

NASPO ValuePoint
PARTICIPATING ADDENDUM



**MULTI-FUNCTION DEVICES AND RELATED
SOFTWARE, SERVICES AND CLOUD SOLUTIONS**

Led by the State of Colorado

Master Agreement #: 189398

Contractor: KYOCERA Document Solutions America, Inc.

Participating Entity: **STATE OF UTAH**

The following Products and Services are included in this contract portfolio:

- Group A – MFD, A3
- Group B – MFD, A4
- Group D – Single-function Printers
- Group E – Large/Wide Format Equipment
- Group G – Software
- Group H – Consumable Supplies
- Group I - Managed Print Services (MPS)
- Sub-Group G1 – Software Related Services
- Sub-Group D1 – Specialty Printers
- Accessories for Discontinued Base Units
- Maintenance Services for new, remanufactured, refurbished, and legacy devices

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the *Multi-Function Devices and Related Software, Software and Cloud Solutions portfolio* led by the State of Colorado, for use by state agencies and other government entities located in the Participating State *[or State Entity]* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. An amendment to this PA is not required when offerings are adjusted in the Master Agreement, so long as all additions remain within the master agreement's original scope.
2. Pricing: The pricing and rates from the Master Agreement shall flow down to this PA. An amendment to this PA is not required when pricing in the Master Agreement is adjusted / updated.
3. Administrative Fee: One (1) percent (1%) and will apply per Section 54 of Attachment A.
4. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher education, political subdivisions and other entities authorized to use statewide contracts in the State of Utah. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

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5. Contacts: The primary and secondary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor Primary Administration

Name:	Joseph Dolce
Address:	225 Sand Road
Telephone:	973-882-6085
Email:	joseph.dolce@da.kyocera.com

Contractor Secondary Administration

Name:	Renato Monteleone
Address:	225 Sand Road
Telephone:	973-423-5884
Email:	renato.monteleone@da.kyocera.com

Participating Entity Primary

Name:	Aimee Elliott
Address:	4315 S 2700 W Taylorsville, UT 84129
Telephone:	801-957-7125
Fax:	
Email:	amelliott@utah.gov

Participating Entity Secondary

Name:	
Address:	
Telephone:	
Fax:	
Email:	

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

Participating Entity must check one of the boxes below.

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

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

State of Utah Terms and Conditions Attachment A

7. Lease and Rental Agreements: All eligible end-users within the State of Utah are eligible to lease equipment pursuant to the NASPOValuePoint Contract. Political Subdivisions, Higher Education, and Public Education shall work with their own purchasing department to determine if leasing is an option. State of Utah Agencies may purchase or lease from the contract after acquiring the appropriate approvals.

Lease and Rental Terms: Equipment leases and rentals are subject to the Terms and Conditions as set forth in the Master Agreement and (name of Contractor) applicable Supplemental Documents, which are attached to the Master Agreement, unless otherwise agreed to by a Participating State or Entity. To initiate a lease or rental, Purchasing Entity may issue a Purchase Order ("PO") and reference the type of lease or rental (FMV Lease, Straight Lease, Capital Lease, Short-Term Rental or Cancellable Rental) on the PO or may simply sign other transactional documents deemed acceptable to the parties, providing Contractor does not provide the Purchasing Entity with any documents (besides EULA's) that have not been approved by the Lead State.

Assignment: Contractor may assign, solely for financing purposes, upon written notification to the State of Utah, their right title and interest in and to: (i) the Products subject to the Lease Agreement; (ii) all payments and other amounts due and to become due thereunder with respect to the Products; and (iii) all rights and remedies under this Participating Addendum with respect to the Products, such payments and other amounts due. Any such assignment however, does not excuse Contractor from fulfilling their obligations outlined in the terms and conditions of either the NASPO ValuePoint Master Agreement #189398 or the Participating Addendum. Contractor intends to assign, solely for financing purposes, rights as set forth immediately above and this paragraph constitutes the required written notification to the State of Utah.

All lease and rental programs must remain with the Contractor, Authorized Dealers, Contractor's leasing partners, or third-party financial institutions throughout the term of the agreement.

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

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

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

8. Authorized Dealers: All Contractors and resellers authorized in the State of Utah, are listed in Contractor's Authorized Dealer List, which is available on the NASPO ValuePoint website, and are approved to accept orders and provide sales, service support, and invoicing to participants in the NASPO ValuePoint Master Agreement. The Contractor's dealer participation will be in accordance with the terms and conditions set forth in the Master Agreement.
9. Orders: Any order placed by a Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement..

All orders should contain the following (1) "PO subject to NASPO ValuePoint Contract # 189398 & State Contract #PA4465 " (2) Purchaser's Address, Contact, & Phone-Number (3) Purchase order amount (4) Type of Lease or rental and monthly payment (5) Itemized list of accessories (6) Service program and rates (7) Attached SOW Template if applicable.

10. Product Installation & Invoicing: Unless otherwise agreed to by both parties, signing the delivery and acceptance ("D&A") certificate constitutes Acceptance of the Device(s) and allows Contractor to invoice for the Device(s). Failure to sign the D&A or reject the Device(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity.

Contractor will provide timely billing and Purchasing Entity will notify Contractor, in writing, of any billing concern. In order for Contractor to generate accurate service invoices, Purchasing Entities shall provide meter reads within the Contractor(s) requested timeframe.

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Invoices that are generated without receiving the proper meter-read information from the Purchasing Entity will not be considered inaccurate.

The Purchasing Entity shall provide written notice of any alleged invoicing issue(s) and the Contractor will be allowed a thirty (30) day cure period to address any such issue. Failure on the Contractors part to maintain accurate invoicing shall result in a \$25.00 per instance credit on the following month's invoice.

11. Not Specifically Priced ("NSP") Open Market Items: Not Specifically Priced (NSP) items compliment or enhance the Products and/or Services offered under the resulting Master Agreement, and may be purchased as a stand-alone option. NSP items will not include:
 - i) Interactive White boards;
 - ii) Computers, monitors, or other related items;
 - iii) Fax machines;
 - iv) Overhead Projectors; and
 - v) Cameras.

NSP items may only be acquired through the Contractor or their Authorized Dealers and must be reported quarterly with all other sales under the resulting Master Agreement. NSP items must be priced at a minimum discount of 15% from MSRP or List Price. The maximum allowable amount of all NSP items in a single Order shall be determined by the Participating State or Entity.

12. Showroom Equipment: Upon request by a Purchasing Entity, showroom Equipment for Groups A and B may be converted to a purchase, lease, or rental providing the following conditions are met:
 - a. The meter count on Group A and Group B Devices does not exceed 10,000 copies total (i.e. b&w and color combined); and
 - b. The Device must be discounted by at least 5% off the Master Agreement pricing for that same Device; and
 - c. The Purchasing Entity and the Contractor must indicate on the Order that the Device is a showroom model.

13. Software: Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software. Software subscriptions shall not be subject to automatic renewals, unless otherwise agreed to in an Order. Purchasing Entities shall have

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the option to finance software subscriptions by utilizing Contractor lease and rental rates. Notwithstanding the foregoing, in the event of a conflict in language between an end user license agreement (EULA) and the Master Agreement, the language in the Master Agreement will supersede and control, unless otherwise agreed to by a Participating State or Entity. In addition, any language in a EULA which violates a Participating State's constitution or a statute of that state; or violates the laws of a local entity making a purchase, will be deemed void, and of no force or effect.

14. Maintenance Service Level Agreements: Purchasing Entities are subject to the Contractor's Standard Service Levels as outlined in the Master Agreement, Contractor's Supplemental Documents, or as otherwise negotiated by the Participating State or Entity.

Managed Print Services ("MPS") Level Agreement: Purchasing Entities are subject to the Contractor's "Sample MPS Statement of Work" provided in Master Agreement **Exhibit E**, or a similar format approved by both parties. Contractor may not provide MPS maintenance or repair Services on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless they have a written agreement with the Manufacturer to do so. All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, which must be approved by both parties prior to the initiation of any engagement.

Rebates on Maintenance Services: Please select one of the below options for receiving rebates on maintenance services:

☒ Life Cycle based – You will receive a rebate for maintenance services based on the purchase value of the hardware and software on an order, regardless of whether the equipment is leased or purchased. This amount is guaranteed, and you will receive it upfront at the same time you receive the hardware and software rebate. Essential doubling your rebate.

☐ Usage based – You will receive rebates based on the invoice amount charged for the actual number of images made. This rebate is paid quarterly based on the number of copies/prints made over time. A usage-based rebate is variable and unlike the Life Cycle based method there is no guaranteed amount.

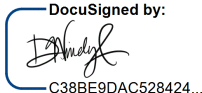
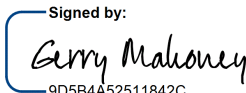
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IN WITNESS, WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of Utah	Contractor: Kyocera Document Solutions America, Inc.
Signature: 	Signature: 
Name: Windy Aphayrath	Name: Gerry Mahoney
Title: Division Director/CPO	Title: VP of Sales
Date: 8/2/2024	Date: 7/30/2024

[Additional signatures may be added if required by the Participating Entity]

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Portfolio Manager:	Joel Atkinson
Telephone:	(850) 848-1250
Email:	jatkinson@naspovaluepoint.org

***[Please email fully executed PDF copy of this
 document to***

PA@naspovaluepoint.org

***to support documentation of participation and posting
 in appropriate data bases.]***

ATTACHMENT A: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS STATE OF UTAH COOPERATIVE INFORMATION TECHNOLOGY CONTRACT

This is a State Cooperative Contract for information technology products and services. DTS policies referenced by number in this Attachment are only applicable to the Executive Branch and are available at <https://dts.utah.gov/policies>. All other policies and codes of conduct are available upon request.

1. DEFINITIONS:

- a. "Access to Secure State Facilities, Data, or Technology" means Contractor will (a) enter upon secure premises controlled, held, leased, or occupied by State of Utah or Eligible User; (b) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by State of Utah or Eligible User; or (c) have access to or receive any State Data or Confidential Information.
- b. "Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors, or agents of Contractor who need Access to Secure State Facilities, Data, or Technology to enable the Contractor to perform its responsibilities under this Contract.
- c. "Background IP" means intellectual property (IP) owned or controlled prior to the effective date of this Contract or that IP developed or acquired from activities independent of the services performed under this Contract, including but not limited to (a) methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services, and (b) processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible User.
- d. "Contract" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference.
- e. "Contract Period" means the term of this Contract, as set forth in the Contract Signature Page(s).
- f. "Contract Signature Page(s)" means the cover page that the Division and Contractor sign.
- g. "Contractor" means the individual or entity identified on the Contract Signature Page(s). "Contractor" includes Contractor's agents, officers, employees, partners, contractors, and Subcontractors at any level.
- h. "Custom Deliverables" means the product that Contractor is required to design, develop, or customize and deliver to the Eligible User as specifically described under this Contract or an associated statement of work for which all interest and title shall be transferred to and owned by the Eligible User. This includes every invention, design, development, customization, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor pursuant to this Contract.
- i. "Data Breach" means the unauthorized access or acquisition of State Data that compromises the security, confidentiality, or integrity of State Data.
- j. "Division" means the State of Utah Division of Purchasing.
- k. "DTS" means the Utah Department of Technology Services.
- l. "Eligible User(s)" means the State of Utah's government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
- m. "Federal Criminal Background Check" means a fingerprint-based, nationwide background check conducted and processed by the FBI.
- n. "Good" means any deliverable not classified as a Custom Deliverable or Service.
- o. "Intellectual Property Rights" means all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and other protection afforded by law to inventions, models, designs, technical information, and applications.
- p. "Non-Public Data" means records or data that are not subject to distribution to the public. Access is restricted because it includes information that is protected by state or federal law. Non-Public Data includes, but is not limited to, a person's name; government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; or Protected Health Information.
- q. "Protected Health Information" (PHI) is as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and its implementing regulations.
- r. "Response" means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the State Entity's Solicitation.
- s. "Security Incident" means the attempted unauthorized access to State Data that may result in the use, disclosure, or theft of State Data.
- t. "Services" means the furnishing of labor, time, or effort by Contractor, and may include installation, configuration, implementation, technical support, warranty maintenance, and other support services.

- u. "Solicitation" means an invitation for bids, request for proposals, notice of sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
- v. "State Data" means all Confidential Information and Non-Public Data that is created, controlled, maintained, owned, or in any way originating with the State of Utah or Eligible User regardless of where such data or output is stored or maintained.
- w. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
- x. "Subcontractors" includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing goods or performing services pursuant to this Contract.

2. ESSENTIAL PROVISIONS:

- a. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed solely by the laws of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Exclusive venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- b. **LAWS:** Contractor and all Goods and Services delivered under this Contract will comply with all applicable federal and state of Utah laws, including applicable licensure and certification requirements.
- c. **SOVEREIGN IMMUNITY:** The Division and the State of Utah do not waive any protection, right, defense or immunity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 to 904, as amended, the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court.
- d. **PUBLIC INFORMATION:** This Contract and any purchase orders, invoices, pricing lists, and the Response are public records available for disclosure in accordance with the State of Utah's Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101 et seq.), except to the extent classified as protected in accordance with UCA 63G-2-309. GRAMA takes precedence over any statements of confidentiality or similar notations. Neither the Division, the Eligible User nor the State of Utah will inform Contractor of any request for a copy of this Contract, including any purchase orders, invoices, pricing lists, or the Response.
- e. **CREDITING THE DIVISION IN PUBLICITY:** Any publicity given to this Contract shall identify the Division as the managing agency and shall not be released without prior written approval from the Division.
- f. **SALES TAX EXEMPTION:** Goods, Custom Deliverables, and Services purchased by some Eligible Users are being paid from that Eligible User's funds and used in the exercise of that Eligible User's essential functions as a State of Utah governmental entity. Any such Eligible Users will provide Contractor with a copy of its sales tax exemption number upon request.
- g. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- h. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract, is within the scope/purpose of the Solicitation, and is attached and made part of this Contract. Automatic renewals are prohibited and are deemed void even if listed elsewhere in this Contract.
- i. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any government department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity.
- j. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** This Contract may be terminated in whole or in part at the sole discretion of the Division or Eligible User upon thirty days written notice, if the Division or Eligible User determines that (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects the Division or Eligible User's ability to pay under this Contract. A change of available funds includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or an order of the President, the Governor, or Executive Director.

The Division or Eligible User, as applicable, will reimburse Contractor for the Goods or Services properly ordered and delivered until the effective date of said notice. The Division and Eligible User are not liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of the notice.

- k. **ENTIRE AGREEMENT:** This Contract is the entire agreement between the parties, and supersedes any prior and contemporaneous agreements and understandings between the parties, whether oral or written.
- l. **WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract. The Eligible User's approval, acceptance, or payment for any Goods or Services required under this Contract shall not be construed to operate as a waiver by the Eligible User of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract.
- m. **CHANGES IN SCOPE:** Any changes in the scope of work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of work.
- n. **TRAVEL COSTS:** Unless otherwise agreed to in the contract, all travel costs associated with the delivery of Services will be paid in accordance with the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be

returned to the Contractor for correction.

- 3. RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by an Eligible User to Contractor. These records shall be retained by Contractor for at least six (6) years after final payment (per Utah Administrative Code R33-12-605 and Utah Code 78B-2-309), or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor shall allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.
- 4. CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 - 1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.
 - 2) Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) Contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
 - 3) Contractor's failure to comply with this section will be considered a material breach of this Contract.
 - 4) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
- 5. CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless written disclosure has been made to the Division.
- 6. INDEPENDENT CONTRACTOR:** Contractor is an independent contractor, and not an employee or agent of the Division, the Eligible Users, or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor has no authorization, express or implied, to bind the Division, the Eligible Users, or the State of Utah to any agreements, settlements, liabilities, or understandings, and shall not perform any acts as an agent for the Division, the Eligible users, or the State of Utah. Contractor is responsible for all applicable federal, state, and local taxes and FICA contributions.
- 7. CRIMINAL BACKGROUND SCREENING:** Depending on the Eligible User's policy, each employee of Contractor and Subcontractor may be required to successfully complete a Federal Criminal Background Check, prior to being granted Access to Secure State Facilities, State Data, or Technology. Contractor or the applicable employee shall provide Eligible Users with sufficient personal information (at Contractor's expense) so that a Federal Criminal Background Check may be completed by the Eligible User, at Eligible User's expense. The Eligible User will provide Contractor with forms which must be filled out by Contractor and returned to the Eligible User. Each employee of Contractor or a Subcontractor who will have Access to Secure State Facilities, State Data, or Technology must be fingerprinted by the Eligible User or local law enforcement a minimum of one week prior to needing access. At the time of fingerprinting, said employee shall disclose all felony or misdemeanor convictions. Eligible Users may conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided and use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) at least every two years. Eligible Users may revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor and the employee or subcontractor shall immediately notify Eligible Users if an arrest or conviction for a felony or misdemeanor of any person that has Access to Secure State Facilities, State Data or Technology occurs during the Contract Period. Eligible Users will determine in its discretion if such person's Access to Secure State Facilities, State Data, or Technology shall remain in effect. Felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred. (DTS Policy 2000-0014 Background Investigations)
- 8. DRUG-FREE WORKPLACE:** Contractor shall abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.
- 9. CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor shall follow and enforce the agency applicable code of conduct. Contractor will ensure that each employee receives a copy of the policies and applicable codes of conduct. (DTS Policy 2000-0001 Code of Conduct, DTS Policy 1000-0003 Acceptable Use of Information Technology Resources)
- 10. INDEMNITY AND LIABILITY**
 - a. **Indemnity Clause:** Contractor shall fully indemnify, defend, and save harmless the Division, Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act, omission or negligence of Contractor, its agents, employees, officers, partners, and Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage due to the fault of the Division, the Eligible User, or the State of Utah. Any limitations of the Contractor's liability will not apply to injuries to persons, including death, or to damages to property.

- b. **Governmental Immunity Act:** In accordance with the Constitution of the State of Utah and the Governmental Immunity Act of Utah ("the Act", Utah Code §§63G-7-101 to 904, as amended), the Division and the State of Utah have no liability for the operations, acts, or omissions of the Contractor or any third party. Any indemnity obligations of the Division, Eligible Users, or the State of Utah are subject to the Constitution of the State of Utah and the Act and limited to claims that arise from and to the extent caused by the negligent acts or omissions of the Division or the Eligible Users in the performance of the Division's or the Eligible User's obligations under this Contract.
- c. **Intellectual Property Indemnification:** Contractor warrants and represents it has full ownership and clear title free of all liens and encumbrances to any Good delivered under this contract. Contractor also warrants that any Good, Custom Deliverable, or Service furnished by Contractor under this Contract, including its use by the Eligible Users in unaltered form, will not infringe any copyrights, patents, trade secrets, or other proprietary rights.

Contractor will release, indemnify, and hold the Division, the Eligible Users, and the State of Utah harmless from liability or damages of any kind or nature, including Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in Contractor's performance of this Contract. Additionally, if such a claim or liability is based upon an allegation that a Good, Custom Deliverable, or Service furnished by Contractor infringes on any right protected by any patent, copyright, trademark, trade secret, and/or proprietary right, Contractor shall indemnify and hold harmless the Division, the Eligible Users, and the State of Utah for any judgments, settlements, costs, and reasonable attorneys' fees resulting from such a claim or liability. Contractor shall defend all actions brought upon such matters to be indemnified hereunder and pay all costs and expenses incidental thereto; however, the Eligible Users shall have the right, at its option, to participate in the defense of any such action at its own expense without relieving Contractor of any obligation hereunder. If there are any limitations of liability in this Contract, such limitations will not apply to this section.

