain Maintenance Services for the Application Software for the initial term of the Application Software set forth in the applicable Order and for the fees set forth therein. The term for Maintenance Services shall be renewed at the sole discretion of the Client and at the then current rates as listed in the Master Agreement. If Client chooses to renew the Maintenance Services for an additional twelve (12) month term, then Client shall provide BlueCrest with at least a thirty (30) day prior notice of the then current term. If Client fails to provide such notice, then the Maintenance Services will terminate upon the conclusion of the then current term.

Maintenance Services consist of: (i) reasonable amounts of telephone support to assist Client with the use of the Application Software in accordance with the support guidelines; (ii) Enhancements provided to other Clients of the Application Software who have paid for Maintenance Services for the current maintenance term; and (iii) the correction of errors or non-conformities with the Application Software to perform as set out in the Documentation in accordance with BlueCrest's published support guidelines. Support will be provided to the limited number of contacts selected by Client in accordance with the support guidelines. If BlueCrest is unable to correct a reported error or non-conformity in the Application Software that is classified in BlueCrest's published Support Guidelines as a critical or high severity level problem within thirty (30) days following notice from Client or an additional period of time reasonably agreed to by the parties, Client may terminate Maintenance Services for such Software and receive, as its exclusive remedy, a pro-rata refund of the fees paid for Maintenance Services for the balance of the existing maintenance term.

7. Renewal. Successive twelve (12) month renewal terms shall be at the sole discretion of the Client, and shall be at the then current Master Agreement rates. Client shall provide BlueCrest with at least thirty (30) days prior written notice to the expiration of the then current license term. If Client fails to provide BlueCrest with notice, then the license shall automatically terminate upon the conclusion of the then-current term. Client must renew the term license in order to purchase and obtain additional Maintenance Services for the Application Software.

8. Training. BlueCrest will provide Client with the training set forth in an Order, for the fees set forth therein, prior to the expiration date indicated. Unless otherwise set forth in the Order, training will be provided remotely or at a BlueCrest training facility. If an Order provides for training at Client's location, Client will pay for all reasonable travel-related expenses incurred by BlueCrest in the performance of the training. No refunds will be issued for any trainings Client fails to attend, or if intended to be performed at a Client location, to be scheduled and hosted by Client, by the expiration date.

9. Verification. Upon ten (10) days prior written notice, BlueCrest may verify Client's compliance with the Agreement at all locations and for all environments in which Client uses the Application Software. Such

verification will take place no more than one (1) time per twelve (12) month period during normal business hours in a manner which minimizes disruption to Client's work environment. BlueCrest may use an independent third party under obligations of confidentiality to provide assistance. BlueCrest will notify Client in writing if any such verification indicates that Client has used the Application Software in excess of the use authorized by the Agreement or Order. Client agrees to promptly enter into an Order and pay the license, Maintenance Service fees related to any excess use.

10. Indemnity

(a) BlueCrest will indemnify, defend and hold Client, its officers, directors and employees, harmless from all losses, damages, and reasonable costs and expenses to the extent they arise out of a claim by a third party that the Application Software, as delivered by BlueCrest, infringes or misappropriates any copyright, trade secret, trademark or patent registered or valid within the country the Application Software is authorized to be used. BlueCrest will have control of the defense and will defend at its own expense, any claim or litigation to which this indemnity relates, including the right to settle any such claim. Client must notify BlueCrest promptly of any such claim and provide reasonable cooperation to BlueCrest, upon BlueCrest's request and at BlueCrest's cost, to defend such claim. BlueCrest will not agree to any settlement which requires acknowledgment of fault by Client without Client's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

(b) If the Application Software is subject to a claim of infringement or misappropriation, or if BlueCrest reasonably believes that the Application Software may be subject to such a claim, BlueCrest will: (i) replace the Application Software with a functional non-infringing equivalent; (ii) modify such Application Software while retaining substantively equivalent functionality; or (iii) procure at no cost to Client the right to continue to use such Application Software. If, however, BlueCrest determines that none of the foregoing alternatives are commercially reasonable, BlueCrest may terminate Client's license to the Application Software and BlueCrest will, as Client's remedy, refund to Client any prepaid, unused fees at the time of such termination based on, as applicable, (X) a term of sixty (60) months following execution of the applicable Order for Application Software with a perpetual license or (Y) the remaining balance of the then current term for Application Software subject to a limited term license.