- 11. **HARDWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS ALL HARDWARE PORTIONS OF ANY GOOD OR CUSTOM DELIVERABLE THAT IT DIRECTLY OR INDIRECTLY PROVIDES FOR A PERIOD OF **ONE YEAR**. ALL WARRANTIES GRANTED TO THE DIVISION AND ELIGIBLE USERS BY THE UNIFORM COMMERCIAL CODE OF THE STATE OF UTAH APPLY TO THIS CONTRACT. PRODUCT LIABILITY DISCLAIMERS AND/OR WARRANTY DISCLAIMERS FROM CONTRACTOR OR ITS SUPPLIERS ARE REJECTED. CONTRACTOR WARRANTS THAT THE HARDWARE: (A) WILL PERFORM AS SPECIFIED IN THE RESPONSE; (B) WILL LIVE UP TO ALL SPECIFIC CLAIMS LISTED IN THE RESPONSE; (C) WILL BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH THE HARDWARE IS USED; (D) WILL BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE DIVISION HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE DIVISION ABOUT THE HARDWARE IN THE RESPONSE; (E) THE HARDWARE HAS BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (F) IS FREE OF SIGNIFICANT DEFECTS.
- 12. **SOFTWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS FOR A PERIOD OF **NINETY DAYS** FROM THE DATE OF ACCEPTANCE THAT THE SOFTWARE PORTIONS OF THE GOODS AND CUSTOM DELIVERABLES THAT CONTRACTOR DIRECTLY OR INDIRECTLY PROVIDES WILL: (A) PERFORM IN ACCORDANCE WITH THE SPECIFIC CLAIMS PROVIDED IN THE RESPONSE; (B) BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH SUCH GOODS AND CUSTOM DELIVERABLES ARE USED; (C) BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE ELIGIBLE USER HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE STATE ABOUT THE GOODS OR CUSTOM DELIVERABLES; (D) HAVE BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (E) BE FREE OF SIGNIFICANT DEFECTS. CONTRACTOR SHALL PROVIDE THE ELIGIBLE USER WITH BUG FIXES, INCLUDING INFORMING THE ELIGIBLE USERS OF ANY KNOWN SOFTWARE BUGS OR SOFTWARE DEFECTS THAT MAY AFFECT THE STATE'S USE OF THE SOFTWARE.
- 13. **WARRANTY REMEDIES:** Upon breach of warranty, Contractor will repair or replace (at no charge to the Eligible User) the nonconforming Goods or Custom Deliverables. If the repaired and/or replaced products are inadequate, Contractor will refund the full amount of any payments that have been made for the failed products. These remedies are in addition to any other remedies provided by law or equity.
- 14. **UPDATES AND UPGRADES:** Contractor grants to the Eligible User a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the Contract Period. Upgrades and updates are subject to the terms of this Contract. The Eligible User reserves the right to accept updates and upgrades at its discretion and to determine if such updates comply with the requirements in the Contract scope of work.
- 15. **BUG FIXING AND REMOTE DIAGNOSTICS:** Contractor shall use commercially reasonable efforts to provide work-around solutions or patches to reported software problems. With the Eligible User's prior written authorization, Contractor may perform remote diagnostics to work on reported problems. If the Eligible User declines remote diagnostics, Contractor and the Eligible User may agree to on-site technical support, subject to the terms of the Contract.
- 16. **TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is required by the Contract, Contractor will use commercially reasonable efforts to respond to the Eligible User in a reasonable time, and in all events, in accordance with the specific timeframes detailed in the Contract, when the Eligible User makes technical support or maintenance requests.
- 17. **PHYSICAL DELIVERY:** All non-electronic deliveries will be F.O.B. destination with all transportation and handling charges paid by Contractor. Contractor is responsible for including any freight charges due by the Eligible User to Contractor when providing quotes to the Eligible User. Invoices listing freight charges that were not identified in the quote will be returned to the Contractor to remove such costs. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance, when responsibility will pass to the Eligible User except as to latent defects, fraud, and Contractor's warranty obligations.
- 18. **ELECTRONIC DELIVERY:** Contractor may electronically deliver any Good or Custom Deliverable to the Eligible User or provide any Good and Custom Deliverable for download from the Internet, if pre-approved in writing by the Eligible User. Contractor shall ensure the confidentiality of electronic deliveries in transit. Contractor warrants that all electronic deliveries will be free of known malware, bugs, Trojan horses, etc.

19. ACCEPTANCE PERIOD: A Good, Custom Deliverable, or Service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the Goods and Custom Deliverables delivered do not conform to the specifications identified in this Contract and Solicitation ("Defects"), the Eligible User shall within thirty (30) calendar days of the delivery date ("Acceptance Period") notify Contractor in writing of the Defects. Upon receiving notice, Contractor shall use reasonable efforts to correct the Defects within fourteen (14) calendar days ("Cure Period"). The Eligible User's acceptance of a Good, Custom Deliverable, or Services occurs at the end of the Acceptance Period or Cure Period, whichever is later.

If after the Cure Period, a Good, Custom Deliverable, or Service still has Defects, then the Eligible User may, at its option: (a) declare Contractor to be in breach and terminate this Contract; (b) demand replacement conforming Goods, Custom Deliverables, or Services from Contractor at no additional cost to the Eligible User; or (c) continue the Cure Period for an additional time period agreed upon by the Eligible User and Contractor in writing. Contractor shall pay all costs related to the preparation and shipping of the replacement products. No products shall be deemed accepted and no invoices shall be paid until acceptance. The warranty period will begin upon the end of the Acceptance Period.

20. SECURE PROTECTION AND HANDLING OF STATE DATA: If Contractor is given access to State Data, the protection of State Data shall be an integral part of the business activities of Contractor, and Contractor shall ensure that there is no inappropriate or unauthorized use of State Data. Contractor shall safeguard the confidentiality, integrity, and availability of the State Data and comply with the conditions outlined below. The Eligible User reserves the right to verify Contractor's adherence to the following conditions to ensure they are met:

- a. **Network Security:** Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection, and regular third-party penetration testing. Contractor shall maintain network security and ensure that Contractor network security policies conform to one of the following:
 - 1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy*;
 - 2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>; or
 - 3) Any generally recognized comparable standard that Contractor then applies to its own network and pre-approved by the Eligible User in writing.
- b. **State Data Security:** Contractor shall protect and maintain the security of State Data with protection that is at least as good as or better than that maintained by the State of Utah which will be provided by an Eligible User upon Contractor's request (*DTS Policy 5000-0002*). These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). The Eligible User reserves the right to determine if Contractor's level of protection meets the Eligible User's security requirements.
- c. **State Data Transmission:** Contractor shall ensure all transmission or exchange of system application data with the Eligible User and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).
- d. **State Data Storage:** All State Data will be stored and maintained in data centers in the United States. No State Data will be processed on or transferred to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process.
- e. **Access:** Contractor shall permit its employees and Subcontractors to remotely access non-State Data only as required to provide technical support.
- f. **State Data Encryption:** Contractor shall store all data provided to Contractor, including State, as well as any backups made of that data, in encrypted form using no less than 128 bit key and include all data as part of a designated backup and recovery process.
- g. **Password Protection:** Any portable or laptop computer that has access to the Eligible User's or State of Utah networks, or stores any Eligible User data shall be equipped with strong and secure password protection.
- h. **Confidential Information Certification:** Contractor shall sign a Confidential Information Certification form prior to being given access to confidential computerized records.
- i. **State Data Re-Use:** All data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. No State Data of any kind may be transmitted, exchanged, or provided to other contractors or third parties except on a case-by-case basis as specifically agreed to in writing by the Eligible User.
- j. **State Data Destruction:** Upon expiration or termination of this Contract, Contractor shall erase, destroy, and render unreadable all State Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the expiration or termination of this Contract or within seven (7) days of the request of the Eligible User, whichever shall come first, unless the Eligible User provides Contractor with a written directive. The Eligible User's written directive may require that certain data be preserved in accordance with applicable law.
- k. **Services Shall Be Performed Within United States:** ALL OF THE SERVICES RELATED TO STATE DATA SHALL BE PERFORMED WITHIN THE BORDERS AND JURISDICTION OF THE UNITED STATES.
- l. **User Support:** Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited by this contract.

21. SECURITY INCIDENT OR DATA BREACH NOTIFICATION: Contractor shall immediately inform the Eligible User of any Security Incident or Data Breach. It is within the Eligible User's discretion to determine whether any attempted unauthorized access is a Security Incident or a Data Breach.

- a. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
- b. **Security Incident Reporting Requirements:** Contractor shall promptly report a Security Incident to the Eligible User.
- c. **Breach Reporting Requirements:** As required by Utah Code 13-44-202 or any other law, Contractor shall immediately notify the Eligible User of a Data Breach that affects the security of State Data.

22. DATA BREACH RESPONSIBILITIES: Contractor shall comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification (*DTS Policy 5000-0002 Enterprise Information Security Policy*). In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the Eligible User. Contractor is responsible for all notification and remedial costs and damages.

23. STATE INFORMATION TECHNOLOGY POLICIES: If Contractor is providing an Executive Branch Agency of the State of Utah with Goods or Custom Deliverables, Contractor shall comply with policies and procedures that meet or exceed those DTS follows for internally developed goods and deliverables to minimize security risk, ensure applicable Utah and Federal laws are followed, address issues with accessibility and mobile device access, and prevent outages and data breaches within the State of Utah's environment. Contractor shall comply with the following DTS Policies:

- a. **DTS Policy 4000-0001, Enterprise Application and Database Deployment Policy:** A Contractor developing software for the State to develop and establish proper controls that will ensure a clear separation of duties between developing and deploying applications and databases to minimize security risk; to meet due diligence requirements pursuant to applicable Utah and federal regulations; to enforce contractual obligations; and to protect the State's electronic information and information technology assets.
- b. **DTS policy 4000-0002, Enterprise Password Standards Policy:** A Contractor developing software for the State must ensure it complies with the password requirements of the Enterprise Password Standards Policy.
- c. **DTS Policy 4000-0003, Software Development Life Cycle Policy:** A Contractor developing software for the State shall work with DTS in implementing a Software Development Lifecycle (SDLC) that addresses key issues of security, accessibility, mobile device access, and standards compliance.
- d. **DTS Policy 4000-0004, Change Management Policy:** Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's or the State of Utah's infrastructure must be reviewed by the DTS Change Management Committee. Any outages or Data Breaches which are a result of Contractor's failure to comply with DTS instructions and policies will result in Contractor's liability for all damages resulting from or associated with the outage or Data Breach.

24. CONFIDENTIALITY: This section does not apply to records where disclosure is regulated under Federal or State laws.

GRAMA applies only to records, therefore if information (other than Non-Public Data, Public Health Information, or State Data) is disclosed orally by either party which either party wishes to remain confidential, then each party shall adhere to the following:

Each party will: (a) limit disclosure of any such information to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this Contract relates, and only for that purpose; (b) advise its Authorized Persons of the proprietary nature of the information and of the obligations set forth in this Contract and require such Authorized Persons to keep the information confidential; (c) shall keep all information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any such information received by it to any third parties, except as otherwise agreed to in writing by the disclosing party. Each party will notify the other of any misuse or misappropriation of such information that comes to said party's attention.

This duty of confidentiality shall be ongoing and survive the Contract Period.

25. Reserved

26. OWNERSHIP IN INTELLECTUAL PROPERTY: The Parties recognize that each has no right, title, or interest, proprietary or otherwise, in or to the name, logo, or intellectual property owned or licensed by the other. The Parties shall not, without the prior written consent of the other or as authorized in this Contract, use the name, logo, or intellectual property owned or licensed by the other.

27. OWNERSHIP IN CUSTOM DELIVERABLES: Contractor warrants, represents and conveys full ownership, clear title free of all liens and encumbrances to any Custom Deliverable. Contractor conveys the ownership in Custom Deliverables as defined in this Attachment A to the Eligible User. All intellectual property rights, title and interest in the Custom Deliverables shall transfer to the Eligible User, subject to the following:

- a. Contractor has received payment for the Custom Deliverables,
- b. Each party will retain all rights to Background IP, even if embedded in the Custom Deliverables.
- c. Custom Deliverables, excluding Contractor's Background IP may not be marketed or distributed without written approval by the Eligible User.

Contractor shall grant to the Eligible User a perpetual, irrevocable, royalty-free license to use Contractor's Background IP as defined above, solely for the Eligible User to use the Custom Deliverables.

- 28. LICENSE FOR GOODS:** For the Goods delivered that include Contractor's scripts and code and are not considered Custom Deliverables, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and, without the right to sublicense, for the Eligible User's internal business operation under this Contract
- 29. OWNERSHIP, PROTECTION, AND USE OF RECORDS:** The Eligible User shall own exclusive title to all information and data gathered, reports developed, and conclusions reached by the Eligible User in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached by the Eligible User in performance of this Contract without the express written consent of the Eligible User.
- 30. OWNERSHIP, PROTECTION, AND USE OF DATA:** The Eligible User shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by Contractor under this Contract. Contractor, and any Subcontractors under its control, expressly agrees not to use Non-Public Data without prior written permission from the Eligible User.
- 31. OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, UTAH, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** In the event that the Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor shall hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.
- 32. OWNERSHIP, PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION:** All documents and data pertaining to work required by this Contract will be the property of the Eligible User, and must be delivered to the Eligible User within thirty (30) working days after termination or expiration of this Contract, and without restriction or limitation to their future use. Any State Data returned under this section must either be in the format as originally provided, in a format that is readily usable by the Eligible User, or formatted in a way that it can be used. The costs for returning documents and data to the Eligible User are included in this Contract.
- 33. ORDERING AND INVOICING:** For State of Utah Executive Branch Agencies, a purchase order must be sent to the Contractor by DTS prior to any work being initiated, product shipped, or invoices cut under this contract. All orders will be shipped promptly in accordance with the delivery schedule. Contractor will promptly submit invoices (within 30 days after shipment or delivery of goods or services, with the exclusion of end of fiscal year invoicing for Executive Branch Agencies) to the appropriate Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by the Eligible User shall not exceed prices listed in this Contract. The Eligible User shall adjust or return any invoice reflecting incorrect pricing. For Executive Branch Agencies, Contractor must send all invoices no later than July 10, or the last working day prior, to the State for all work completed or items received during the State's fiscal year of July 1-June 30.
- 34. PAYMENT AND NOTICE:**
 - a. Payments will be made within thirty (30) days from the date a correct invoice is received. For Executive Branch Agencies, a correct invoice will contain the contract and purchase order numbers as indicated in Section 33. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to the interest rate paid by the IRS on refund claims, plus two percent, computed in accordance with Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended.
 - b. The contract costs may be changed only by written amendment. All payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). The Division will not pay electronic payment fees of any kind.
 - c. Any written protest of the final contract payment must filed with the Eligible User within ten (10) working days of receipt of final payment. If no protest is received, the Eligible User, the Division, and the State of Utah are released from all claims and all liability to Contractor for fees and costs pursuant to this Contract.
 - d. Overpayment: If during or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible User to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible User any such overpayments.
- 35. CONTRACTOR'S INSURANCE RESPONSIBILITY:** The Contractor shall maintain the following insurance coverage:
 - a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
 - c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.

- d. Other insurance policies specified in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence. Failure to provide proof of insurance as required will be deemed a material breach of this Contract.

Contractor's failure to maintain this insurance requirement for the Contract Period will be grounds for immediate termination.

36. ADDITIONAL INSURANCE REQUIREMENTS:

- a. Professional liability insurance in the amount as described in the Solicitation for this Contract, if applicable.
- b. Any other insurance policies described or referenced in the Solicitation for this Contract.
- c. Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any federal, Utah, or local statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.
- d. The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order. Contractor must provide proof of the above listed policies within thirty (30) days of being awarded this Contract.

37. ASSIGNMENT/SUBCONTRACT: Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Division.

38. TERMINATION: This Contract may be terminated for cause by either party upon written notice being given by the other party. The party in violation will be given ten (10) calendar days, or as otherwise agreed upon in writing, after notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience) by the Division, upon thirty (30) calendar days written termination notice being given to the Contractor. The Division and the Contractor may agree to terminate this Contract, in whole or in part, at any time by mutual written agreement.

Contractor shall be compensated for the Services properly performed and goods properly provided pursuant to this Contract up to the effective date of termination as stated in the notice. Contractor agrees that in the event of termination for cause or without cause, Contractor's sole remedy and monetary recovery from the Division, the Eligible User, or the State of Utah is limited to payment for all work properly performed as authorized under this Contract up to the date of termination, and any reasonable pro-rated monies that may be owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract, after receipt and verification of documented evidence of those terminated contracts.

39. TERMINATION UPON DEFAULT: In the event this Contract is terminated for default by Contractor, the Division may procure Goods, Custom Deliverables, or Services similar to those terminated, and Contractor shall be liable to the Division for any and all cover costs and damages.

40. SUSPENSION OF WORK: The Division may suspend Contractor's responsibilities under this Contract without terminating this Contract by issuing a written notice. Contractor's responsibilities may then be reinstated upon written notice from the Division.

41. DEFAULT AND REMEDIES: Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract for nonperformance of contractual requirements or a material breach of any term or condition of this Contract. The Division will issue a written notice of default and may provide a fourteen (14) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the Division may exercise any remedy provided by law; terminate this Contract and any related contracts or portions thereof; (c) impose liquidated damages, if liquidated damages are listed in the contract; (d) suspend or debar Contractor from receiving future solicitations; or (e) demand a full refund of the Goods, Custom Deliverables, or Services furnished by Contractor that are defective or Services that were inadequately performed.

42. FORCE MAJEURE: Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond that party's reasonable control. The Division may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.

43. CONFLICT OF TERMS: Contractor terms and conditions must be attached to this Contract. No other terms and conditions will apply to this Contract, including terms listed or referenced on a Contractor's website, quotation/sales order, purchase orders, or invoice. In the event of any conflict in the contract terms and conditions, the order of precedence is: (a) This Attachment A; (b) the Division's Contract Signature Page(s); (c) State of Utah's Additional Terms and Conditions, if any; and (d) Contractor Terms and Conditions, if any. Attachment A will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.

44. SURVIVORSHIP: The contractual provisions that will remain in effect after expiration or termination of this Contract are: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c) Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, Utah, or Local Government Internal Business Processes, including residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration, completion, or termination of this contract.

45. RELEVANT STATE AND FEDERAL LAWS

- a. **Conflict of Interest with State Employees:** Contractor shall comply and cooperate in good faith with all conflict of interest and ethic laws, including Section 63G-6a-2404, Utah Procurement Code, as amended.

- b. **Procurement Ethics:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6a-2304.5, Utah Procurement Code, as amended).
- c. **Contact Information:** Per Utah Code §§63G-6a-110 and 35A-2-203, the State shall make Contractor's contact information available to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may post information regarding Contractor's job vacancies on its website.
- d. **Employment Practices:** Contractor shall abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor shall abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.
- e. **Compliance with Accessibility Standards:** Contractor shall comply with the Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractor shall comply with Utah Administrative Code R895-14-3(3), which states that contractors developing new websites or applications for State agencies are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency. Contractor shall comply with Utah Administrative Code R895-14-4(2), which states that contractors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.