(c) BlueCrest will have no obligation to defend or indemnify Client under this Section 10 if the infringement or misappropriation results from: (i) modifications to the Application Software by anyone other than BlueCrest; (ii) combination of the Application Software with Client's equipment or non-BlueCrest software programs if such claim of infringement or misappropriation would have been avoided had such combination, operation or use not occurred; or (iii) Client's failure to implement modifications (which if delivered to Client expressly to avoid infringement, will be delivered at no additional cost to Client and which will provide substantially the same functionality as the infringing or potentially infringing Application Software).

11. Warranties; Disclaimers

(a) BlueCrest represents and warrants that it has the right to grant to Client the rights granted hereunder.

(b) BlueCrest represents and warrants that during the Warranty Period the Application Software will perform all material functions set out in the Application Software's Documentation and otherwise operate in substantial accordance with such Documentation. If, during the Warranty Period the Application Software fails to comply with this warranty, Client must notify BlueCrest in writing of any alleged errors or non-conformities, in which event BlueCrest will have thirty (30) days from receipt of such notice or an additional period of time as reasonably agreed to by the parties to correct such errors or non-conformities in accordance with the support guidelines. If BlueCrest is unable to timely correct such errors or non-conformities, Client may elect to terminate

the license to the non-conforming Application Software. If Client terminates the license to the non-conforming Application Software during the Warranty Period in accordance with this Section, Client will, as its remedy, receive a refund of all fees previously paid for such Application Software.

(c) BLUECREST DOES NOT WARRANT THAT THE LICENSED PRODUCTS WILL OPERATE ERROR-FREE OR THAT BLUECREST WILL CORRECT ALL PRODUCT ERRORS (INCLUDING, FOR SOFTWARE, THOSE DESIGNATED AS MEDIUM OR LOW SEVERITY LEVEL ISSUES). EXCEPT AS EXPRESSLY STATED IN THESE LICENSE TERMS AND PROVISIONS, THE APPLICATION SOFTWARE IS PROVIDED "AS IS" AND BLUECREST, ON BEHALF OF ITSELF AND ITS THIRD PARTY SUPPLIERS AND LICENSORS, DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APPLICATION SOFTWARE AND SERVICES FURNISHED UNDER THE AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RELIABILITY, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE.

(d) THE APPLICATION SOFTWARE MAY CONTAIN A DISABLING DEVICE OR DEVICE REQUIRING ENABLEMENT: (i) TO COMPLY WITH REQUIREMENTS OF REGULATORY AUTHORITIES; OR (ii) TO PREVENT USE OF THE APPLICATION SOFTWARE BEYOND THE TERM OF A LICENSE OR OTHERWISE IN EXCESS OF THE LICENSE METRICS APPLICABLE TO THE APPLICATION SOFTWARE AS SET FORTH IN AN ORDER.

12. Limitation of Liability.

A) DISCLAIMER. NEITHER BLUECREST NOR ITS THIRD-PARTY SUPPLIERS/LICENSORS WILL BE LIABLE FOR ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES, OR LOSS OF PROFITS OR REVENUE EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

B) MAXIMUM LIABILITY. NEITHER BLUECREST NOR ITS THIRD-PARTY SUPPLIERS/LICENSORS LIABILITY FOR ANY CLAIM ARISING IN CONNECTION WITH THIS AGREEMENT AND/OR ANY ORDER, SOW OR ADDENDUM HERETO (IN TORT, CONTRACT OR OTHERWISE) SHALL EXCEED THE AMOUNT OF THE APPLICATION SOFTWARE LICENSE FEES PAID BY CLIENT TO BLUECREST PURSUANT TO THE ORDER. THIS LIMITATION OF LIABILITY IS IN ADDITION TO ANY INSURANCE COVERAGE REQUIRED UNDER THE PARTICIPATING ADDENDUM AND/OR MASTER AGREEMENT, BUT IN NO EVENT WILL THE LIABILITY COVERAGE EXCEED ACTUAL DAMAGES INCURRED.

C) EXCLUSIONS. THE FOREGOING MAXIMUM LIABILITY SET FORTH IN SECTION 12(B) DOES NOT APPLY TO BLUECREST'S INFRINGEMENT INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 10.

13. U.S. Government Restricted Rights. Any Application Software licensed for or on behalf of the United States of America, its agencies and/or instrumentalities ("U.S. Government"), including through contractors or subcontractors, will be deemed "commercial computer software" or "commercial computer software documentation" and the U.S. Government's rights with respect to such Application Software and Documentation are limited by the terms of the Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable.