46. RIGHT TO MONITOR PERFORMANCE AND AUDIT

- a. **Audit:** Contractor shall, upon written notification permit the Division, or a third party designated by the Division, to perform an assessment, audit, examination, or review of all of Contractor's sites and environments - including physical, technical, and virtual sites and environments - in order to confirm Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel; physical premises; records; technical and physical infrastructures; and any other person, place, or object which may assist the Division or its designee in completing such assessment. Upon request, Contractor shall provide the results of any audit performed by or on behalf of Contractor that would assist the Division or its designee in confirming Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards.
- b. **Monitor Performance:** The Division and Eligible Users reserve the right to monitor Contractor's performance, perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. This includes Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.

47. **TIME IS OF THE ESSENCE:** The Services shall be completed and Goods and Custom Deliverables delivered by any applicable deadline stated in this Contract. Time is of the essence.

48. **STANDARD OF CARE:** For Services of Contractor which require licenses and certifications, such Services shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract.

49. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.

50. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.

51. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

52. **QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.

53. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.

54. REPORTS AND FEES:

- a. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be the amount listed in the Solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
- b. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the

associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.

- c. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Reports Due</u>
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

- d. **Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.

55. Timely Reports and Fees: If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.

56. ANTI-BOYCOTT ACTIONS: In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any "economic boycott" nor a "boycott of the State of Israel" as those terms are defined in Section 102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in writing.

(Revision Date: 7/20/2023)



NASPO ValuePoint Master Agreement Terms and Conditions For Multi-Function Devices and Related Software, Services and Cloud Solutions

A Contract for the NASPO ValuePoint Cooperative Purchasing Program
Acting by and through the **State of Colorado** (Lead State)

**Department of Personnel & Administration
State Purchasing & Contracts Office
1525 Sherman Street, 5th Floor
Denver, Co 80203**

And

**Kyocera Document Solutions America, Inc.
225 Sand Rd
Fairfield, NJ 07004**

Master Agreement Number: 189398

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MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

- 1.1 A3 MFD** - A Multi-function Device which is designed to handle letter, legal, ledger and some smaller paper sizes, such as postcards and envelopes.
- 1.2 A4 MFD** – A Multi-function Device which is designed to handle letter, legal and some smaller paper sizes, such as postcards and envelopes. Ledger size paper is NOT an option on this Device.
- 1.3 Acceptance** - A written notice from a Purchasing Entity to Contractor advising Contractor that the Device has passed its Acceptance Testing. Acceptance of a Product for which Acceptance Testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor, as set forth in **section IX** of this Master Agreement.
- 1.4 Accessory** – A compatible item that is added to the Base Unit to enhance its capabilities and functions.
- 1.5 Attachment** – Contractor’s Supplemental Documents which consist of the following:
 - 1.5.1** Attachment 1 – Kyocera Master Lease Agreement Terms and Conditions
 - 1.5.2** Attachment 2 – Kyocera Master Lease Agreement Schedule
 - 1.5.3** Attachment 3 – Kyocera Lease Agreement Terms and Conditions
 - 1.5.4** Attachment 4 – Kyocera Straight Lease Agreement Terms and Conditions
 - 1.5.5** Attachment 5 – Kyocera Cancellable Rental Terms and Conditions
 - 1.5.6** Attachment 6 – Kyocera Coterminous Addendum Terms and Conditions
 - 1.5.7** Attachment 7 – Kyocera Service Maintenance Agreement
 - 1.5.8** Attachment 8 – Kyocera Sample MPS Statement of Work
 - 1.5.9** Attachment 9 – Kyocera Software Finance Agreement
- 1.6 Authorized Dealer** – The Manufacturer’s authorized sales and Service center (also known as a Dealer, Distributor, or Partner) that must be certified by the Manufacturer to sell the Manufacturer’s Products, and perform machine installation and maintenance on Devices offered by the Manufacturer. A Purchasing Entity must be able to, at a minimum, visit the sales and service center to view and test Device.
- 1.7 Base Unit** - The copier, printer, Scanner, Large/Wide Format and Production Devices that include all standard Accessories and parts and excludes optional Accessories and/or software.
- 1.8 Blended Rate** - A rate that is derived by taking the b&w and color cost per click rates on one or more Devices and calculating one rate that a customer will be billed for all copies, regardless of Device type and b&w or color output. Allows for simplicity when billing copies run.
- 1.9 Bronze Standard** - Devices which meet less than 50% of the 28 optional EPEAT criteria.
- 1.10 Business Day** – Any day other than Saturday, Sunday, or a legal holiday.
- 1.11 Buyout to Keep** - The early termination option on an FMV or Capital Lease that involves

the acquisition of the Device by the Purchasing Entity, and consists of any current and past due amount, plus the remaining stream of Device Payments.

- 1.12 Buyout to Return** - The early termination option on an FMV, Capital or Straight Lease that involves the return of the Device by the Purchasing Entity to Contractor, in good working condition (ordinary wear and tear excepted), and consists of any current and past due amounts, plus the remaining stream of Device Payments.
- 1.13 Cancellable Rental** - An agreement that is cancellable upon the Purchasing Entity providing the Contractor with a thirty (30) day written notice, and is subject to a maximum penalty of up to three (3) months of Total Monthly Payments. Device ownership is not an option.
- 1.14 Capital Lease** - For the purposes of this Master Agreement, a Capital Lease shall also be referred to as a \$1 Buyout Lease and title of the Device will automatically pass from the Contractor to the Purchasing Entity at the end of the Initial Lease Term, and the Purchasing Entity will not be subject to additional payments in order to assume ownership. However, it will be at the discretion of the Participating State or Entity as to whether other criteria will also be considered, such as a bargain purchase option, a lease term longer than 75% of the estimated economic life of the Device, or the present value of the lease payments is greater than 90% of the fair market value of the Device at the beginning of the Initial Lease Term, or any other legal requirements relating to a Capital Lease.
- 1.15 Ceiling Pricing** - Pricing that is established as a “not-to-exceed” amount; the maximum price Contractor may charge for Products, Services, and Supplies.
- 1.16 Contractor** - A party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.17 Coterminous** - Two or more leases or rentals that end at the same time. The original lease or rental payment is modified to reflect the addition of a new Device or Accessory. The original term of the lease or rental is not modified as a result of a Coterminous addition.
- 1.18 Deliverable** - A Product, Service, solution, result, labor, or other effort being sought through this RFP.
- 1.19 Device** - The Base Unit, either with or without optional Accessories and/or software. May also be referred to as “Equipment.”
- 1.20 Device Downtime** - The period of time that a Device is not operational and is waiting for Service to be completed.
- 1.21 Device Payment** - The Device portion of the payment, less any Service, Supplies, and maintenance.
- 1.22 Device Trade-In** - 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.
- 1.23 Device Upgrade or Downgrade** - A replacement of the Purchasing Entity’s existing lease or rental Device, with a different Device, of either greater or lesser value. A new lease or rental is then originated for the new Device, with the remaining lease or rental payments on the old Device wrapped into it. The old lease or rental is closed out, and the Device is returned to Contractor.
- 1.24 Electronic Product Environmental Assessment Tool (EPEAT)** - A tool which evaluates and selects Device according to a list of preferred environmental attributes. EPEAT registered means Devices meet the 1680.2 IEEE Standard for Environmental Assessment

of Imaging Device, as amended.

- 1.25 Embedded Software** - One or more software applications which permanently reside on a computing Device.
- 1.26 Energy Star** - The U.S. Environmental Protection Agency's standard for energy efficiency.
- 1.27 Fair Market Value (FMV) Lease** - A lease in which the Purchasing Entity can either 1) Take title to the Device at the end of the Initial Lease Term by paying the residual value to Contractor, 2) Enter into a Renewal Term for the Device, or 3) Return the Device to Contractor at the end of the Initial Lease Term.
- 1.28 Free on Board (FOB) Destination** - Contractor is responsible for transportation and handling charges and the sale does not occur until the Products arrive at the Purchasing Entity's specified location.
- 1.29 Group** - The classification for the different types of Devices solicited in this RFP. Groups are determined by the Devices primary functions and/or capabilities.
- 1.30 Initial Lease or Rental Term** - The length of time (i.e. 12, 18, 24, 36, 48, or 60 months) that a Purchasing Entity enters into a lease or rental agreement.
- 1.31 Intellectual Property** - Any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- 1.32 Large/Wide Format Equipment** - A Device that prints on a large paper via a variety of output options.
- 1.33 Lead State** - The State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.34 Legacy Device** – A Device that was purchased, leased, or rented either under a prior NASPO ValuePoint or WSCA Master Agreement, another program, or via any other means.
- 1.35 Maintenance Agreement** - An agreement in which the Contractor provides monthly Service, parts, Supplies, and Preventative Maintenance on purchased, leased or rented Devices.
- 1.36 Managed Print Services (MPS)** - The management, service, and support of the Purchasing Entity's entire enterprise and output infrastructure of printed materials, with the objective of creating a solution that improves the print process and reduces the expense of printed material.
- 1.37 Manufacturer** - A company that, as its primary business function, designs, assembles, and owns the trademark/patent and markets a Device. Also referred to as Contractor.
- 1.38 Manufacturer's Suggested Retail Price (MSRP)** - The list price or recommended retail price of a Product in which the Manufacturer recommends that the retailer sell the Product.
- 1.39 Master Agreement** - The underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.40 Multi-function Device (MFD)** - A Device which incorporates the functionality of multiple Devices into one, such as print, fax, copy and scan. Each feature can work independently of the other.
- 1.41 NASPO ValuePoint** - A division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the

NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.

- 1.42 Newly Manufactured** - Devices that have not been Refurbished, Remanufactured, rented, leased, sold, or used in a demonstration, and are currently being marketed by the Manufacturer.
- 1.43 Normal Business Hours** – Defined as the hours between 8AM and 5PM, Monday through Friday, holidays excluded.
- 1.44 Not Specifically Priced (NSP)** - NSP items enhance or compliment the Device but are not listed in the Master Agreement Price List(s). NSP's may include Coin-Op Equipment, empowering software etc.
- 1.45 OEM** – The Original Equipment Manufacturer.
- 1.46 Order** - Any type of encumbrance document or commitment voucher, including, but not limited to, a purchase order, contract, MPS statement of work, Maintenance Agreement, lease agreement, rental agreement etc. used by a Purchasing Entity to order the Products and Services.
- 1.47 Participating Addendum** – A bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.48 Participating Entity** - A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.49 Participating State** - A state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.50 Power Filter** - An electronic filter which is placed between an external power line and a Device for the purpose of removing frequencies or electromagnetic interference.
- 1.51 Preventative Maintenance** - The servicing of a Device for the purpose of maintaining a satisfactory operating condition by providing systematic inspection, detection, and correction of failures either before they occur or before they develop into major defects.
- 1.52 Private Label** - Devices that are manufactured by one company and sold under a retailer's brand name.
- 1.53 Product** – Devices, Accessories, parts, software, and/or Supplies provided by Contractor pursuant to the Master Agreement.
- 1.54 Published Price** – The price that is posted on the Manufacturer's website or in their pricing literature (e.g. not the Master Agreement contract price).
- 1.55 Purchasing Entity** - A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

- 1.56 Refurbished** - A Device which has received extensive maintenance and/or minor repair, including the replacement of all standard parts subject to wear during the normal course of use. For the purpose of this RFP and resulting Master Agreement(s), Refurbished Device shall not have more than 750,000 original copies on it. In addition, Refurbished Device must only contain OEM parts. Refurbished Device must be certified by the Manufacturer.
- 1.57 Remanufactured** - The process of disassembling Devices known to be worn or defective that can be reused or brought up to OEM specification by cleaning, repairing or replacing it in a manufacturing environment and then reassembling and testing it, so that it will operate like a new Device. Remanufactured Device must be certified by the Manufacturer.
- 1.58 Renewal Term** - A lease term that supersedes the Initial Lease Term, and which a Purchasing Entity may enter into upon thirty (30) days prior written notice to Contractor. Each Renewal Term shall not exceed 12 months, the residual value of the Device, or the Useful Life of the Device. Capital Leases are excluded from going into renewal.
- 1.59 Response Time** - The time from when the original Service Call is placed with the Contractor or Authorized Dealer, to when the Service technician arrives at the Purchasing Entity's location.
- 1.60 Segment** - The various speeds that Devices are categorized by.
- 1.61 Services** – The labor required to be performed by Contractor pursuant to the Master Agreement or an Order. Services may include, but are not limited to, maintenance, MPS and software installation.
- 1.62 Service Base Location** - The place of business where the Contractor or Authorized Dealer stores parts and provides training for service technicians.
- 1.63 Service Call** - An on-site Service technician visit due to Device error or malfunction.
- 1.64 Short-Term Rental** - A type of agreement in which ownership is not an option and the maximum rental term does not exceed 18 months.
- 1.65 Single-function Printer** - An inkjet or laser Device that only prints and is not capable of other functions such as copying, faxing or scanning.
- 1.66 Straight Lease** - A type of agreement in which ownership is not an option and the Total Monthly Payment amount remains firm throughout the Initial Term.
- 1.67 Supplemental Documents** – With the exception of software, end-user and click-wrap agreements, Contractor's Supplemental Documents are the only authorized documents under this Master Agreement and are attached hereto as Attachments.
- 1.68 Supplies** - Consumable items that gets used up or are discarded once used, such as ink cartridges.
- 1.69 Third Party** – A person or entity that may be directly involved, but is not a principal to an arrangement, contract, deal, lawsuit, or transaction.
- 1.70 Total Monthly Payment** - The Device portion of the payment, as well as any Service, Supplies or maintenance, and less any applicable taxes.
- 1.71 Useful Life** - Period during which a Device is expected to be usable for the purpose in which it was manufactured.

II. Parties and Term of the Master Agreement

- 2.1 Parties.** This Master Agreement is entered into by and between the State of Colorado, acting by and through the Department of Personnel & Administration, State Purchasing &

Contracts Office (hereinafter called the “Lead State”), and Kyocera Document Solutions America, Inc. (hereinafter called “Contractor”), for the procurement of A3 MFD’s, A4 MFD’s, Single-function Printers, Large/Wide Format Equipment, Software, Consumable Supplies, Managed Print Services, Software Related Services (including cloud-based offerings and web-based fleet management tools), and Specialty Printers as approved per this Master Agreement, for the benefit of Participating States, Entity’s, and Purchasing Entities. The Contractor and the Lead State agree to the terms and conditions contained herein.

- 2.2 Initial Term.** The initial term of this Master Agreement is for two (2) years, with an effective date of August 1, 2024. The term of this Master Agreement may be amended beyond the initial term for up to three (3) consecutive one (1) year additional terms, upon the mutual agreement of the Lead State and Contractor, by written Amendment. The total duration of the Master Agreement, including any extensions, shall not exceed five (5) years.
- 2.3 Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

III. Order of Precedence

- 3.1 Order.** This Master Agreement will consist of the following documents:
- 3.1.1** A Participating Entity’s Participating Addendum (“PA”);
 - 3.1.2** NASPO ValuePoint Master Agreement, including all Exhibits;
 - 3.1.3** An Order issued against the Master Agreement;
 - 3.1.4** The Solicitation, RFP-NP-23-001, Multi-Function Devices and Related Software, Services and Cloud Solutions;
 - 3.1.5** Contractor’s response to the Solicitation, as revised (if permitted) and accepted by the Lead State; and
 - 3.1.6** Contractor’s Supplemental Documents, which are included as Attachments.
- 3.2 Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- 3.3 Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement, nor will it include Products and Services not awarded under the Master Agreement.

IV. Participants and Scope

- 4.1 Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified,

supplemented or amended by a Participating Addendum, subject to **section III**. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.

- 4.3 Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- 4.4 Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.
- 4.6 Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- 4.8 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be

responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

- 4.9 Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.
- 4.10 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

- 5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in **section V** are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 NASPO ValuePoint Fee. Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.1.1 Contractor will report on all Usage Based Equipment sales, and on Usage Based or Life Cycle Service and Supply sales. This method will no longer require the Contractor to capture the actual Service and Supply revenues that are billed to the customer each month.

5.2.1.2 Industry research has shown close to a 1:1 ratio between sales price on a piece of Equipment and the actual amount of Service and Supply costs required to operate that Equipment over its Useful Life. Therefore, to simplify the reporting process and remove the burden to capture the actual Service and Supply costs, the Contractor may report as follows:

5.2.1.2.1 Purchased Equipment: Contractor shall report the actual amount invoiced (less any taxes) for all Equipment sold under the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as "Life Cycle Service and Supplies," or an actual amount and identified as "Usage Based Service and Supplies," providing the customer elects to enter into a Maintenance Agreement. Thus, in the Contractor's Detailed Sales Report, for each item sold, there will be two-line items: one for the piece of Equipment, and one for the Life Cycle or Usage Based Service and Supplies. The amount reflected for the Life Cycle Service and Supplies must be equal to the amount of the Equipment.

5.2.1.2.2 Lease and Rental Equipment: Contractor may report sales according to the Purchased Equipment methodology described above, or they may report the actual amount invoiced (less any taxes) for the lease or rental during the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as “Life Cycle Service and Supplies,” or an actual amount and identified as “Usage Based Service and Supplies.” Thus, in the Contractor’s Detailed Sales Report, for each item leased or rented, there will be two-line items: one for the invoice amount to the customer for the Equipment, and one for the Life Cycle or Usage Based Service and Supplies. The amount reflected for the Life Cycle Service and Supplies must be equal to the amount of the invoiced Equipment.

5.2.2 State Imposed Fees. Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 Sales Data Reporting. In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum (“Sales Data”). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

5.3.2 Summary Sales Data. “Summary Sales Data” is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.

5.3.3 Detailed Sales Data. “Detailed Sales Data” is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report

Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

5.3.4 Sales Data Crosswalks. Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data (“Crosswalks”). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor’s part number or SKU for each Product in Contractor’s catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor’s customer lists and product catalog change.

5.3.5 Executive Summary. Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor’s contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.

5.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor’s website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is

executed with NASPO ValuePoint.

5.4.5 Most Favored Customer. Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

5.5 Cancellation. In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than [two years] after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

5.6 Canadian Participation. Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

5.7 Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

6.1 Pricing. The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed ("ceiling") price to any Purchasing Entity.

6.1.1 MSRP/List Price discount percentages must be guaranteed throughout the term of the Master Agreement, including any renewal terms, however; Contractor may increase its discount percentage at any time. The Lead State must be notified of any such discount percentage increase, and provided with a copy of the new Price List(s).

6.1.2 With the exception of Group C and Sub-Group C1 and C2 Devices, pricing must include all shipping, delivery, and installation costs associated with the Products. Excess installation charges however, may be billable. Refer to **section IV.E.5** of Exhibit A, Statement of Work, for more information.

6.1.3 Price Lists received after the 1st day of the new quarter may not be approved for up to thirty (30) days following submission. In addition, errors in Contractor Price

Lists may delay the approval process further.