14. Verification. Upon ten (10) days written notice, BlueCrest may verify Client's compliance with the Agreement and the Order at all locations and for all environments in which Client uses the Application Software. Such verification will take place no more than one (1) time per twelve (12) month period during normal business hours in a manner which minimizes disruption to Client's work environment. BlueCrest may use an independent third party under obligations of confidentiality to provide assistance. BlueCrest will notify Client in writing if any such verification indicates that Client has used the Application Software in excess of the use authorized by the Agreement or Order. Client agrees to promptly enter into an Order and pay the license and/or Maintenance Service fees related to any excess use.

15. Compliance with Laws. Client will, at all times, exercise its rights and perform its obligations under this Agreement in compliance with all applicable laws, rules, and regulations (“Applicable Laws”), including all Applicable Laws related to the use, disclosure, processing and transmission of personal information, and export control laws. In addition, Client agrees not to export, re-export, or provide the Application Software to: (i) any country to which the United States has embargoed goods; (ii) any person on the U.S. Treasury Department’s list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department’s Denied Persons List; or (iv) any person or entity where such export, re-export or provision violates any U.S. Export control or regulation.

16. Third Party Content Applicable to Sortation Application Software. Various third party software and other documentation (“Third Party Content”) may have been incorporated into the Application Software by BlueCrest under permission from BlueCrest’ licensors and suppliers. Certain Third Party Content provided hereunder requires Client be certified by the United States Postal Services. Client’s failure to obtain such certification shall not impact Client’s obligation to pay to BlueCrest fees due hereunder. In addition, certain Third Party Content requires Client to agree to additional terms of use set forth on Schedule 1 hereto. If BlueCrest’s license to any Third Party Content terminates, Client agrees: (a) to discontinue and/or return the terminated Third Party Content upon notice from BlueCrest; and (b) that BlueCrest shall have no further obligation with respect to such Third Party Content.

Schedule 1
To
Application Software License Terms and Provisions

Third Party Content
License Terms & Provisions

PARASCRIPT:

Software provided by Parascript and/or its successors and assigns that has been incorporated into the Application Software is subject to the following additional terms and conditions.

If AddressScript™ software is licensed hereunder, advance purchase of blocks of clicks (11-digit finalized answers) is required. Client's initial purchase of clicks shall be set forth in Purchase/Lease Agreement. Client agrees to purchase all such clicks from BlueCrest. Client further understands that if it purchases or otherwise acquires clicks from any other source, Client's license will be terminated and BlueCrest may seek remedies hereunder.

If ASV software is licensed hereunder:

- A one (1) year term license has a pre-determined volume cap. Volumes for one (1) year licenses expire at the end of each term or when the volume count during the term is exceeded, whichever occurs first.
- A three (3) year term license has a pre-determined annual volume cap and automatically resets itself on the anniversary date to the same volume each year for a total of three years. Volumes expire at the end of each twelve (12) month period or if volume count during applicable twelve (12) month period is exceeded, whichever occurs first.
- Optimization, Replacement and New End User Application:
 - "Optimize" shall mean any change, alteration, modification, update, upgrade, repair, revision, release, performance improvement, addition of a new feature, or replacement.
 - In the event Client, for any reason, Optimizes or replaces a personal, non-networked computer on which the software is installed, Client may transfer the software to the Optimized personal, non-networked computer at no additional cost provided all of the following occur: (a) the Client shall be the same; and (b) no Optimization or replacement has been made to ReliaVote.
- Parascript shall have no liability for any damages resulting from loss of data or profits, or for any special, indirect, incidental, punitive, or consequential damages arising out of or in connection with the use of ASV;
- Client shall not (i) reverse engineer, decompile or otherwise attempt to derive the source code for ASV; (ii) combine ASV with any software that could alter Parascript's licensing terms; (iii) remove any ASV identification, copyright legend or other notices; (iv) modify or create derivative works based on ASV; (v) issue, sublicense, sell, grant, or in any way transfer a license type or rights to use ASV that is different than the license type or rights issued by Parascript for ASV; (vi) use a perpetual ASV license as a recurring revenue service or to provide services to any third party or for the benefit of any third party (examples include without limitation: engaging in business process outsourcing, acting as a service bureau, charging a subscription or click fee for processing images or accessing ASV; (vii) permit third party access to ASV API (application programming interface) unless that party is the Client's outside developer who has agreed in writing to comply with all applicable licensing terms and restrictions; (viii) use ASV after

its license term ends; (ix) use a non-production license in a production environment; (x) access or permit a third party access to API Documentation; and/or (xi) issue, sublicense, sell, grant, or in any way transfer a license or rights to use ASV, or charge a subscription fee to access or use ASV;

- ASV is provided “AS IS”;
- Parascript owns ASV and Parascript trademarks, and all rights not expressly granted by Parascript are reserved; and
- ASV must be deleted at the end of the license term.