- 6.1.4 Contractor may update their lease and rental rates once per quarter by providing the Lead State with documentation regarding said rate changes. Updates to lease and rental rates will not be permitted until 8/1/2025.
- 6.1.5 Pricing shall remain firm during the first twelve (12) months of the Master Agreement (e.g. 8/1/2024 – 7/31/2025). Contractor may then update their pricing **once per calendar year**. All requested price increases must be sent to the Lead State and include documentation from Contractor which provides a detailed explanation for the increase. While there will not be any restrictions regarding direct and indirect cost increases, it will be at the Lead State's sole discretion to determine if the requested increase has a direct correlation to the Deliverables being offered under the Master Agreement. Price increases shall be allowed for all Products and all Services, including rate and fee structures on maintenance plans.
- 6.1.6 All approved Price Lists will be submitted by the Lead State to NASPO ValuePoint. Contractor shall then update all applicable websites with the new Price Lists after the NASPO ValuePoint website has been updated. Contractor is not permitted to send Price List updates directly to NASPO ValuePoint.
- 6.1.7 All inclusive Cost Per Copy (CPC) programs may be offered upon request by the Participating State or Entity, but pricing must not exceed Master Agreement pricing. Contractor must provide the Participating State or Entity with their pricing breakdown which enables the Participating State or Entity to easily compare the pricing in the CPC structure against the pricing in the Master Agreement.
- 6.1.8 Contractor may offer state-wide promotional discounts, customer location specific discounts, bulk discounts, or spot discounts. Contractor must notify the Participating State or Entity of special state-wide promotional discounts.
- 6.1.9 No retroactive adjustments to prices or rates will be allowed.

6.2 Payment. Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.

6.3 Leasing or Alternative Financing Methods. The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. **Exhibit A, Statement of Work**, contains Leasing and Rental provisions; however, it shall be at the discretion of each Participating State or Entity to accept these terms, reject these terms, or further negotiate the terms with the Contractor, as long as those negotiations don't fall outside the original scope of the RFP or the Master Agreement.

***For example:** The maximum lease or rental term on Group A Devices is 60 months; Contractor is not permitted to offer a lease term in excess of this.*

VII. Ordering

7.1 Order Numbers. Purchase Order numbers must be clearly shown on all

acknowledgments, packing slips, invoices, and on all correspondence.

- 7.2 Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.
- 7.3 Applicable Rules.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- 7.4 Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
- 7.5.1** Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.
- 7.5.2** Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
- 7.5.3** Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- 7.5.4** Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement’s terms.
- 7.5.5** Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.
- 7.6 Ordering and Invoicing Specifications.** At the discretion of the Participating State or Entity, all Orders pursuant to this Master Agreement, may contain the following:
- 7.6.1** Name of Purchasing Entity;
- 7.6.2** The name, phone number, and address of Purchasing Entity representative;
- 7.6.3** Order date;
- 7.6.4** Description of the Product and/or Service ordered;
- 7.6.5** Model number;

- 7.6.6** Price;
- 7.6.7** The Master Agreement number; and
- 7.6.8** Any additional information required by the Participating State or Entity.
- 7.7** Contractor shall have the ability to accept procurement credit cards, and will not assess any additional charges or fees for processing payments via this method.
- 7.8** At the discretion of the Participating State or Entity, Contractor shall have the ability to provide a centralized billing option.
- 7.9** Authorized Dealers shall have the ability to invoice a Purchasing Entity directly, unless otherwise specified by a Participating State or Entity.
- 7.10** With the exception of drop-shipped items, Contractor and/or Authorized Dealers shall not issue an invoice until the Purchasing Entity has confirmed Acceptance, per **section IX**.
- 7.11** Contractor and/or Authorized Dealers may charge the Purchasing Entity a re-stocking fee for any Products that are not accepted. The amount of the fee shall be the lesser of 10% of the purchase price, or \$200.00, unless otherwise specified in a Participating Addendum.
- 7.12** Contractor and/or Authorized Dealers may estimate meter reads if a Purchasing Entity fails to submit the required information within the specified time-frame.
- 7.13** All software Orders shall reference the Manufacturer's most recent release or version of the Product, unless the Purchasing Entity specifically requests a different version.
- 7.14** Contractor, Third-Party leasing companies, and/or Authorized Dealers may bill property tax separately or as otherwise indicated in a Participating Addendum or an Order.
- 7.15** Contractor and/or Authorized Dealers shall have a process in place for resolving disputed invoices, including escalation procedures. In addition, Contractor and/or Authorized Dealers shall have a process in place for issuing refunds or credits due to invoicing errors, as well as over-payments and Product returns.
- 7.16** Internet-based Portal and Electronic Catalogs. If Contractor provides the ability to place an Order through an internet-based portal or electronic catalog, then Contractor shall maintain all necessary hardware, software, backup-capacity and network connections required to operate that internet-based portal or electronic catalog. In addition, Contractor shall adhere to the following requirements:
 - 7.16.1** The internet-based portal or electronic catalog shall clearly designate that the Products are part of the NASPO ValuePoint Master Agreement, and shall link to the Participating State or Entity's designated web location;
 - 7.16.2** All Environmentally Preferable Products (EPP) shall be clearly listed;
 - 7.16.3** If Contractor's electronic catalog will either be hosted on or accessed through the Participating State's eCommerce system, then Contractor shall comply with all policies, procedures and directions from the Participating State or Entity in relation to hosting its catalog on or making its catalog accessible through that system;
 - 7.16.4** All information made available through the Participating State or Entity's eCommerce system is accurate and complies with the Master Agreement and the Participating Addendum; and
 - 7.16.5** Paper catalogs or other digital media catalogs must be supplied to the Participating

State or Entity upon request.

- 7.17 Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- 7.18 Substitutions.** If an ordered Product is out-of-stock, Contractor shall notify the Purchasing Entity and request approval before substituting for the out-of-stock item. Contractor's request to substitute shall explain how the substituted Product compares with the out-of-stock item. Any substitute Product offered must be on the Contractor's Master Agreement Price List.
- 7.19 Contract Provisions for Orders Utilizing Federal Funds.** Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.
- 7.20 Supplemental Documents.** All Attachments to this Master Agreement have been reviewed and negotiated by the Lead State only to the extent that they comply with the terms and conditions of RFP-NP-23-001 as well as this Master Agreement. Participating States and Entities are still advised however, to review each Supplemental Document and negotiate the terms and conditions further with Contractor if necessary. It shall be at the discretion of Contractor and Purchasing Entity to determine which Supplemental Documents are appropriate for each Order type. With the exception of End User License Agreements (EULA's), clickwrap agreements, and any third party software agreements, which have not been reviewed or negotiated by the Lead State, nor are they attached to this Master Agreement, only the Supplemental Documents attached to this Master Agreement are permitted to be used for any Order placed.

VIII. Shipping and Delivery

- 8.1 Shipping Terms.** All Products must be shipped F.O.B. destination, standard freight pre-paid by the Contractor, to the Purchasing Entity's specified location, unless otherwise indicated in a Participating Addendum.
 - 8.1.1** Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and Acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.
- 8.2 Available Products.** Devices that are in-stock or otherwise not subject to supply-chain shortages or issues, shall be delivered within thirty (30) calendar days after receipt of Order, unless otherwise specified by the Purchasing Entity.
- 8.3 Required Updates.** Contractor shall provide a minimum of semi-monthly updates to the Purchasing Entity regarding the status of all Devices that are, or will be expected to go, on backorder.
- 8.4 Software Installation.** Software related to the Device must be installed within five (5) Business Days of the Device installation, or as otherwise stated in an Order.
- 8.5 Delivery Days and Receiving Hours.** All deliveries shall be made during Normal Business

Hours, which may vary for each Purchasing Entity of each Participating State. The Purchasing Entity shall not be responsible for any additional charges should the Contractor fail to observe specific delivery days and receiving hours. The delivery days and delivery hours shall be established by each individual Purchasing Entity upon Order placement.

- 8.6 Inside Deliveries.** All deliveries, with the exception of drop-shipped or desktop Devices, shall be made to the interior location specified by the Purchasing Entity. Specific delivery instructions will be noted on the Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.
- 8.7 Packaging.** Products shall be packaged and labeled so as to satisfy all legal and commercial requirements applicable for use by any Purchasing Entity, and shall include, without limitation and if applicable, OSHA material safety data sheets, and shall conform to all statements made on the label. Packages that cannot be clearly identified may be refused and/or returned at no cost to the Purchasing Entity.

IX. Inspection and Acceptance

- 9.1 Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 Applicability.** Unless otherwise specified in the Participating Addendum, or ordering document, the terms of this **section IX** will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3** With the exception of drop-shipped Devices, Purchasing Entity shall confirm delivery, installation and Acceptance of all Devices covered by each purchase, lease, or rental Order, by signing a Delivery and Acceptance Certificate (D&A), as referenced in **Exhibit B, Sample D&A Certificate**, which shows Acceptance of the Device(s) and allows Contractor to invoice for the Device(s).
- 9.4** Purchasing Entity agrees to sign and return the D&A to Contractor (which, at mutual agreement, may be done electronically) within five (5) Business Days after any Device is installed, or as otherwise stated in a Participating Addendum.
- 9.5** Failure to sign the D&A or reject the Device(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity; however, it does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) defects subsequently revealed when Devices are put to use. Acceptance of such Devices may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor shall be liable for any resulting expense incurred by the Purchasing Entity in relation to the preparation and shipping of Devices(s) rejected and returned, or for which Acceptance is revoked.
- 9.6 Inspection.** All Devices are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.
- 9.6.1** Devices that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material

(nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.

9.6.2 Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Device rejected and returned, or for which Acceptance is revoked.

9.7 Failure to Conform. If any Services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the Services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of Services performed.

9.8 Acceptance Testing. Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Device meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.

9.8.1 The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Device is delivered or, if installed by Contractor, the day after the Device is installed and Contractor certifies that the Device is ready for Acceptance Testing.

9.8.2 If the Device does not meet the standard of performance or specifications during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.

9.8.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Device still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Device from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.

9.8.4 Contractor shall pay all costs related to the preparation and shipping of Device returned pursuant to the section.

9.8.5 No Device will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

10.1 Applicability. Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this **section X** will apply.

10.2 The warranty period shall begin upon Acceptance of the Device, and shall be for a minimum of ninety (90) days for purchase, lease and rental Devices. This warranty shall be extended to all Devices acquired under the Master Agreement, including Remanufactured and/or Refurbished Devices.

10.3 Devices that are sold under the resulting Master Agreement will come with the standard features as published on the Manufacturers website, and will not deviate from the stated specifications.

- 10.4** Devices shall be in good working order, free from any defects in material and workmanship, and fit for the ordinary purposes they are intended to serve.
- 10.5** If defects are identified, per mutual agreement of Contractor and the Purchasing Entity, Contractor obligations shall be limited solely to the repair or replacement of Devices proven to be defective upon inspection.
- 10.6** Replacement of Devices shall be on a like-for-like basis and shall be at no cost to the Purchasing Entity.
- 10.7** Repair of defective parts and/or Devices shall be at no cost to the Purchasing Entity.
- 10.8** Upon significant failure of a Device, the warranty period shall commence again for a minimum of ninety (90) days. Significant failure shall be determined by the Participating State.
- 10.9** Contractor warranty obligations shall not apply if:
 - 10.9.1** The Device is installed, wired, modified, altered, or serviced by anyone other than Contractor and/or their Authorized Dealer;
 - 10.9.2** If a defective or non-authorized Accessory, Supply, software, or part is attached to, or used in the Device; and
 - 10.9.3** The Device is relocated to any place where Contractor Services are not available.
- 10.10** Contractor agrees to perform its Services in a professional manner, consistent with applicable industry standards.
- 10.11** It will be at the discretion of each Participating State or Entity to negotiate additional warranty requirements with the Contractor.
- 10.12 Lemon Clause**
 - 10.12.1** This clause shall apply to all Devices that are purchased, leased, or rented under the Contractor's Master Agreement.
 - 10.12.2** This clause shall not apply if Supplies are used in the Devices that were not manufactured, provided, or authorized by the Contractor.
 - 10.12.3** The application period is thirty-six (36) months from the date of Acceptance.
 - 10.12.4** This clause shall take precedence over any other warranty or Services clauses associated with the Contractor's Master Agreement, or as specified by a Participating State or Entity in their Participating Addendum.
 - 10.12.5** A Purchasing Entity must maintain an uninterrupted Maintenance Agreement on all purchased Devices in order for this clause to apply past the initial ninety (90) day warranty.
 - 10.12.6** Any Device that fails (except due to operator error) to function in accordance with the Manufacturer's published performance specifications, four (4) times in any four (4) week period and/or is subject to recurring related problems, shall be replaced with a new Device that meets or exceeds the requirements of the original Device, at no cost to the Purchasing Entity.
- 10.13 Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing

party, reasonable attorneys' fees and costs.

XI. Equipment Title

11.1 Conveyance of Title. Contractor shall have exclusive title to the Devices being delivered and the Devices shall be free and clear of all liens, encumbrances, and security interests. Title to the Device shall only pass to the Purchasing Entity upon:

11.1.1 Purchasing Entity up-front purchase of the Device;

11.1.2 Purchasing Entity exercising the purchase option at the end of an FMV Lease;

11.1.3 Expiration of a Purchasing Entity's Capital Lease; or

11.1.4 Purchasing Entity has secured Third Party financing and payment is being made directly to the Contractor by the Purchasing Entity.

11.2 Embedded Software. Transfer of title to the Device must include an irrevocable and perpetual license to use any Embedded Software in the Device. If Purchasing Entity subsequently transfers title of the Device to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Device title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

11.3 License of Pre-Existing Intellectual Property. Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

12.1 General Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.

12.2 Intellectual Property Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").

12.2.1 The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

12.2.1.1 provided by the Contractor or the Contractor's subsidiaries or affiliates;

12.2.1.2 specified by the Contractor to work with the Product;

12.2.1.3 reasonably required to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

12.2.1.4 reasonably expected to be used in combination with the Product, system or method.

12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

12.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

12.2.4 Unless otherwise set forth herein, **section 12.2** is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

13.1 Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option; result in termination of its Participating Addendum.

13.2 Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

13.2.1 Commercial General Liability covering premises operations, Independent Contractors, Products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence, \$2 million general aggregate, \$2 million Products and completed operations aggregate and \$50,000 and any one fire. If any aggregate limit is reduced below \$2,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the Participating Entity, a certificate or other document satisfactory to the Participating Entity, showing compliance with this provision.

- 13.2.2 Cyber Liability** covering claims and losses with respect to network, internet (Cloud) or other data disclosure risks (such as data breaches, releases of Confidential Information, unauthorized access/use of information, and identity theft) with minimum limits of not less than \$1,000,000 per claim and \$2,000,000 aggregate.
- 13.2.3** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.2.4 Automobile Liability** covering any auto (including owned, hired and non-owned), with a minimum limit of \$1,000,000 each accident combined single limit.
- 13.3** Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that the insurer not revoke them until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Purchasing Entity and Participating Entity by the Contractor.
- 13.4** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that:
 - 13.4.1** Includes the Participating States identified in the Request for Proposal as additional insured's, and;
 - 13.4.2** Provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.
- 13.5** Contractor shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within seven (7) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within fifteen (15) days after any renewal date. These certificates of insurance must expressly indicate compliance with each insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 13.6** Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Order.
- 13.7 Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of

such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

13.8 Participating Entities. Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in **section XIII**, except the endorsement is provided to the applicable Participating State or Participating Entity.

13.9 Furnishing of Certificates. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

13.10 Disclaimer. Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.1.1 The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

14.1.2 Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

14.1.3 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

14.2.1 Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be

exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

14.2.1.1 Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").

14.2.1.2 Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.

14.2.1.3 Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

14.2.2 Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

14.2.2.1 Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

14.2.2.2 Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.

14.2.2.3 Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor

shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

14.2.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

14.2.3 Injunctive Relief. Contractor acknowledges that Contractor's breach of **section 14.2** would cause irreparable injury to the Purchasing Entity that cannot be adequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

14.2.4 Purchasing Entity Law. These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

14.2.5 NASPO ValuePoint. The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

14.2.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.3 Assignment/Subcontracts

14.3.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

14.3.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

14.4 Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

14.5 Independent Contractor. Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other

Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.6 Cancellation. Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

14.7 Force Majeure. Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, acts of war which are beyond that party's reasonable control, pandemics, or epidemics that would negatively impact supply chain distribution. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement. This clause does not absolve Purchasing Entity of their payment obligations for goods or services received. Past due account charges will not accrue until the conclusion of the Force Majeure event, at which point Contractor shall also be expected to resume their Service obligations.

14.8 Defaults and Remedies

14.8.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

14.8.1.1 Nonperformance of contractual requirements;

14.8.1.2 A material breach of any term or condition of this Master Agreement;

14.8.1.3 Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;

14.8.1.4 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) calendar days after the institution or occurrence thereof; or

14.8.1.5 Any default specified in another section of this Master Agreement.

14.8.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this

Master Agreement.

14.8.3 If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

14.8.3.1 Any remedy provided by law;

14.8.3.2 Termination of this Master Agreement and any related Contracts or portions thereof;

14.8.3.3 Assessment of liquidated damages as provided in this Master Agreement;

14.8.3.4 Suspension of Contractor from being able to respond to future bid solicitations; and

14.8.3.5 Suspension of Contractor's performance.

14.8.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

14.9 Waiver of Breach. Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.

14.10 Debarment. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

14.11 No Waiver of Sovereign Immunity

14.11.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense

or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

- 14.11.2** This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.12 Governing Law and Venue

- 14.12.1** The laws of the Lead State shall govern the construction and effect of this Master Agreement. Venue for any administrative or judicial action relating to this Master Agreement shall be in the City and County of Denver, Colorado.
- 14.12.2** The construction and effect of any Participating Addendum or Order against this Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.
- 14.12.3** If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): The Lead State for claims relating to the procurement, evaluation, award, or Contract performance or administration if the Lead State is a party; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

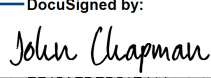
- 14.13 Assignment of Antitrust Rights.** Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

- 14.14 Survivability.** Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS MASTER AGREEMENT

* Individual signing for Contractor hereby swears and affirms that they are authorized to act on Contractor's behalf and acknowledge that the Lead State is relying on their representations to that effect.

CONTRACTOR Kyocera Document Solutions America, Inc. By: Gerry Mahoney Title: V.P. of Direct Sales By:  *Signature Date: 2/22/2024	STATE OF COLORADO Jared S. Polis, Governor Department of Personnel & Administration State Purchasing & Contracts Office Tony Gherardini, Executive Director By:  John Chapman, State Purchasing Manager Date: 2/23/2024
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ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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

STATE CONTROLLER Robert James CPA MBA, JD By:  Nathan Hanley Date: 2/26/2024
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EXHIBIT A – STATEMENT OF WORK

I. Product Overview

- A. Contractor is authorized to provide Products and Services in the following Groups and Sub-Groups:

1. Primary Products and Services:

Group	Products and Services
A	A3 MFD – <i>OEM only</i>
B	A4 MFD – <i>OEM and Non-OEM</i>
D	Single-function Printers – <i>OEM and Non-OEM</i>
E	Large/Wide Format Equipment – <i>OEM and Non-OEM</i>
G	Software – <i>OEM and Non-OEM</i>
H	Supplies (consumable) – <i>OEM and Non-OEM</i>
I	Managed Print Services

2. Ancillary Products and Services:

Sub-Group	Products and Services
G1	Software Related Services
D1	Specialty Printers (3D, receipt, barcode label, card, cable) – <i>OEM and Non-OEM</i>

- B. Contractor may not provide Products that have not been approved by the Lead State, with the exception of NSP items, as referenced in **section II.B.3**.
- C. Contractor may only offer Devices that meet the minimum requirements as outlined in **section II.A**.
- D. Any Products added to the Master Agreement throughout the term of the Contract must be discounted according to the proposed discount for the appropriate Segment or as specified in **section II.A.4**.
- E. Contractor may provide MPS under any Group, regardless of whether they have been awarded that Group. However, MPS may not be provided on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless Contractor has a written agreement with the Manufacturer to do so. Further, Contractor is not permitted to provide (e.g. sell, lease, rent) Devices under any Group they have NOT been awarded.
- F. Contractor may add, remove or modify Products and Services on their Price Lists **once per calendar month**, beginning in September 2024. Modifications do NOT include price increases. Refer to **section 6.1 of the Master Agreement Terms and Conditions** for information regarding pricing.

- G.** Any Device additions must be updated with Buyer's Lab within ninety (90) days of submission to the Lead State. Failure to adhere to this requirement will result in the Device(s) being removed from the Master Agreement Price List(s) until such time they can be verified on Buyer's Lab. In addition, if a Device is acquired by a Purchasing Entity that is not listed on Buyer's Lab within 90 days of it being added to the Price List, then Contractor shall remove the Device from the Purchasing Entity location and substitute it with a Device of equal or greater value, at no charge to the Purchasing Entity. This substituted Device must be on the Price List, AND listed on Buyer's Lab.

II. Master Agreement Deliverables

A. Primary Product and Service Offerings

- 1. Group Categories.** Segments shall be utilized to distinguish the various speeds of the Devices within Groups. The speeds are denoted in Page per Minute (PPM). The Segments for each Group are as follows:

Group A – MFD, A3	
Segment	PPM
2	20 – 30
3	31 – 40
4	41 – 50
5	51 – 60
6	61 – 70
7	71 – 90

Group B – MFD, A4	
Segment	PPM
1	Up to 20
2	21 - 30
3	31 - 40
4	41 - 50
5	51 - 60
6	61+

Group D – Single-function Printers	
Segment	PPM
1	Up to 20
2	21 – 40
3	41 – 60
4	61+

Group E – Large/Wide Format Equipment			
Segment	A1 or D Size PPM*	Width – Office	Width - Industry
Low	0 – 3	24" – 44"	46" and higher
Medium Low	4 - 9	24" – 44"	46" and higher
Medium High	10 - 19	24" – 44"	46" and higher
High	20+	24" – 44"	46" and higher

*Speeds denoted above are based on b&w output

- 2. Device Configurations.** Devices must be equipped, at a minimum, with the following Accessories/capabilities:
 - 2.1 Group A – MFD, A3**
 - a. New power filter;
 - b. Duplex for Segment 3 and above;
 - c. Standard paper drawer(s) equal to or greater than:
 - i) One (1) paper supply for Segment 2;
 - ii) Two (2) paper drawers for Segments 3 and 4; and/or
 - iii) 2,000 sheet paper capacity for Segments 5 and above.
 - iv) Paper size capacity up to 11" x 17"; and
 - v) Bypass paper supply, if applicable for Segment.
 - 2.2 Group B – MFD, A4**
 - a. New power filter;
 - b. Bypass paper supply;
 - c. Standard paper drawer(s) equal to or greater than:
 - i) One (1) paper supply for Segments 1 and 2;
 - ii) Two (2) paper drawers for Segments 3 and 4; and/or
 - iii) 1,000 sheet capacity for Segments 5 and above.
 - d. Paper size capacity up to 8 1/2" x 14"; and
 - e. Envelope adjustment capability.
 - 2.3 Group D – Single-function Printers**
 - a. Must include an inkjet, light emitting diode (LED), or laser print engine;
 - b. Standard paper drawer(s);
 - c. Standard paper capacity; and
 - d. Network connectivity.
 - 2.4 Group E – Large/Wide Format Equipment**
 - a. Hard-Disk drive;
 - b. Network connectivity;
 - c. Touch screen control panel; and
 - d. Automatic Media Selection – a built-on sensor detects the size of the original and the proper media size is then selected.
- 3. Device Standards.** Devices must meet the following requirements:
 - 3.1** Group A Base Units are OEM only.
 - 3.2** Group A and Group B must be EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List.

- 3.3** Group D must be Energy Star compliant or EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List.
- 3.4** Group E must be Energy Star compliant and registered within one (1) year of being added to the Master Agreement Price List.
- 3.5** If Contractor Devices fail to meet the EPEAT Bronze Standard, or be Energy Star compliant (applicable to Group D and E Devices only) within one (1) year, then they will be removed from the Price List. If said Devices have already been placed at a Purchasing Entity's location, then Contractor must replace the Devices with a comparable, qualified model, at no cost to the Purchasing Entity.
- 3.6** All Devices must be Newly Manufactured, current, Remanufactured, or Refurbished, except as specified in a Participating Addendum. Discontinued Devices are not permitted to be offered under the Master Agreement.
- 3.7** Devices, when installed, and if available, must be set-up to receive automatic software updates and patches.
- 3.8** Device specifications must be published on the Contractor website.
- 3.9** MSRP must not exceed what is listed with Buyers Laboratory Inc., or List Price must not exceed what is published on the Manufacturer's website.
- 3.10** Devices must maintain a PPM speed, according to Segment classification.
- 3.11** Devices must be compatible with using recycled paper, up to and including, 100% Post-Consumer Waste (PCW) paper. Contractor may not fault the use of recycled paper for Device failures, as long as the recycled paper in use meets the standard paper specifications (e.g., multi-purpose, copy, or laser paper).

4. Device Exceptions

- 4.1** Group B, Group D, Sub-Group D1, and Group E will not be restricted to OEM, and do not have to be Private Labeled.
- 4.2** Digital Duplicators may be offered by Contractor under Group A, and must be priced based on the minimum discount offered in the Segment to which they most closely relate.
- 4.3** Under Group E, Contractor may offer Large/Wide Format Equipment that accommodates all paper sizes. Pricing shall be based on the discount offered for the Segment in which the Device belongs.

5. Accessories

- 5.1** Contractor shall provide OEM and/or Third Party compatible Accessories that compliment or enhance the features of the Device.
- 5.2** Contractor may also maintain a separate price list for Accessories for Base Units that have been discontinued. The pricing must be based on the same discount offered, per the 'Discount from MSRP' tab, on the applicable Group Price List.

- 5.3** Purchasing Entities may add Accessories to Devices that have been purchased, leased or rented under prior NASPO ValuePoint Master Agreements, as well as via any other means. If the Device is currently being leased or rented, Purchasing Entity must obtain Contractor approval to add Accessories. Purchasing Entities shall also be advised that obtaining Accessories from a Third Party and not the Contractor or their Dealer may void certain warranty or maintenance agreement provisions.

6. Remanufactured and Refurbished Equipment

- 6.1** Contractor may offer Remanufactured and/or Refurbished Equipment under any Group.
- 6.2** Remanufactured and Refurbished Equipment is not required to be EPEAT registered or Energy Star compliant.
- 6.3** Equipment can be acquired via a purchase, lease or rental agreement.
- 6.4** Contractor must notify the Purchasing Entity in writing, when Remanufactured or Refurbished Equipment is being offered.
- 6.5** All Remanufactured or Refurbished Equipment must be clearly labeled as such, and must be certified by the Manufacturer.
- 6.6** Remanufactured Equipment must be priced according to the minimum discount offered for similar Equipment in the same Group and Segment of the resulting Master Agreement.
- 6.7** Refurbished Equipment shall be offered at a minimum discount of 10% less than the lowest priced Device of the Group and Segment to which the Refurbished Equipment belongs.
- 6.8** Service and Supplies for Remanufactured and Refurbished Equipment will receive the same pricing as the Published Price for the Group and Segment to which it belongs.

7. Group G - Software

- 7.1** May be provided by Contractor to enhance the capabilities of the Devices, or may be provided as a standalone option on any owned, leased or rented Device.
- 7.2** Software pricing for unique designs or complex configurations will be quoted on a case by case basis.
- 7.3** Contractor may provide OEM and/or Third Party software.
- 7.4** All software drivers shall be, at a minimum, Windows 10 compliant, and all Devices must have universal software drivers.
- 7.5** Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software, provided such terms do not contradict the language in the Master Agreement, and unless otherwise stated in a Participating Addendum.

7.6 Software Subscriptions

- a. Software pricing shall be inclusive of available software patches and any updates.
- b. Purchasing Entities shall have the option to finance software subscriptions by utilizing the proposed lease and rental rates.
- c. Any new releases of software versions (upgrades) shall be chargeable to the Purchasing Entity; however, Contractor may not charge for the installation of the software upgrade, unless installation is excessive, and charges are agreed to by Purchasing Entity.
- d. License fees and support fees shall remain firm throughout the term of the agreement.
- e. Software subscriptions shall not be subject to automatic renewals, unless otherwise agreed to in an Order.
- f. Contractor shall be responsible for communicating all updates, patches, and new releases/versions to Purchasing Entities.
- g. Contractor shall provide a web-based or toll-free hotline during Normal Business Hours for Purchasing Entities to report software problems or answer software related questions.

8. Group H – Supplies (consumable)

- 8.1** Contractor may offer OEM or compatible Ink and Roll paper for Group E Devices. The Ink and/or paper may be purchased as standalone items, and will not be included as part of a Maintenance Agreement, nor will it be wrapped into the Total Monthly Payment on a lease or rental agreement.
- 8.2** Contractor may offer OEM or compatible consumable Supplies for Groups A, B, D and F, as well as Sub-Group D1. These Supplies may be purchased as standalone items or included as part of a Maintenance Agreement. Under no circumstances may the Supplies, regardless of quantity, be financed, unless they are start-up Supplies. All compatible Supplies must meet OEM standards for performance and quality. The Supplies that may be offered are:
 - a. Toner;
 - b. Staples;
 - c. Ink;
 - d. Print Cartridges;
 - e. Imaging Drums;
 - f. Fuser Kits;
 - g. Cleaning Kits;
 - h. Transfer Kits;
 - i. Waste Toner Bottles;
 - j. Fuser Oil;

- k. Ozone Filters;
- l. Ribbon;
- m. Developer;
- n. Rollers and Pads; and
- o. Maintenance Kits.

8.3 Toner must be free of carcinogenic, mutagenic, or teratogenic substances, and should avoid petroleum inks and inks with high volatile compounds. Toner cartridges should also be remanufactured, contain recycled content, **or** be bio-based.

8.4 Contractor shall provide the Purchasing Entity with a method to return the empty toner cartridges at no additional charge.

9. Service Offerings

9.1 Group I - Managed Print Services

- a. The main components of an MPS engagement are needs assessment, selective or general replacement of Devices, and the Service, parts and Supplies needed to operate the new and/or existing Devices, including existing Third Party Devices as owned by the Purchasing Entity. The Contractor tracks how the Device fleet is being used, the problems associated with that use, and customer satisfaction in regards to meeting statement of work objectives.
- b. In addition to the ongoing monitoring and management of a fleet of Devices, Contractor must also offer project implementation Services, and customer help-desk support and training.
- c. Contractor may also offer hourly Services for consulting purposes, project management, change management plans, and other staffed Services which meet customer needs such as to operate copy centers or complete back file scanning projects.
- d. MPS may also include enterprise content management Services and workflow optimization components, such as scanning and document capture solutions, developing custom applications for smart MFDs that automate paper-intensive document workflows and route scanned pages to document management systems. It can also be extended to include the restructuring of document workflows. Some MPS engagements may be designed to improve document security or to reduce print volumes and power consumption for environmental reasons.
- e. All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, similar to the format referenced in **Attachment 8, Kyocera Sample MPS Statement of Work**, and it must be approved by both parties prior to the initiation of any engagement.
- f. Any MPS engagement shall include the following:

- i) **Free Initial Assessment** (includes, but is not limited to: document workflow; identification of Service, Supplies, and parts; current output; total cost of ownership; employee to Device ratio; preliminary estimated cost savings);
 - ii) **Implementation** (e.g. plan development; hardware and software installation and set-up);
 - iii) **Remote Device Monitoring** (e.g. job accounting; automated meter reads; automated toner replenishment);
 - iv) **End-user Support** (e.g. training; Help Desk); and
 - v) **Account management** (e.g. reporting; invoicing; customer business reviews).
- g. The MPS engagement may include, but is not limited to, the following:
 - i) **Professional Services** (e.g. consulting; project management; record management; network and data security; document workflow consulting; document scanning; back-file conversion; mail-room Services);
 - ii) **Cost-based Assessment** (e.g. asset mapping; end-user survey; detailed recommendation; analysis and plan design);
 - iii) **Change Management;**
 - iv) **Maintenance** (e.g. Preventative Maintenance; Service and repair; on-site break/fix; parts management; warranty management);
 - v) **Ongoing Fleet Management and Optimization** (e.g. consumable spend; continual assessments; green initiatives; add/move/change Services; disaster recovery).
 - vi) **Software and Cloud Solutions** (e.g. mobile print, pull-print, enterprise content management; automated workflow; capture and route; security); and
 - vii) **Cartridge Recycling.**
- h. The free initial assessment shall not constitute a commitment on behalf of the Purchasing Entity. Upon request from a Purchasing Entity, Contractor must provide the assessment with the understanding that the Purchasing Entity is under no obligation to enter into an MPS engagement.
- i. MPS pricing and billing options shall be flexible and the Purchasing Entity will drive the complexity of the solution required with a staged approach to implementation.

9.2 Maintenance Agreements. No Maintenance Agreement shall be subject to automatic renewals.

a. Pricing

- i) Pricing must include a zero base, cost per click rate for b&w and/or color for Groups A, B, and D.

- ii) Pricing for a monthly base charge, a set copy allowance and an overage rate for b&w and/or color may also be provided.
- iii) Pricing for a monthly base charge, a set copy allowance, an overage rate for b&w and/or color, and Supplies may also be provided.
- iv) Flat Rate Fee pricing must be provided that includes all parts, labor, Preventative Maintenance, and Service Calls for Groups A, B, and D. Supplies may or may not be included.
- v) Pricing for ALL Groups may also be provided that includes all parts, labor, Preventative Maintenance (if applicable), and Service Calls, but excludes Supplies.
- vi) Paper and ink for Group E Devices shall not be included as part of the Service and Supply pricing.
- vii) Contractor may increase their Service and Supply pricing to include staples (if applicable to the Device).
- viii) Contractor may provide a flat rate fee without staples, and a flat rate fee with staples. All flat rate fees shall allow for an annual increase of up to 5%.
- ix) Contractor may charge flat rate fees for Services performed on any Accessories.
- x) Service Calls due to misuse, neglect or abuse shall not be covered by the Maintenance Agreement, and Contractor and Authorized Dealers may bill the Purchasing Entity at an hourly rate for Services rendered.
- xi) 11"x17" impressions may be counted as one (1) click or two (2) clicks on Group A and C Devices.
- xii) Contractor may offer a one (1) click rate that encompasses all paper sizes for Group C Devices.
- xiii) A two-sided document shall be counted as two (2) clicks.
- xiv) Contractor must not charge for scans on any MFD.

b. Initial Term

- i) Pricing shall remain firm for the initial term of the Maintenance Agreement (e.g. 12, 24, 36 months etc.). Upon renewal of the Maintenance Agreement, Contractor may adjust the pricing, as long as the pricing does not exceed Master Agreement rates.
- ii) For lease and rental Devices, the total Maintenance Agreement term shall be equal to the term of the lease or rental (e.g. 24, 36, 48 months etc.).
- iii) For purchased Devices, the initial term is determined by the Purchasing Entity, as long as it does not exceed 60 months

c. Renewal Term

If a Purchasing Entity wishes to renew a Maintenance Agreement for Devices

that were acquired under prior Master Agreement (RFP-NP-18-001) or Master Agreement (3091), then **section II.A (9.2)(h)** shall apply.

d. Blended Rates

- i) Contractor must have the ability to blend the Service and Supply costs over a large Device fleet, and the Blended Rate must cover all units in the fleet.
- ii) The Blended Rate must be divided between b&w and color.
- iii) Contractor shall provide the Purchasing Entity with the Blended Rate calculation prior to Order placement.
- iv) Utilizing a Blended Rate shall be at the discretion of the Participating State or Entity, and/or the Purchasing Entity.

e. Manual Meter Reads

- i) Contractor must have an electronic method for collecting meter reads from a Purchasing Entity.
- ii) Meter reads may be submitted via the Contractor's online portal, or through email, or facsimile.
- iii) A Participating State or Entity may also elect, at their discretion, to submit meter reads through the Device.

f. Customer Owned Devices

- i) Purchasing Entities may elect to enter into a Maintenance Agreement for Devices they already own, or Devices they acquire through an up-front purchase.
- ii) The Maintenance Agreement may be priced on a flat rate fee, which shall include parts, labor, Preventative Maintenance (if applicable) and Service calls. Supplies may or may not be included.

g. Lease or Rental Devices

- i) Contractor shall be required to provide a Maintenance Agreement on all Devices that are leased or rented by a Purchasing Entity.
- ii) The Maintenance Agreement shall be priced based on a cost per click rate, or a monthly base charge.

h. Legacy Devices

- i) Upon request from the Purchasing Entity, Contractor may provide a Maintenance Agreement on any Device that is owned or was leased or rented through Master Agreement (RFP-NP-18-001), Master Agreement (3091), or via any other means, providing the following conditions are met:
 - 1) The Device has not reached the end of its Useful Life;
 - 2) The maximum term of the Maintenance Agreement does not exceed the Useful Life of the Device, unless otherwise specified in a Participating Addendum; and

- 3) The Maintenance Agreement adheres to the same requirements as outlined in **sections II.A (9.2)(f)** and **II.A (9.2)(g)**.
- ii) Devices that were previously serviced by another Dealer or Manufacturer must be inspected and repaired, if necessary. Upon mutual agreement, Contractor may charge Purchasing Entity for any parts and/or labor required to bring the Device up to acceptable maintenance levels.
- iii) If the Device has been at the Purchasing Entity's location for less than five (5) years, then Maintenance Agreement pricing shall not exceed the new Master Agreement pricing, until the Purchasing Entity reaches the five (5) year mark. Refer to **section II.A (9.2)(h)(iv)** below for additional information.
- iv) If the Device has been at the Purchasing Entity's location for more than five (5) years, then Maintenance Agreement pricing shall not exceed 120% of the Service and Supply pricing in the new Master Agreement.

B. Ancillary Product and Service Offerings

1. **Sub-Group Categories.** The following Products and Services are sub-groups of the Primary Product and Service Offering Groups.
 - 1.1 **Sub-Group G1 – Software Related Services.** This is a sub-group of Group G – Software. This sub-group shall include, but not be limited to, the following Services:
 - a. Cloud-based scanning (software as a service, enterprise content management); and
 - b. Industrial Print solutions (back-file conversion, enterprise content management).
 - 1.2 **Sub-Group D1 – Specialty Printers.** This is a sub-group of Group D – Single-Function Printers. Products offered under this sub-group are not restricted to OEM, and may include, but not be limited to, the following:
 - a. Barcode labels;
 - b. High Volume Inkjet;
 - c. 3D Printers;
 - d. Receipt printers;
 - e. Card printers; and
 - f. Cable printers.
2. **Sub-Group Category Discounts.** Products in Sub-Group D1 must be discounted at a minimum of 5% for OEM and a minimum of 2% for Non-OEM, unless such discounts would exceed the discount amount offered for OEM and Non-OEM within Group D.
3. **Open Market Items**
 - 3.1 Contractor may offer Not Specifically Priced (NSP) items that compliment or enhance the Devices and/or Services offered under the Master Agreement. NSP items will **not** include:

- a. Interactive White boards;
- b. Computers, monitors, or other related hardware items;
- c. Fax machines;
- d. Kiosk machines;
- e. Overhead Projectors; and
- f. Cameras.