RAF CORPORATION:

Software provided by RAF Corporation and/or its successors and assigns that has been incorporated into the Application Software is subject to the following additional terms and conditions.

Dongles. RAF Corporation reserves the right to include a deactivation device (“dongle”) in each copy of the Argosy Post Software. If included, the dongle will prevent the use of such Argosy Post Software until RAF furnishes the key which will activate the Argosy Post Software. Dongles are the property of RAF Corporation and are used to prevent unauthorized copying or use of the Argosy Post Software. Dongles may not be transferred by Client unless the corresponding software is transferred under the terms of this Agreement. Dongles remain the property of RAF and must be returned by Client to Licensor upon expiration/termination of each Client account.

Directories. Due to United States Postal Service regulations, Client, depending on which Application Software is being used, must use a current Zip+4 directory (“Directory”) to operate the Application Software within the mail transport product. The Application Software will not operate without a current Directory which is compatible with the Application Software. BlueCrest, on behalf of its third party licensor and/or its successors and assigns, supplies updated Directories on an annual basis to Clients for whom such service is subscribed and for whom the annual software maintenance fee is timely paid. In order to continue receiving the Directory updates, the software maintenance must be renewed each year and the annual software maintenance fee paid to BlueCrest. During the term of this Agreement, BlueCrest will supply Directory updates to Client for such periods for which the applicable annual subscription fees are received by BlueCrest. Payment of the applicable annual subscription fees for each license is required to operate the Application Software within the licensed application.

BCC SOFTWARE, LLC:

Software provided by BCC Software, LLC and/or its successors and assigns that has been incorporated into the Application Software is subject to the following additional terms and conditions.

- Client agrees to use the BCC software only within the United States, its territories and possessions for the purpose of improving business delivery addresses in multi- occupation buildings for use on letters, flats, postcards, packages, leaflets, magazines, advertisements, books, other printed material and any other item to be delivered by the United States Postal Service (USPS);

- US Postal Service Related Services (e.g.; CASS, NCOALink, DSF²).

(i) BCC Software is a non-exclusive licensee of the United States Postal Service’s (“USPS”) NCOALink database (“NCOA Database”). The information contained in the NCOA Database is regulated by the Privacy Act of 1974 and may be used only to provide a mailing list correction service for lists that will be used for preparation of mailings. If Client receives all or a portion of the NCOA Database in connection with its use of the Application Software, Client shall not use such information for any purpose other than mail list processing services. Prior to obtaining or using information from the NCOA Database, Client shall complete, execute and submit to

Licensors the NCOA Processing Acknowledgement Form.

(ii) Further, if Client resides outside the United States, Client shall obtain the proper certifications from the USPS for NCOALink processing. Licensors are under no obligation to provide the mail list processing services to Client unless Client has obtained the proper certifications from the USPS.

- DMA Suppression. Services for DMA Suppression is understood to mean flagging consumers names from marketing lists for the purpose of suppressing them with such information used for no other purpose. Client understands that the DMAchoice Services are intended exclusively for Client's own use and Client shall not disseminate, sublet, resell, reproduce, transfer or republish the DMAchoice list in any medium in any manner whatsoever.

- Deceased Suppression. Services for deceased individual suppression is understood to mean matching the records from Client's or Client's customers' provided file to identify those individuals within such files who are deceased, with such information to be used for the sole purpose of deleting such deceased individuals from any list used for solicitation or any other external purpose. Client shall, and shall require its customers, not use the information provided from such Service for any other purpose including, but not limited to, promotions to surviving household members, or any other type of marketing or promotion.

5. Client should not take any adverse action against any individual without further investigation to verify the death listed.

- Prison Suppression. Services for prison individual suppression is understood to mean matching the records from Client's or Client's customers' provided file to identify those individuals within such files, who are incarcerated in the U.S., Canada and U.S. Territories, with such information to be used for the sole purpose of deleting such incarcerated individuals from any list used for solicitation or any other external purpose. Client shall not, and shall require its customers to not, use the information provided from such Service for any other purpose.

- BCC Software reserves the right to modify or discontinue any mail list processing services with or without notice to Client. Neither BCC Software nor Licensors shall be liable to Client should such right to modify or discontinue any of the mail list processing services be exercised. Further, BCC Software or Licensors may, from time to time, impose restrictions on the use of the mail list processing services as a result of changes in the law, limitations placed on BCC Software or Licensors from third parties or their respective licensors, which may limit Client's access to some or all of the data provided through the mail list processing services.

- Client understands and acknowledges that the USPS reserves the right to require BCC Software or Licensors to suspend Client's ability to perform mailing list processing. Neither BCC Software nor Licensors will be liable or responsible for any decision the USPS makes in canceling Client's mailing list processing, including, but not limited to, arbitrating the cancellation decision on Client's behalf. In the event the USPS suspends processing, (i) Client shall not be entitled to any refund or credit from Licensors; and, (ii) Licensors will discontinue providing the mail list processing services to Client.

- The USPS is the owner of numerous trademarks, including but not limited to: United States Postal Service(R), Postal Service(TM), Post Office(TM), United States Post Office(R), the Eagle logo, ZIP + 4(R), CASS(TM), CASS Certified(TM), DPV(TM), eLOT(TM), RDI(TM), LACSLink(TM), NCOALink(TM), SuiteLink(TM).

ATTACHMENT 5, BLUE CREST PROFESSIONAL SERVICES TERMS AND CONDITIONS

These Professional Services Terms and Provisions are attached as Attachment 5 to the BlueCrest Equipment, Maintenance, Software & Professional Services Order Form, dated as of _____, 20__ (the "Order", and together with the BlueCrest Terms and Provisions, the Statement of Work (if applicable), the Application Software License Terms and Provisions (if applicable), the On-Call Maintenance Services Terms and Provisions or the On-Site Maintenance Services Terms and Provisions (if applicable), and these Professional Services Terms and Provisions, the "Agreement"), by and between DMT Solutions Global Corporation (d/b/a BlueCrest) ("BlueCrest") and _____ ("Client"). Any capitalized term used herein without definition shall have meaning assigned to such term in the Agreement.

3. Definitions

"Affiliate" means an entity that Controls, is Controlled by or is under common Control with Client;

"Control" means the ownership of more than fifty percent (50%) of an entity's stock or other voting interest;

"Deliverable(s)" means any computer software, written documentation, reports or materials developed by BlueCrest specifically for Client pursuant to the Order;

"Services" means the professional services to be performed by BlueCrest as described in the Order; and

"Warranty Period" means the thirty (30) day period following completion of the Services.

2. Services.

(a) BlueCrest will perform the Services in accordance with this Agreement and the Order. BlueCrest is not obligated to provide any Services unless set out in the Order. Unless otherwise set out in the Order or as agreed to by the parties, BlueCrest will commence performance of the Services fifteen (15) business days following execution of the Order and the Services will be performed at BlueCrest's offices. Unless otherwise stated in the Order, Services will be performed and billed in contiguous eight (8) hour increments. Changes or delays in the work schedule originating with Client are subject to the project change procedure and may result in an increase in fees, providing such fees do not exceed Master Agreement pricing.

(b) For a time and materials engagement, BlueCrest estimates that the Services will be completed in approximately the number of hours set out in the Order. BlueCrest does not represent, however, that the Services will be completed within the number of hours specified therein. Any estimates provided in the Order, including expected hours to complete the Services and any timeline provided by BlueCrest, are based on known functional requirements and technical environments as of the effective date of the Order.

(c) BlueCrest grants Client a non-exclusive, non-transferable, royalty-free, perpetual license to use the Deliverables on behalf of and for the benefit of Client. BlueCrest retains all right, title and interest to the Deliverables except for those rights expressly granted to Client and reserves all rights not otherwise expressly granted herein. Deliverables and Services are deemed accepted upon delivery unless otherwise set forth in an Order.

(d) Any modifications to the Services must be in writing and signed by authorized representatives of each party. The modifications may be set forth in a project change request or other document agreed to by the parties in writing. BlueCrest personnel performing Services at Client's offices will comply with Client's policies and procedures in effect at such location.