- 3.2 NSP items may only be acquired through the Contractor or their Authorized Dealer and must be reported quarterly with all other sales under the Master Agreement.
- 3.3 NSP items must be priced at a minimum discount of 15% from MSRP or List Price.
- 3.4 NSP items may be offered to a Purchasing Entity as a stand-alone option, and the maximum allowable amount of all NSP items in a single Order shall be determined by the Participating State or Entity.
- 3.5 It shall be at the discretion of the Participating State or Entity to allow Open Market Items in their Participating Addendum.

4. Emerging Technologies

- 4.1 Upon approval from the Lead State, Contractor may add new, related technology to the resulting Master Agreement.
- 4.2 Technology is not restricted to OEM, nor is it required to be Private Labeled.
- 4.3 Any new technology that a Contractor requests to add to their Price List must contain a full description of the Product, the MSRP and pricing information, and an explanation/justification as to how the Product conforms to the requirements of the RFP and Master Agreement.
- 4.4 Any new technology must be priced according to the lowest discount offered for any Product under the Master Agreement. No discount or a 0% discount does not qualify as a “lowest” discount.

III. Purchase, Lease and Rental Programs

A. Acquisition Methods. Contractor may offer the following:

Financial Vehicle	Standard Terms Offered
Purchase	N/A
Fair Market Value Lease	12,18, 24, 36, 48 and 60 months
Capital Lease	
Straight Lease	
Cancellable Rental	
Short-Term Rental	12 and 18 months

- 1. All Devices on Contractor’s Price List may be purchased, leased or rented, either as a packaged-deal, or stand-alone item.

B. Device Trade-In

1. A Purchasing Entity shall have the option, at the Contractors sole discretion, and based upon Participating State or Entity regulations and laws, and Purchasing Entity policies, to do a Device Trade-In, when placing a purchase, lease or rental Order.
2. The value for the Device Trade-In shall be negotiated by the Purchasing Entity and the Contractor, and shall not include any disposal or shipping fees.

C. Lease and Rental Rates

1. Contractor may elect to include property tax in their lease and rental rates, or they may bill the Purchasing Entity separately for property tax.
2. Once a Purchasing Entity enters into a lease or rental agreement, the lease or rental rate must remain fixed throughout the Initial Lease or Rental Term, regardless of whether the Contractor had increased their lease or rental rates in the Master Agreement Price Lists. If Contractor has decreased their lease or rental rates in their Price Lists, then they may extend that lower rate to the Purchasing Entity.
3. Device Payments for Renewal Terms must never exceed Master Agreement pricing.
4. If a Purchasing Entity enters into a Renewal Term, then the Device Payment will be subject to the lease and rental rates listed in the most recent Price Lists posted on the NASPO ValuePoint website.
5. Contractor may update lease and rental rates on a quarterly basis to allow for changes in the financial market. The rates must be indexed against the US Daily Treasury Yield Curve Rates, or a comparable index, and must be the rate in effect at the end of each calendar quarter.
6. Lease and rental rates must be proposed as a decimal multiplying factor in such a manner that the purchase price of the Device may be multiplied by the lease or rental rate to arrive at the resulting monthly Device Payment. Proposed rates must include the following information:
 - 6.1 The Daily Treasury Yield Curve (or comparable index) Rate;
 - 6.2 The date used for the Daily Treasury Yield Curve (or comparable index) Rate;
 - a. The fixed margin for each lease and rental type being proposed, and how that margin is determined; and
 - b. The methodology for determining the 48 month base rate if a 4-year rate is not published.
 - 6.3 Contractor must offer Coterminous lease and rental rates to any Purchasing Entity wishing to add Products to an existing lease or rental agreement. The calculation for the Coterminous lease and rental rates must adhere to the following methodology:

***For example:** A customer enters into a 36 month FMV Lease, and 12 months into that lease, they decide to add an Accessory to the Base Unit. The Contractor shall divide the 36 month cumulative Device Payment by 24 months to arrive at the monthly Coterminous payment for that Accessory. That payment will then be added to the existing Device Payment. The new Total Monthly Payment must*

then be disclosed to the Purchasing Entity.

D. Leasing and Rental Overview

1. All lease and rental programs shall remain with the Contractor or Authorized Dealer through an in-house leasing program, or through the financial branch or subsidiary of Contractor. In addition, Contractor and their Authorized Dealer may use Third Party leasing companies, however; all Third Party leasing company documents must be reviewed and approved by the Lead State and said documents must be incorporated into the Master Agreement before any Participating State, Participating Entity, or Purchasing Entity can use them. It will be at the discretion of the Participating State, Participating Entity, or the Purchasing Entity as to whether billing shall be in the name of Contractor, Authorized Dealer or Third Party leasing company. All contractual obligations however, will still be the responsibility of the Contractor.
2. A Purchasing Entity may lease or rent Devices pursuant to the terms and conditions in this Master Agreement, and according to the requirements listed in their states' Participating Addendum.
3. Lease and rental agreements shall not be subject to automatic renewals. This is non-negotiable in any Participating Addendum or Order.
4. A lease or rental agreement issued prior to the termination of the Master Agreement and Participating Addendum, shall survive the termination of the Master Agreement and the Participating Addendum, and all terms and conditions of the Master Agreement and Participating Addendum shall continue to apply.
5. 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 Device at the end of the Initial Lease or Rental Term, or at the end of the Renewal Lease or Rental Term, or the Contractor may pick the Device up, without any further financial obligations to the Purchasing Entity.
6. Device pickups must be performed within thirty (30) calendar days of the end of the Initial or Renewal Term.
7. Device returns must be performed within thirty (30) calendar days after the Contractor or Authorized Dealer provides return shipping instructions to the Purchasing Entity.
8. If Purchasing Entity fails to make Device available for pickup after thirty (30) calendar days, then Contractor or Authorized Dealer may bill the Purchasing Entity, at the total monthly payment amount for such Device, for each month that the Device remains at Purchasing Entity's location. Contractor or Authorized Dealer is not permitted to bill the Purchasing Entity for failure of Contractor or Authorized Dealer to pickup the Device when Purchasing Entity has made it available.
9. Contractor and/or Authorized Dealers shall be responsible for all Device pickup and return costs.
10. The maximum term on any Initial Lease or Rental Term shall be 60 months.
11. The length of a Renewal Term shall be at the discretion of the Participating State or Entity,

but at no time shall the Renewal Term exceed the Useful Life of the Device.

- 12.** All Renewal Terms shall be billed on a monthly basis.
- 13.** If a Purchasing Entity elects to enter into a month to month Renewal Term, they may cancel at anytime, without penalty, by giving Contractor thirty (30) days advance, written notice.
- 14.** If a Purchasing Entity elects to enter into a 12-month Renewal Term, the Renewal Term will automatically terminate at the end of the 12-month period, unless the Purchasing Entity has notified the Contractor that they wish to enter into a new Renewal Term. If a Purchasing Entity wants to cancel their 12-month Renewal Term early, then early termination fees shall apply, and will be equivalent to the remaining stream of Equipment payments only (i.e. less maintenance).

E. Leasing and Rental Options

1. FMV Lease

- 1.1** A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48, or 60 months for Group A, Group B, Group D, Sub-Group D1, and Group E, based upon the Contractor's available options, and at the discretion of the Participating State or Entity.
- 1.2** Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
 - a.** Exercise their purchase option;
 - b.** Renew the lease on a month to month basis, or a 12 month basis, at the discretion of the Participating State or Entity; or
 - c.** Return the Device to the Contractor, or have the Contractor pick the Device up.

2. Capital Lease (\$1 Buyout Lease)

- 2.1** A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48, or 60 months for Group A, Group B, Group D, Sub-Group D1, and Group E, based upon the Contractor's available options, and at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to include
- 2.2** Upon the expiration of the Initial Lease Term, the Contractor shall provide title to the Device to the Purchasing Entity, or as otherwise determined in a Participating Addendum or an Order, and the Purchasing Entity shall not be subject to any additional expense in order to assume possession of the Device.

3. Straight Lease

- 3.1** A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48, or 60 months for Group A, Group B, Group D, Sub-Group D1, and Group E, based upon the Contractor's available options, and at the discretion of the Participating State or Entity.

- 3.2** Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
 - a.** Renew the lease on a month to month basis, or a 12 month basis, at the discretion of the Participating State or Entity; or
 - b.** Return the Device to the Contractor, or have the Contractor pick the Device up.

4. Cancellable Rental

- 4.1** A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48, or 60 months for Group A, Group B, Group D, Sub-Group D1, and Group E, based upon the Contractor's available options, and at the discretion of the Participating State or Entity.
- 4.2** A Purchasing Entity shall have the option to cancel the rental at anytime throughout the term of the agreement, by providing the Contractor with a thirty (30) day prior written notice.
- 4.3** Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
 - a.** Renew the lease on a month to month basis, or a 12 month basis, at the discretion of the Participating State or Entity; or
 - b.** Return the Device to the Contractor, or have the Contractor pick the Device up.

5. Short-Term Rental

- 5.1** A Purchasing Entity may have the option to enter into an Initial Rental Term of 12 or 18 months, based upon the Contractor's available options, and at the discretion of the Participating State or Entity.
- 5.2** Upon the expiration of the Initial Rental Term, a Purchasing Entity shall return the Device to the Contractor, or have the Contractor pick the Device up.
- 5.3** Short-Term Rentals are not permitted to be renewed beyond the Initial Rental Term.

F. Leasing and Rental Terms and Conditions

1. Possession and Return of Lease and Rental Devices

- 1.1** The Purchasing Entity is responsible for risk of loss to the Devices while the Devices are in Purchasing Entity's possession. Purchasing Entity shall be relieved of all risks of loss or damage to the Devices during periods of transportation and de-installation.
- 1.2** Contractor or Authorized Dealer must notify a Purchasing Entity, in writing, of their End of Term (EOT) options at least sixty (60) days prior to the end of any Initial Lease or Rental Term. Such notification may include, but not be limited to, the following:
 - a.** Any acquisition or return options, based on the type of lease or rental agreement;

- b. Any renewal options, if applicable; and/or
- c. Hard drive removal and surrender cost, if applicable.

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

1.4 If the Purchasing Entity does not exercise the purchase or renewal option, it will immediately make the Device available to Contractor in as good of condition as when Purchasing Entity received it, except for ordinary wear and tear.

- 2. Payment.** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Device(s), or such later date as Contractor may designate. The remaining payments will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order.
- 3. Buyout to Keep Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Keep option on an FMV or Capital Lease. A Buyout to Keep option is not available on a Straight Lease.
- 4. Buyout to Return Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Return option on an FMV or Straight Lease, and return the Device to the Contractor in good working condition (ordinary wear and tear excepted).
- 5. Device Upgrade or Downgrade.** A Purchasing Entity may do a Device Upgrade or Downgrade on a lease or rental at anytime throughout the term of the lease or rental agreement. The Purchasing Entity and the Contractor shall negotiate the price of the Device Upgrade or Downgrade, but at no time shall the total cost of the Device Upgrade or Downgrade be less than the remaining stream of Device Payments.
- 6. Non-appropriation of Funds.** The continuation of any lease or rental agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. The Purchasing Entity may terminate any such lease or rental agreement, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Purchasing Entity's funding sources are not available.
- 7. Assignment.** Purchasing Entity has no right to sell, transfer, encumber, sublet or assign the Device or any lease or rental agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld).
 - 7.1** Purchasing Entity agrees that Contractor may not sell or assign any portion of Contractor's interests in the Device and/or these Lease or Rental Terms or any Order for leases or rentals, without notice to Purchasing Entity even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will

have such rights as Contractor assigns to them, but none of Contractor's obligations (Contractor will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Purchasing Entity may have against Contractor.

- 7.2** No assignment to an Assignee will release Contractor from any obligations Contractor may have to Purchasing Entity.

8. Early Termination Charges

- 8.1** Except in the case of Non-appropriation of funds, FMV, \$1 Buyout, Straight Leases and Short-term Rentals shall be subject to an early termination charge, and shall involve the return of the Device (in good working condition; ordinary wear and tear excepted) by the Purchasing Entity to the Contractor. With respect to the Device, the termination charge shall not exceed the balance of remaining Device Payments (including any current and past due amounts), and with respect to Service or maintenance obligations, the termination charge shall not exceed four (4) months of the Service and Supply base charge or twenty-five percent (25%) of the remaining Maintenance Agreement term, whichever is less.

- 8.2** Cancellable Rentals shall not exceed a termination charge of three (3) months of Total Monthly Payments, or as otherwise agreed to by the Participating State or Entity.

9. Default. Each of the following is a "default" under these lease and rental terms:

- 9.1** Purchasing Entity fails to pay any payment or any other amount within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
- 9.2** Any representation or warranty made by Purchasing Entity in these lease or rental terms is false or incorrect and Purchasing Entity does not perform any of its obligations under these lease or rental terms, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after Contractor has notified Purchasing Entity;
- 9.3** Purchasing Entity or any guarantor makes an assignment for the benefit of creditors;
- 9.4** Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
- 9.5** Purchasing Entity stops doing business as a going concern or transfers all or substantially all of Purchasing Entity's assets.

10. Remedies. If a Purchasing Entity defaults on a rental or lease agreement, then Contractor, in addition to, or in lieu of, the remedies set forth in the Master Agreement, and Participating Addendum, may do one or more of the following, at the discretion of the Participating State or Entity:

- 10.1** Cancel or terminate any or all Orders, and/or any or all other agreements that Contractor has entered into with Purchasing Entity;

10.2 Require Purchasing Entity to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to:

- a. All past due payments and all other amounts payable under the lease or rental agreement;
- b. All unpaid payments for the remainder of the lease or rental term, discounted at a rate equal to three percent (3%) per year to the date of default; and
- c. Require Purchasing Entity to deliver the Device to Contractor per mutual arrangements.

IV. Contractor Responsibilities and Tasks

A. Service Requirements

- 1. Technicians.** All technicians must be factory trained by the OEM and certified to Service the Devices.
- 2. Standard Service Levels.** Participating States and/or Entities may negotiate their own Service Level Agreement (SLA) with the Contractor. The SLA, must, at a minimum, adhere to the following requirements:

2.1 End-User Training

- a. Purchasing Entity may request an initial one-hour training session for each Device ordered under the Contract. Contractor shall provide this initial training, free of charge, via one of the following delivery methods: On-site, web-based, or on-line. The delivery method selected for each Device will be at Contractor's sole discretion. Purchasing Entity should be advised that while this initial one-hour of free training shall be provided by Contractor at Purchasing Entity's request, Contractor will not provide substitutions (e.g. free supplies, deeper discounts, etc.) in lieu of this training.
- b. Purchasing Entity may also request an additional one-hour training session for technical support, which shall include network connectivity and print driver installation. This additional training shall be provided via a delivery method mutually agreed upon by Contractor and Purchasing Entity, and at a mutually agreed upon price.
- c. If Purchasing Entity elects to exercise the training option, then Contractor shall provide the training within ten (10) Business Days of Purchasing Entity's request.
- d. Contractor may offer additional on-site, one-hour training sessions for a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity, and mutually agreed upon, prior to Order placement.
- e. Contractor must provide on-site or off-site operational training to designated Purchasing Entity personnel, until the personnel are able to operate the Device independently. Pricing for operational training shall be based on a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity, and mutually agree upon, prior to Order placement.

- f. Contractor shall provide Device literature, user-manuals, and access to on-line resources, if available, at no charge to the Purchasing Entity.
- g. For Groups A, B, D, E, and Sub-Group D1, Contractor shall provide a no charge, toll-free end-user technical support number that Purchasing Entities can utilize for everyday minor troubleshooting (i.e. this does not include network connectivity or print driver installation). A Purchasing Entity must be able to obtain assistance during Normal Business Hours.
- h. Contractor shall provide phone/technical support within two (2) hours of Purchasing Entity's request for assistance, providing such request, and subsequent support, falls within normal business hours.

2.2 Preventative Maintenance. Contractor must perform all Preventative Maintenance Services at the Manufacturer's suggested intervals, or as specified in an Order. Preventative Maintenance shall not be a requirement on desktop Devices.

2.3 Device Performance

- a. Device Downtime shall be computed from the time the Contractor is notified of Device failure until the time in which the Device is fully operational.
- b. Device Downtime due to lack of consumable Supplies is not acceptable.
- c. Contractor must provide daily communication to the Purchasing Entity regarding inoperable Devices, including updates regarding resolution timeframe, and any parts, Accessories, or Devices on back-order.

2.4 Loaner Device. If any Device in Group A or Group B is inoperable for two (2) Business Days, due to Device malfunction, as reasonably determined by Contractor, then Contractor shall provide the Purchasing Entity with:

- a. A loaner Device of similar speed and capabilities until such time as the inoperable Device is now operable; or
- b. At the discretion of the Participating State or Entity, provide the Purchasing Entity with off-site manned production capabilities, at the sole cost to the Contractor, to accomplish the work of the Device that is inoperable.

2.5 Repair Parts

- a. Contractor shall guarantee the availability of repair parts for a minimum of five (5) years after the Purchasing Entity's Acceptance of any Device.
- b. All Device components, spare parts, application software, and ancillary Devices that are supplied under any resulting Master Agreement, must conform to Manufacturer specifications.
- c. Contractor shall be responsible for ensuring that any repair parts are operable and installed in accordance with Manufacturer specifications.
- d. Repair parts may be new, reconditioned, reprocessed or recovered.

2.6 Service Zones

- a. Unless otherwise specified in a Participating Addendum, Contractor shall

adhere to the following Service Call Response Times based on the distance that their Service Base Location is from the Purchasing Entity:

Service Zone	Definition	Response Time
Urban	Within 60 miles	4 - 6 Hours
Rural	60 – 120 miles	1 - 2 Business Days
Remote	120+ miles, or only accessible by plane or by boat	4 – 5 Business Days

- b. Repair or replacement of parts and/or Devices shall occur within four (4) Business Days of Contractor arriving at Purchasing Entity's location, with the following exception:
 - i) If Contractor is drop-shipping a new Device to replace a defective Device, then Purchasing Entity must receive the new Device within three (3) Business Days.
- c. Contractor(s) may charge different rates according to each Service Zone.

2.7 Service Logs

- a. Contractor shall maintain a Service log which describes the maintenance and repair Services provided for each Device.
- b. A no-cost copy of Service logs/reports must be provided to the Purchasing Entity or Participating State or Entity, within five (5) Business Days of the request.

2.8 Device Relocation

- a. Device relocation Services include dismantling, packing, transporting, and re-installing Device.
- b. Contractor may charge for this Service based on the following table:

Service Zone	Distance from current placement of Device	Charge
1	Within the same building	No Charge Allowed*
2	Up to 50 miles from building in which Device is currently placed	Flat Rate Fee, plus Per Mile or Hourly Fee
3	More than 50 miles from building in which Device is currently placed	Flat Rate Fee, plus Per Mile or Hourly Fee

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

- c. Contractor may not charge for any fees incurred due to fuel or tolls.

- d. Moves must be performed within thirty (30) calendar days of the Purchasing Entity request. Request may be verbal or written, but Contractor must confirm the request in writing and provide a date that the move will occur. Written confirmation must be sent to the Purchasing Entity within three (3) Business Days of request. In the event that there will be a delay in these Services, Contractor shall communicate with Purchasing Entity and agree on a mutually beneficial time-frame.
- e. Contractor is required to offer Device relocation services for all lease and rental Equipment.