3. Fees; Expenses.

(a) Fees. Fees will be invoiced to Client based on one of the following billing options, as indicated in the Order:

(i) Time and Materials: For engagements with a time and materials billing schedule, invoices will be issued monthly in arrears as Services are performed, based on the hourly or daily rate set forth in the Order or other executed order document. If a minimum number of hours are indicated on the Order ("Minimum Hours"), Client will pay for and permit BlueCrest to perform the indicated number of Minimum Hours. If BlueCrest performs Services at Client's request on a weekend or federal holiday (for the country where the Services are being performed or if off-site the country where the BlueCrest resources are performing the Services), Client will pay BlueCrest additional fees upon mutual agreement, and in accordance with Master Agreement pricing.

(ii) Fixed Cost: Invoices will be issued upon delivery of milestones, or in accordance with a billing schedule set forth in the Order or other executed order document.

(b) Upon advance written notice from the Client, Client may also pay for all reasonable travel-related and out-of-pocket expenses incurred by BlueCrest in the performance of the Services in accordance with BlueCrest's corporate travel and expense, which will be billed on a monthly basis and due thirty (30) days following date of invoice.

(c) BlueCrest will provide Client with a monthly project status report accounting for the number of hours of Services performed in the prior month, and the expenses incurred in performance of the Services.

4. Client Obligations.

(a) Client will provide any assistance reasonably required by BlueCrest to perform the Services, including timely review of plans and schedules for the Services and reasonable access to Client's offices for Services performed onsite.

(b) Client will designate a project manager for the Services. The project manager will have the authority to make decisions on behalf of Client with respect to changes in the Services, resource allocation, expenditures, resolution of issues, scope changes and other matters involving the Services.

(c) Client will maintain a back-up of any data or data files provided to BlueCrest.

(d) Client will be responsible for securing all licenses for third party technology necessary for BlueCrest to perform the Services (including the right for BlueCrest to use such technology), and will be responsible for the performance of any third-party providing goods or services to Client related to the Services, including such third party's cooperation with BlueCrest.

5. Warranty.

(a) The Services will be performed in a professional manner in accordance with generally accepted industry standards for the software consulting industry. BlueCrest will use reasonable commercial efforts to complete the Services in accordance with the Order. If the Services fail to comply with this warranty during the Warranty Period, Client will promptly notify BlueCrest in writing specifying in reasonable detail any alleged non-conformities in the Services. Upon such notice, BlueCrest will, as Client's remedy, in addition to the remedies described in the Participating Addendum, promptly re-perform any such Services in accordance with the Order and this Agreement.

(b) THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND BLUECREST DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

6. Indemnification.

a) BlueCrest will indemnify, defend and hold Client, its officers, directors and employees, harmless from all losses, damages, and reasonable costs and expenses to the extent they arise out of a claim by a third party that the Deliverables or Services, as delivered by BlueCrest, infringe or misappropriate any copyright, trade secret, trademark or patent registered or valid within the country the Deliverables are authorized to be used. BlueCrest will have control of the defense and will defend at its own expense, any claim or litigation to which this indemnity relates, including the right to settle any such claim. Client must notify BlueCrest promptly of any such claim and provide reasonable cooperation to BlueCrest, upon BlueCrest's request and at BlueCrest's cost, to defend such claim. BlueCrest will not agree to any settlement which requires acknowledgment of fault by Client without Client's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

b) If the Deliverables are subject to a claim of infringement or misappropriation, or if BlueCrest reasonably believes that the Deliverables may be subject to such a claim, BlueCrest will: (i) replace the Deliverables with a functional non-infringing equivalent; (ii) modify such Deliverables while retaining substantively equivalent functionality; or (iii) procure at no cost to Client the right to continue to use such Deliverables. If, however, BlueCrest determines that none of the foregoing alternatives are commercially reasonable, BlueCrest may terminate Client's license to the Deliverables and BlueCrest will, as Client's remedy, refund to Client the fees paid for such Deliverable.

c) BlueCrest will have no obligation to defend or indemnify Client under this Section 6 if the infringement or misappropriation results from: (i) modifications to the Deliverables by anyone other than BlueCrest; (ii) combination of the Deliverables with Client's equipment or non-BlueCrest software programs if such claim of infringement or misappropriation would have been avoided had such combination, operation or use not occurred; (iii) Client's failure to implement modifications (which if delivered to Client expressly to avoid infringement, will be delivered at no additional cost to Client and which will provide substantially the same functionality as the infringing or potentially infringing Deliverables); or (iv) Services performed or Deliverables developed at the direction of Client, where Client specifies the means, manner or method of performing the Services or developing the Deliverables and to the extent BlueCrest did not exercise its independent judgment and discretion in performing the Services or developing the Deliverables.