3. Meter Read Invoicing

- 3.1** In order for Contractor to generate accurate invoices, Purchasing Entities shall provide meter reads within the Contractor's requested time-frame.
- 3.2** Invoices that are generated without receiving the proper meter read information from the Purchasing Entity will not be considered inaccurate.
- 3.3** The Purchasing Entity shall provide written notice of any such alleged invoicing issue and the Contractor will be allowed a thirty (30) day cure period to address any such issue. During the thirty (30) day cure period, the Purchasing Entity will not be assessed any late fees for failure to submit payment by the invoice due date.
- 3.4** Failure on the Contractor's part to maintain accurate invoicing shall result in a \$25.00 per instance credit on the following month's invoice.

4. Reporting

4.1 Service Level Calculations

- a. At the discretion of the Participating State or Entity, Contractor shall produce reports that can be measured against the required SLA components.
- b. The Participating State or Entity shall determine how the reports will be utilized and whether liquidated damages will be assessed for failure to meet the SLA requirements. Any liquidated damages or penalty structure shall be defined in the Participating State or Entity's Participating Addendum.

4.2 Periodic Reporting. Contractor shall provide periodic reporting to all Purchasing Entities upon request. The reports shall be provided on a quarterly basis, or at the discretion of the Participating State or Entity.

- a. The report shall include the following:
 - i) Number of Service Calls placed;
 - ii) Response Time per Device;
 - iii) Dates that Preventative Maintenance was performed, if applicable; and
 - iv) Estimated end of Useful Life per Device, based on current usage.
- b. The report may include, but not be limited to, the following:
 - i) Location of Devices;

- ii) Click usage per Device; and
- iii) EPEAT certification level of each Device.

B. Customer Service

1. **Key Personnel.** Contractor shall ensure that staff has been allocated appropriately to ensure compliance with the resulting Master Agreement and subsequent Participating State or Entity requirements and that the individuals occupying the Key Personnel positions have adequate experience and knowledge with successful implementation and management of a national cooperative contract. Contractor shall provide a single point of contact for the following:
 - 1.1 **Master Agreement Contract Administrator** – shall be the Lead State’s primary contact in regards to Contract negotiations, amendments, Product and Price List updates, and any other information or documentation relating to the Master Agreement;
 - 1.2 **NASPO ValuePoint Reporting Contact** – shall be responsible for submitting quarterly reports and the quarterly Administrative Fee to the appropriate personnel;
 - 1.3 **Master Agreement Marketing Manager** – shall be responsible for marketing the resulting Master Agreement, as well as creating Participating State websites, and ensuring that all uploaded data and content is current; and
 - 1.4 **National Service Manager** – shall be responsible for overseeing the Regional Service Managers, Field Service Technicians, training, and inside Service operations. This position will work with the Lead State Contract Administrator to ensure contractual obligations are met, while providing leadership for the Contractor’s operations, as well as strategic planning of the Service department.
2. **Single Point of Contact.** Contractor shall provide a single point of contact for each Participating State, who will handle any questions regarding the Products provided, as well as pricing, delivery, billing, reporting, status of Orders, customer complaints and escalated issues.
3. **Service and Support Hours.** Contractor must provide full Service and support for Products during Normal Business Hours.
4. **Customer Service Team.** Contractor shall also have a designated customer service team who shall be available by phone (via local or toll free number), fax, or email during Normal Business Hours.
5. **Additional Coverage.** Contractor may offer additional coverage beyond Normal Business Hours for any Device that needs to be serviced. Such coverage shall be billed to the Purchasing Entity at an hourly rate.
6. **Online Access.** Customer service representatives shall have online access to account information and be able to respond to inquiries concerning the status of Orders (shipped or pending), delivery, back-orders, pricing, Product availability, Product information, and account and billing questions.

C. Authorized Dealers

1. Contractor can engage Authorized Dealers to provide Products and/or Services.
2. In the event a Contractor elects to use Authorized Dealers in the performance of the specifications, the Contractor shall serve as the primary Contractor, and shall be fully accountable for assuring that their Authorized Dealers comply with the terms and conditions of the resulting Master Agreement, and any Participating Addendum, and shall be liable in the event Authorized Dealers fail to comply with such terms and conditions.
3. Authorized Dealers shall be expected to stay current with Contractor Products, pricing, Master Agreement, and Participating Addendum requirements, and Contractor shall provide training to all of their Authorized Dealers at least once per calendar year, or as otherwise determined by the Lead State.
4. Authorized Dealers shall have the ability to accept Orders from a Purchasing Entity and invoice them directly, unless otherwise stated in a Participating Addendum.
5. Contractor shall send notice to the Lead State, utilizing **Exhibit C, Authorized Dealer Form** and **Exhibit D, Authorized Dealers by State**, within three (3) calendar days of engaging or removing a Dealer.
6. The Lead State reserves the right to deny the addition of any Authorized Dealer and will provide notification to the Contractor with justification as to why the decision was reached. In addition, it will be at the discretion of each Participating State or Entity as to whether they will utilize the Authorized Dealers as approved by the Lead State. Under no circumstances is a Participating State or Entity permitted to use a Dealer that has not been approved by the Lead State.
7. If an Authorized Dealer is performing unsatisfactorily, or is not in compliance with the Master Agreement, then it shall be at the discretion of the Lead State, upon recommendation from the Participating State, to:
 - 7.1 Require the Dealer to attend remedial training with either the Contractor or the Lead State or;
 - 7.2 Remove the Dealer from the Contract, or in the case of multiple branch locations in one state, or multiple states, remove them as a Dealer from the location in which they are not in compliance.

D. Device Demonstration Requirements

1. Contractor may offer trial or demonstration Devices for Group A, Group B, Group D, Sub-Group D1, and Group E.
2. Trial or demonstration Devices may be new or used; however, no used, Remanufactured, or Refurbished Devices shall be converted to a purchase, lease, or rental.
3. At the discretion of the Participating State or Entity, and upon request by a Purchasing Entity, showroom Devices for Groups A and B may be converted to a purchase, lease, or rental providing the following conditions are met:
 - 3.1 The meter count on Group A and Group B Devices does not exceed 10,000 copies total (i.e. b&w and color combined);
 - 3.2 The Device must be discounted by at least 5% off of the Master Agreement pricing

for that same Device; and

3.3 The Purchasing Entity and the Contractor indicate on the Order that the Device is a showroom model.

4. Any trial or demonstration period shall be free to the Purchasing Entity and shall not exceed thirty (30) calendar days.
5. If Purchasing Entity does not make the demonstration Device available for pickup after thirty (30) calendar days, then Contractor may bill the Purchasing Entity for use of Device for each day that it remains at Purchasing Entity's location. Such rates shall not exceed current market standards.

E. Device Installation Requirements

1. Prior to Order Acceptance, Contractor must advise Purchasing Entity of any specialized installation and site requirements for the delivery and installation of Device. This information should include, but is not limited to, the following:
 - 1.1 Air conditioning;
 - 1.2 Electrical;
 - 1.3 Special grounding;
 - 1.4 Cabling;
 - 1.5 Space;
 - 1.6 Humidity and temperature limits; and
 - 1.7 Other considerations critical to the installation.
2. The Purchasing Entity shall be responsible for furnishing and installing any special wiring or dedicated lines.
3. Network installation shall include configuration of the Device for the proper network protocols, and installation of the appropriate print drivers on up to five (5) computers per Device, or as otherwise specified in a Participating Addendum.
4. If applicable, all Devices must be set-up with Preventative Maintenance notifications turned on, and with the most environmentally responsible defaults enabled, including Energy Star saving settings.
5. Contractor may charge for excessive installation requirements, including rigging, access alterations, and access to non-ground floors via stairs. Any such excessive installation charges must be quoted to the Purchasing Entity prior to the signature of any Order, and shall be based on the actual expenditures of Contractor or Authorized Dealer.
6. Contractor or Authorized Dealers shall affix a label or a decal to the Device at the time of installation which shows the name, address, and telephone number of Contractor or Authorized Dealer responsible for warranty Service of the Device.
7. Contractor shall clean-up and remove all debris and rubbish resulting from their work as required by the Purchasing Entity. Upon completion of the work, the premises shall be left in good repair and in an orderly, neat, clean, and unobstructed condition.

F. Security Requirements

1. Network and Data Security

- 1.1 Devices may be configured to include a variety of data security features. The set-up of such features shall be at the discretion of the Purchasing Entity, and all costs associated with their implementation must be conveyed by Contractor prior to Order placement.
- 1.2 Contractor will not be permitted to download, transfer, or access print data stored on the Device in either hard drive or chip memory. Only system management accessibility will be allowed.
- 1.3 Contractor shall ensure that delivery and performance of all Services shall adhere to the requirements and standards as outlined in each Participating State or Entity's Participating Addendum.

2. Sensitive Information.

Sensitive information that is contained in any Legacy Devices or applications shall be encrypted if practical. In addition, sensitive data will be encrypted in all newly developed applications. Since sensitive information is subjective, it shall be defined by each Participating State or Entity in their Participating Addendum.

3. Data Breach.

Contractor shall have an incident response process that follows National Institute of Standards and Technology (NIST) standards as referenced in the NIST Computer Security Incident Handling Guide, which can be downloaded at <https://www.nist.gov/publications/computer-security-incident-handling-guide>, and it shall include, at a minimum, breach detection, breach notification, and breach response. Further, Contractor shall notify the impacted Purchasing Entity within 72 hours of learning of such breach.

4. Authentication and Access

- 4.1 Any network connected Device must offer authentication for all features via LDAP and/or Windows AD, as well as the ability to disable authentication for any or all features.
- 4.2 Any network connected Device must have the ability to connect via Dynamic Host Configuration Protocol (DHCP) or Static IP address.
- 4.3 The credential information for any remote authentication method may not be maintained within the Device's memory.
- 4.4 Access to the Device's administrative functions must be password protected per the Participating State or Entity requirements, and the default settings must be changed at the time of Device installation.

5. Hard Drive Removal and Surrender

- 5.1 Contractor shall ensure that all hard drive data is cleansed and purged (if capable) from the Device at the end of its Useful Life, or when any hard drive is repossessed by Contractor; or
- 5.2 At the Participating State or Entity's discretion, Contractor shall remove the hard drive from the applicable Device and provide the Purchasing Entity with custody of

the hard drive before the Device is removed from the Purchasing Entity's location, moved to another location, or any other disposition of the Device. The Purchasing Entity shall then be responsible for securely erasing or destroying the hard drive.

- 5.3** If Contractor takes possession of any Device at a Purchasing Entity's location, then they shall also remove any ink, toner, and associated Supplies (drum, fuser, etc.) and dispose of them in accordance with applicable law, as well as environmental, and health considerations, or as otherwise specified in a Participating Addendum.
- 5.4** Hard drive sanitation shall be at no expense to the Purchasing Entity, however; Contractor may charge the Purchasing Entity a fee if the Purchasing Entity elects to keep the hard drive in their possession. Contractor must disclose the price for removal and surrender of the hard drive, prior to Order placement.
- 5.5** If the hard drive is not removable, or the Device does not contain a hard drive, then Contractor must convey this to the Purchasing Entity at the time of Order placement. In the case of a non-removable hard drive, **section IV.I (5.1)** shall apply.
- 5.6** If Contractor is removing another Manufacturer's Device, they are not permitted to remove the hard drive. Only the Manufacturer or their Authorized Dealer shall remove hard drives in their own Devices. Contractor shall work with the Manufacturer to ensure the requirements pursuant to this section are met.

G. Contractor Notices. Contractor shall notify the Lead State, Participating States, Participating Entities and all Purchasing Entities of any recall notices, warranty replacements, safety notices, or any applicable notice regarding the Products being sold. This notice must be received in writing (via postal mail or email) within thirty (30) calendar days of Contractor learning of such issues.

EXHIBIT B – SAMPLE D&A CERTIFICATE

**NASPO VALUEPOINT MASTER AGREEMENT NO.
AND THE STATE OF Insert Name of Participating State PARTICIPATING ADDENDUM NO.
WITH Insert Name of Contractor**

To: Insert Name of Contractor or Authorized Dealer

Pursuant to the provisions of the Master Agreement and Participating Addendum, Purchasing Entity hereby certifies and warrants that (a) all Equipment described in the Order has been delivered and installed; (b) Purchasing Entity has inspected the Equipment, and all such testing as it deems necessary has been performed by Purchasing Entity and/or Contractor to the Satisfaction of Purchasing Entity; and (c) Purchasing Entity accepts the Equipment for all purposes of the Order.

Insert name of Purchasing Entity

By: _____

Title: _____

Date: _____

EXHIBIT C – AUTHORIZED DEALER FORM

Manufacturer Name: _____

(Check one)

- ☐ The Dealer listed below is authorized to provide Products and Services in accordance with the NASPO ValuePoint Multi-Function Devices and Related Software, Services and Cloud Solutions Master Agreement.
- ☐ The Dealer listed below will no longer provide Products and Services under the NASPO ValuePoint Multi-Function Devices and Related Software, Services and Cloud Solutions Master Agreement for the following reason (required):

State(s) Serviced by Dealer:	
Dealer Name:	
Address:	
Phone (include Toll-Free, if available):	
Contact Person(s):	
Email Address:	
FEIN:	

Signed: _____ Date: _____

(Contractor Representative)

Signed: _____ Date: _____

(Authorized Dealer Representative)

(Print First and Last Name of Authorized Dealer Representative)

EXHIBIT D – AUTHORIZED DEALERS BY STATE



Exhibit D -
Authorized Dealers by

ATTACHMENT 1 – KYOCERA MASTER LEASE AGREEMENT TERMS AND CONDITIONS

LESSEE: _____

Master Lease Agreement

This Master Lease Agreement ("Agreement") is dated as of this

_____, 20____, and is by and between

_____, 1111 Old Eagle School Road, Wayne, Pennsylvania 19087 ("Lessor") and the Lessee identified above ("Lessee").

The words "you" and "your" refer to the "Lessee" and the words "we", "us" and "our" refer to the Lessor. Please read your copy of this Agreement carefully and feel free to ask us any questions you may have about it.

Assignee is the Third Party leasing company billing and collecting in the name of the Lessor. allowed under NASPO ValuePoint Master Agreement Terms and Conditions, Exhibit A, [Section III.D.1, to which payments are assigned.]

1. LEASE: This Agreement establishes the general terms and conditions under which we may from time to time lease Equipment (as hereinafter defined) to you. The terms of this Agreement shall be deemed to form a part of each Schedule (the form of which is attached hereto as Exhibit A) executed by you and us which references this Agreement. "Equipment" shall mean all items of equipment described in any Schedule. You may issue Purchase Orders that incorporate by reference this Master Lease Agreement and if so incorporated by reference, each such Purchase Order will constitute a Schedule for the purposes of this Master Lease Agreement. Each Schedule shall constitute a separate Lease Agreement ("Lease") incorporating all of the terms of this Agreement. In the event of a conflict between the provisions of any Lease and the provisions of this Agreement, the provisions of the Lease shall prevail, providing they do not conflict with the language in the NASPO ValuePoint Master Agreement,] in which case, the Master Agreement language shall prevail.

2. TERM AND RENT: This Agreement shall become effective upon acceptance and execution by us and shall remain effective at least until the expiration of the last Lease term under any Schedule. Each Lease is effective on the date that it is accepted and signed by us, and the term of each Lease begins on that date or any later date that we designate (the "Commencement Date") and continues thereafter for the number of months indicated on the Lease. Lease Payments will be due as invoiced by us until the balance of the Lease Payments and any additional Lease Payments or expenses chargeable to you under the Lease are paid in full. Your obligation to pay the Lease Payments and other Lease obligations are absolute and unconditional and are not subject to cancellation, reduction, setoff or counterclaim. All payments will be made to us at the above address we indicate in writing. **THIS AGREEMENT AND ALL LEASES ARE NON-CANCELABLE except as** specified under the NASPO ValuePoint Master Agreement Terms and Conditions [Non-appropriations of Funds Section III.F.6]. The amount of each Lease Payment is based on the supplier's best estimate of the Equipment cost including (if applicable), any installation, other related costs and estimated sales or use tax, and per the pricing in the NASPO ValuePoint Master Agreement.

3. LATE CHARGES/DOCUMENTATION FEES: If a Lease Payment is not made within 15 days of the due date, you will pay us, a late charge of 1% of the payment or an amount only to the extent permitted by law.

4. DELIVERY AND ACCEPTANCE: The costs of delivery and installation of the Equipment are included in the cost of the Equipment. If requested, you will sign a separate Equipment delivery and acceptance certificate.

5. SELECTION OF EQUIPMENT/DISCLAIMER OF WARRANTIES: You have selected the Equipment and the Supplier. Assignee is not the Supplier of the Equipment and we or our Assignee are leasing the Equipment to you "AS-IS" under this Agreement. We or our Assignee MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE under this Lease. We and our Assignee transfer to you for the term of a Lease all warranties, if any, made by the Supplier. YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS AGREEMENT OR ANY LEASE AND EXCEPT FOR THE SUPPLIER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT A LEASE OR THE EQUIPMENT. WE SHALL NOT BE LIABLE FOR ANY DELAYS IN MAKING DELIVERIES OR REPAIRS NOR IN ANY EVENT

FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF THE EQUIPMENT. YOUR OBLIGATION TO PAY IN FULL ANY AMOUNT DUE UNDER A LEASE WILL NOT BE AFFECTED BY ANY DISPUTE, CLAIM, COUNTERCLAIM, DEFENSE OR OTHER RIGHT WHICH YOU MAY HAVE OR ASSERT AGAINST THE SUPPLIER.

6. TITLE, PERSONAL PROPERTY, LOCATION AND INSPECTION: Unless you have a \$1.00 purchase option, we will have title to the Equipment. If you have a \$1.00 purchase option and/or the Lease is deemed to be a security agreement, you grant us a security interest in the Equipment and all proceeds thereof. You have the right to use the Equipment for the full Lease term provided you comply with the terms and conditions of the Lease. Although the Equipment may become attached to real estate, it remains personal property and you agree not to permit a lien to be placed upon the Equipment or to remove the Equipment without our prior written consent. If we feel it is necessary, you agree to provide us with waivers of interest or liens, from anyone claiming any interest in the real estate on which any item of Equipment is located. We also have the right, at reasonable times, to inspect the Equipment.

7. USE, MAINTENANCE AND REPAIR: You are required, at your own cost and expense, to keep the Equipment in good repair, condition and working order, except for ordinary wear and tear, and you will supply all parts and servicing required. All replacement parts used or installed and repairs made to the Equipment will become our property. You may, with our prior written consent, make modifications to the Equipment; provided such modifications do not reduce the value or usefulness of the Equipment or result in the loss of any warranty or any certification necessary for the maintenance of the Equipment and such modifications must be easily removable without causing damage to the Equipment. Before returning the Equipment, you agree to remove such modifications and restore the Equipment to its original condition. If you fail to remove such modifications, we are deemed the owner of such modifications. IN THE EVENT THE LEASE PAYMENTS INCLUDE THE COST OF MAINTENANCE AND/OR SERVICE BEING PROVIDED BY THE SUPPLIER YOU ACKNOWLEDGE THAT OUR ASSIGNEE IS NOT RESPONSIBLE FOR PROVIDING ANY REQUIRED MAINTENANCE AND/OR SERVICE FOR THE EQUIPMENT. YOU WILL MAKE ALL CLAIMS FOR SERVICE AND/OR MAINTENANCE SOLELY TO THE SUPPLIER AND SUCH CLAIMS WILL NOT AFFECT YOUR OBLIGATION TO MAKE ALL REQUIRED LEASE PAYMENTS.