7. Limitation of Liability.

A) DISCLAIMER. NEITHER BLUECREST NOR ITS THIRD-PARTY SUPPLIERS/LICENSORS WILL BE LIABLE FOR ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, BUSINESS INTERRUPTION, OR LOST DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

B) LIMITATION OF LIABILITY. NEITHER BLUECREST NOR ITS THIRD-PARTY SUPPLIERS/LICENSORS LIABILITY FOR ANY CLAIM ARISING IN CONNECTION WITH THIS AGREEMENT (IN TORT, CONTRACT OR OTHERWISE) WILL EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO BLUECREST UNDER THE ORDER. THIS LIMITATION OF LIABILITY OF THIS AGREEMENT SHALL BE IN ADDITION TO ANY INSURANCE COVERAGE REQUIRED UNDER THE PARTICIPATING ADDENDUM, BUT IN NO EVENT WILL THE LIABILITY COVERAGE EXCEED ACTUAL DAMAGES INCURRED.

C) EXCLUSIONS. THE FOREGOING DISCLAIMER SET FORTH IN SECTION 7(A) (DISCLAIMER) DOES NOT APPLY TO BLUECREST'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 6 (INDEMNIFICATION). THE FOREGOING LIABILITY SET

FORTH IN SECTION 7(B) (LIMITATION OF LIABILITY) DOES NOT APPLY TO BLUECREST'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 6 (INDEMNIFICATION).

8. Term & Termination.

(a) These Professional Services Terms and Provisions will be effective as of the effective date of the Order and will remain in effect until the Services are completed, the Services are terminated, or the termination date (if any) set out in the Order (the "Termination Date"), whichever is later. If no specific Termination Date is designated in the Order, Client may terminate the Order and these Professional Services Terms and Provisions upon thirty (30) days written notice to BlueCrest.

(b) Either party may terminate the Services immediately upon written notice to the other party for cause, if: (i) such party is in breach of a material provision of these Professional Services Terms and Provisions and fails to cure such breach within thirty (30) days following written notice of such breach; or (ii) the other party ceases to conduct business in its ordinary course; is adjudged bankrupt or insolvent under applicable law; has made a general assignment for the benefit of creditors; files or becomes subject as a debtor to a petition in bankruptcy for liquidation or reorganization; becomes otherwise insolvent; or admits its inability to pay its debts generally as they become due.

(c) Upon the effective date of termination of the Services, BlueCrest will cease performance of the Services. Client will pay BlueCrest for all Services performed prior to the date of termination plus any additional, mutually agreed to fees, that may be due under the Order. For Services performed on a fixed-cost basis, should the Order be terminated prior to delivery of any milestone or Deliverable, Client will pay BlueCrest at the hourly rate for all Services performed up to the date of termination as set forth in the Order. I

9. Independent Contractor. Each party will act as an independent contractor and employees of each party will not be considered to be employees of the other party. No agency, partnership, joint venture or other joint relationship is created by these Professional Services Terms and Provisions. Neither party may make any commitments binding on the other, nor may either party make any representation that they are acting for, or on behalf of, the other. Each party assumes full responsibility for the actions of its personnel while performing the Services and such party will be solely responsible for the supervision, daily direction, control of its personnel, and for the payment of all of their compensation.

10. Publicity. Neither party will use the name of the other party in publicity releases or similar activity without the consent of the other party, except BlueCrest may include Client's name in any BlueCrest client list.

11. Survival. Sections 3 (Fees, Expenses), 5(b) (Warranty), 6 (Indemnification), 7 (Limitation of Liability), and 9 (Term & Termination) will survive termination of this Agreement.

ATTACHMENT 6, SAMPLE DELIVERY & ACCEPTANCE (D&A) CERTIFICATE



Reference is hereby made to the BlueCrest Equipment, Maintenance, Software & Professional Services Order Form, dated as of _____, 20__ (the "Order"), by and between DMT Solutions Global Corporation (d/b/a BlueCrest) ("BlueCrest") and _____ (the "Client").

Client hereby acknowledges that it has received delivery of the Equipment specified in the Order.

[Insert Client Name]

By: _____

Name:

Title:

Date