8. ASSIGNMENT: YOU AGREE NOT TO TRANSFER, SELL, SUBLEASE, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS AGREEMENT AND ANY LEASE WITHOUT OUR PRIOR WRITTEN CONSENT (WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD). You agree that we may not sell, assign or transfer any Lease without notice to you, and if we do, the new owner or assignee will have the same rights and benefits that we now have but will not have to perform any of our obligations and that the rights of the new owner or assignee will not be subject to any claims, defenses, or set-offs that you may have against us. Any such assignment, sale or transfer of a Lease or the Equipment will not relieve us of our obligations to you under the Lease.

9. REDELIVERY AND RENEWAL: Upon at least sixty (60) days but not more than ninety (90) days prior to the expiration of the Lease term, we shall advise you of the end of the Lease term options available to you in writing (email will be sufficient for a writing). Provided you have given thirty (30) days written notice, you shall exercise your option to i) purchase the Equipment, ii) renew the Lease on a month to month basis, or iii) return (or make available) the Equipment to us in good repair, condition and working order, ordinary wear and tear excepted. If you fail to notify us, you will immediately make the Equipment available to us, in as good repair, condition and working order, ordinary wear and tear excepted.

10. LOSS OR DAMAGE: You are responsible for the risk of loss or destruction of, or damage to the Equipment while the Equipment is in your possession. No such loss or damage relieves you from any obligation under a Lease. You agree to promptly notify us in writing of any loss or destruction or damage to the Equipment and you will, at our option, (a) repair the Equipment to good condition and working order, (b) replace the Equipment with like Equipment in good repair, condition and working order, acceptable to us and transfer clear title to such replacement Equipment to us, such Equipment shall be subject to the Lease and be deemed the Equipment, or (c) pay to us the present value of the total of all unpaid Lease Payments for the full Lease term, plus the

estimated fair market value of the Equipment at the end of the originally scheduled Lease term or any End of Lease Option price stated on the Lease ("Residual"), with the accelerated Lease Payments and the Residual discounted at the lesser of (a) a per annum interest rate equivalent to that of a U.S. Treasury constant maturity obligation (as reported by the U.S. Treasury Department) that would have a repayment term equal to the remaining Lease term, all as reasonably determined by us, or (b) 3% per annum (the "Present Value Rate"), whereupon the Lease shall terminate. All proceeds of insurance received by us as a result of such loss or damage will be applied, where applicable, toward the replacement or repair of the Equipment or the payment of your obligations.

11. RESERVED.

12. TAXES: You agree to pay all license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, unless a valid tax exempt certificate can be provided and is in full force and effect. If we are required to file and pay property tax, you agree to either (a) reimburse us for all personal property and other similar taxes and governmental charges associated with ownership, possession, or use of the Equipment when billed by jurisdictions; or (b) remit to us each billing period a pro-rated equivalent of such taxes and governmental charges not to exceed 0.363% of the Equipment cost per month as part of the Lease Payment. You agree that if we pay any taxes or charges on your behalf, you will reimburse us for all such payments and will pay us interest and a late charge (as calculated in Section 3) on such payments with the next Lease Payment plus a fee for our collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities.

13. RESERVED.

14. DEFAULT: You are in default of this Agreement and any Lease if any of the following occurs: a) you fail to pay any Lease Payment or other sum within forty-five (45) days of when due; b) you breach any representation warranty or other obligation under this Agreement and this failure continues for forty-five (45) days after we notify you of default; c) any guarantor dies, stops doing business as a going concern or transfers all or substantially all of such guarantor's assets, make an assignment for the benefit of creditors and/or you become insolvent or unable to pay your debts when due; you stop doing business as a going concern; you merge, consolidate, transfer all or substantially all of your assets; you make an assignment for the benefit of creditors or you undergo a substantial deterioration in your financial condition; or d) you, voluntarily file or have filed against you involuntarily, a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator is appointed for you or it or a substantial part of your or its assets; e) Lessee, its owner(s) or any guarantor(s) are listed on a US or foreign government sanctions list or are subject to sanctions therefrom.

15. REMEDIES: We have the following remedies if a default should occur: a) Upon written notice, declare the entire balance of the unpaid Lease Payments for the full term immediately due and payable and you agree to compensate us, not as a penalty, by paying, the sum of: (i) all past due and current Lease Payments (or other periodic payments) and charges due under this Agreement and any Schedule; (ii) the present value of all remaining Lease Payments (or other periodic payments) and charges for the remainder of the term of such Lease, discounted at the rate of four percent (4%) per annum (or the lowest rate permitted by law, whichever is higher); and (iii) immediately terminate your right to use the software including the disabling (on-site or by remote communication) of any software; (iv) demand the immediate return and obtain possession of the software and re-license the software at a public or private sale; and/or (v) cause the software supplier to terminate the software license, support and other services under the software license) ; vi) Charge you overdue account charges up to a maximum rate of one percent (1%) per month from the date of default until paid, but in no event more than the maximum rate permitted by law, whichever is less; and c) Require that you return the Equipment to us and in the event you fail to return the Equipment, enter upon the premises peaceably with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment will not constitute a termination of a Lease unless we expressly notify you in writing. In the event the Equipment is returned or repossessed by us and unless we have terminated the Lease, we will sell or re-rent the Equipment to any persons with any terms we determine, at one or more public or private sales, with or without notice to you, and apply the net proceeds after deducting the costs and expenses of such sale or re-rent, to your

obligations with you remaining liable for any deficiency and with any excess being retained by us. The credit for any sums to be received by us from any such rental shall be discounted to the date of the agreement at six percent (6%) per year. You are also required to pay (i) all expenses incurred by us in connection with the enforcement of any remedies, including all expenses of repossessing, storing, shipping repairing and selling the Equipment, and (ii) reasonable attorneys' fees. You agree that any delay or failure to enforce our rights under this Agreement or any Lease does not prevent us from enforcing any rights at a later time. All of our rights are cumulative. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive lessee's rights under Article 2A(508-500) of the UCC.

16. PURCHASE OPTION: Upon expiration of the Lease term, provided you are not in default, you shall have the option to purchase all but not less than all of the Equipment on the terms as indicated in the End of Lease Options checked off on the Lease. We will use our reasonable judgment to determine the Equipment's fair market value for all FMV purchase options which shall be based on the Equipment remaining in place. Should you decide to return the Equipment at end of the contracted term, you will be provided return instructions and the Equipment will be returned to us at no expense to you.

17. RESERVED.

18. WARRANTY OF BUSINESS PURPOSE: You warrant and represent that the Equipment will be used for business purposes, and not for personal, family or household purposes.

19. UCC FILINGS AND FINANCIAL STATEMENTS: You authorize us to file a financing statement with respect to the Equipment signed by us where permitted by the Uniform Commercial Code ("UCC") and grant us the right to sign such financing statement on your behalf. The filing of a financing statement is not to be construed as evidence that any security interest was intended to be created, but only to give public notice of our ownership of the Equipment. If a Lease is deemed at any time to be one intended as security then you grant us a security interest in the Equipment and the proceeds from the sale, rent or other disposition of the Equipment. If we feel it is necessary, you agree to submit financial statements (audited if available) on a quarterly basis.

20. NOTICE: Written notices will be deemed to have been given when delivered personally, via e-mail or deposited in the United States mail, postage prepaid, addressed to the recipient at its address above or at any other address subsequently provided in writing.

21. UCC — ARTICLE 2A PROVISIONS: You agree that each Lease is a Finance Lease as that term is defined in Article 2A of the UCC. You acknowledge that we have given you the name of the Supplier of the Equipment. We hereby notify you that you may have rights under the contract with the Supplier and you may contact the Supplier for a description of any rights or warranties that you may have under this supply contract.

22. CHOICE OF LAW: This Agreement and each Lease shall in all respects be interpreted and all transactions subject to this Agreement and each Lease and all rights and liabilities of the parties under this Agreement and each Lease shall be determined and governed as to their validity, interpretation, enforcement and effect by the laws of the state of the Lessee, except for local filing requirements. **BOTH PARTIES WAIVE TRIAL BY JURY IN ANY ACTION BETWEEN US.**

23. ENTIRE AGREEMENT; SEVERABILITY; WAIVERS: This Agreement and each Lease contain the entire agreement and understanding of the parties. No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Agreement and each Lease which for any reason may be held unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Agreement and each Lease.

24. FACSIMILE DOCUMENTATION: You agree, upon our request, to submit the original of this Agreement and any schedules to the Lessor via overnight courier the same day of the facsimile or other electronic transmission of the signed Agreement and such schedules. Both parties agree that this Agreement and any schedules signed by you, whether manually or electronically, and submitted to us by facsimile or other electronic transmission shall, upon execution by us (manually or electronically, as applicable), be binding upon the parties. This lease may be

executed in counterparts and any facsimile, photographic and/or other electronic transmission of this lease which has been manually or electronically signed by you when manually or electronically countersigned by us or attached to our original signature counterpart and/or in our possession shall constitute the sole original chattel paper as defined in the UCC for all purposes (including any enforcement action under paragraph 22) and will be admissible as legal evidence thereof. Both parties waive the right to challenge in court the authenticity of a faxed, photographic, or other electronically transmitted or electronically signed copy of this Agreement and any schedule.

25. NON-APPROPRIATION: (Applicable only if the Lessee is a State or political subdivision of a State) You are obligated only to pay such Lease Payments under any Schedule to this Agreement as may lawfully been made from funds budgeted and appropriated for that purpose during your then current fiscal year. In the event you have requested and sufficient funds shall not be appropriated or are not otherwise legally available to pay the Lease Payments required to be paid in the next fiscal year, the Schedule shall be deemed to be terminated at the end of the current fiscal year. You agree to deliver written notice to us of such termination of at least 30 days prior to the end of the current fiscal year but failure to give such notice shall not extend the Lease Schedule term beyond the current fiscal year. If a Schedule is terminated in accordance with this Section, you agree, at your cost and expense, to peaceably deliver the Equipment to us at the location or locations

ATTACHMENT 2 – KYOCERA MASTER LEASE AGREEMENT SCHEDULE

MASTER LEASE AGREEMENT SCHEDULE

LEASE COMMENCEMENT DATE _____ LEASE NUMBER _____ SCHEDULE NO. _____

This Master Lease Agreement Schedule is entered into pursuant to and incorporates the terms and conditions of that certain Master Lease Agreement dated as of _____, 20____ (“Agreement”) by and between Kyocera Document Solutions America, Inc. (“Lessor”) and _____ (“Lessee”).

LESSEE	Full Legal Name _____ DBA Name (If Any) _____
	Billing Address _____ Phone Number _____
	City _____ County _____ State _____ Zip Code _____
	Send Invoice to Attention of _____

VENDOR	Vendor Name _____ Address _____
	City _____ County _____ State _____ Zip Code _____
	Name of Sales Rep _____ Phone Number _____

EQUIPMENT INFORMATION	Equipment Location (if not same as above) _____		
	City _____ County _____ State _____ Zip _____		
	Quantity	Model Number	Description (Attach Schedule If Necessary)

PAYMENT INFORMATION	Number of Lease Payments	Lease Payment	(PLUS)	Sales Tax	(EQUALS)	Total Lease Payment
			+		=	
			+		=	
			+		=	
			+		=	
			+		=	
Term of Lease in Months _____						
Payment Frequency: ☐ Monthly ☐ Quarterly ☐ Semi-Annual ☐ Other _____						
End of Lease Option: ☐ FMV ☐ 10% ☐ \$1 ☐ Other _____						
End of Lease Purchase Option shall be FMV unless another option is selected.						

FIRST PAYMENT	Security Deposit	(PLUS)	First Lease Payment	(PLUS)	Other	(EQUALS)	Total Payment Enclosed
		+		+		=	
*Make check payable to Lessor							

LESSEE SIGNATURE	YOU AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE AGREEMENT, AND IN ANY ATTACHMENTS TO THE SAME, ALL OF WHICH ARE INCORPORATED INTO AND BECOME PART OF THIS SCHEDULE. YOU ACKNOWLEDGE TO HAVE READ AND AGREE TO ALL THE TERMS AND CONDITIONS AND UNDERSTAND THAT THIS IS A NON-CANCELABLE AGREEMENT FOR THE FULL TERM SHOWN ABOVE. YOU AGREE THAT A FACSIMILE COPY OF THIS DOCUMENT WITH FACSIMILE SIGNATURES MAY BE TREATED AS AN ORIGINAL AND WILL BE ADMISSIBLE AS EVIDENCE IN A COURT OF LAW.	
	Signature X _____ (LEASE MUST BE SIGNED BY AUTHORIZED CORPORATE OFFICER, PARTNER OR PROPRIETOR)	
	Print Name _____	
	Title _____ Date _____	
	Legal Name of Corporation or Partnership _____	

ACCEPTED BY LESSOR	Signature X _____
	Title _____ Date _____
	Legal Name of Corporation or Partnership _____

ATTACHMENT 3 – KYOCERA LEASE AGREEMENT TERMS AND CONDITIONS (FMV/\$1BUYOUT)

1. Lease: You (the “Lessee” “you” or “your”) agree to lease from Kyocera Document Solutions America, Inc. (the “Lessor” and as supplier and manufacturer, the “Supplier”, “we” or “our” our “us”) the Equipment listed above and on any attached schedule (the “Lease”). Assignee is the Third Party leasing company billing and collecting in the name of the Lessor, allowed under NASPO ValuePoint Master Agreement Terms and Conditions, Section III.D.1 (“Assignee”) to which payments are assigned. If a payment is not made within 45 days of the due date, you will pay us a late charge of 1% of the payment but only to the extent permitted by law. YOU AGREE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY LEASE TERM OR PROVISION.

2. Term: This Lease is effective on the date that it is accepted and signed by us, and the term of this Lease begins on that date or any later date that we designate (the “Commencement Date”) and continues thereafter for the number of months indicated above. Lease payments are due as invoiced by us. Your obligations are absolute, unconditional, and are not subject to cancellation, reduction, setoff or counterclaim except as specified in the NASPO ValuePoint Master Agreement Section III.F.6.

3. Title: Unless you have a \$1.00 purchase option, we will have title to the Equipment. If you have a \$1.00 purchase option and/or the Lease is deemed to be a security agreement, you grant us a security interest in the Equipment and all proceeds thereof. You authorize us to file Uniform Commercial Code (“UCC”) financing statements on the Equipment.

4. Equipment Use, Maintenance and Warranties: Assignee is not the Supplier of the Equipment and We or our Assignee are leasing the Equipment to you “AS-IS”. WE or our Assignee MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. We and our Assignee transfer to you any Supplier warranties. You are required at your cost to keep the Equipment in good working condition and to pay for all supplies and repairs. **The Lease Payments set forth above do not include the cost of maintenance, service, and/or supplies (“Service”), unless indicated in the above “Payment Information” box. Notwithstanding anything to the contrary, however, you agree that the Assignee is not responsible for providing such Service for the Equipment and you will make all claims related to Service to the Supplier. No one may alter the terms of this Lease or make any promises or arrangements that alter our rights or your obligations under this Lease. You agree that you are expressly assuming any risks arising from such Supplier’s inability to deliver such Service, under any circumstance, including, without limitation, such Supplier’s financial condition or its inability to repair or service the Equipment.** You agree that any claims related to Service will not impact your obligation to pay all Lease payments when due.

5. Assignment: You agree not to transfer, sell, sublease, assign, pledge or encumber either the Equipment or any rights under this Lease without our prior written consent (which consent shall not be unreasonably withheld). You agree that we may not sell, assign, or transfer the Lease without notice to you, and if we do, the new owner will have the same rights and benefits we now have and will not have to perform any of our obligations and the rights of the new owner will not be subject to any claims, defenses, or setoffs that you may have against us or any supplier.

6. Risk of Loss You are responsible for providing protection of the Equipment from damage, destruction or loss of any kind while the equipment is in your possession. If the Equipment is damaged, destroyed or lost, you agree to continue to pay the amounts due and to become due hereunder without setoff or defense.

7. Taxes: You agree to pay when due all taxes (including, without limit, sales, use, and personal property) and charges in connection with ownership, lease and use of the Equipment unless a valid tax exempt certificate can be provided and is in full force and effect. If we are required to file and pay property tax, you agree to either (a) reimburse us for all personal property and other similar taxes and governmental charges associated with ownership, possession, or use of the Equipment when billed by jurisdictions; or (b) remit to us each billing period a pro-rated equivalent of such taxes and governmental charges not to exceed 0.363% of the cost of the Equipment per month as part of the Lease Payment.

8. Default and Remedies: You are in default on this Lease if: a) you fail to pay a Lease payment or any other amount within forty-five (45) days of when due; or b) you breach any other obligation under the Lease and this failure continues for forty-five (45) days after we notify you of default. If you are in default on the Lease we may: (i) declare the entire balance of unpaid Lease payments for the full Lease term immediately due and payable to us and you agree to compensate us, not as a penalty, by paying, the sum of: (i) all past due and current Lease Payments (or other periodic payments) and charges due under this Agreement and any Schedule; (ii) and charges for the remainder of the term of such Lease, discounted at the rate of four percent (4%) per annum (or the lowest rate permitted by law, whichever is lower); and (iii) the present value (at the same discount rate as specified in clause (ii) above) of the amount of any purchase option with respect to the Equipment, and with respect to any software) immediately terminate your right to use the software including the disabling (on-site or by remote communication) of any software; (iv) demand the immediate return and obtain possession of the software and re-license the software at a public or private sale; and/or (v) cause the software supplier to terminate the software license, support and other services under the software license); (vi) charge you overdue account charges up to the maximum rate of one percent (1%) per month from the date of default until paid, but in no event more than the maximum rate permitted by law, whichever is less; and (vii) require that you immediately return the Equipment to us or we may peaceably repossess it. Any return or repossession will not be considered a termination or cancellation of the Lease. If the Equipment is returned or repossessed we will sell or re-rent the Equipment at terms we determine, at one or more public or private sales, with or without notice to you, and apply the net proceeds (after deducting any related expenses) to your obligations. You remain liable for any deficiency with any excess being retained by us. You agree that if notice of sale is required by law to be given, 10 days' notice will constitute reasonable notice. You are also required to pay (i) all expenses incurred by us in connection with enforcement of any remedies, including all expenses of repossessing, storing, repairing, and selling the Equipment, and (ii) reasonable attorney's fees. All of our rights are cumulative. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive lessee's rights under Article 2A(508-500) of the UCC.

9. End of Lease, Return, Purchase Option, and Renewal: Upon at least 60 days but not more than 90 days prior to the expiration of the initial lease term (or any renewal term), WE shall advise you of the end of the Lease term options available to you in writing (email will be sufficient for writing). Provided you have given thirty (30) days written notice, you shall exercise your option to i) purchase the Equipment, ii) renew the Lease on a month to month basis, or iii) return (or make available) the Equipment to us in good repair, condition and working order, ordinary wear and tear excepted. If you fail to notify us, you will immediately make the Equipment available to us, in good repair, condition and working order, ordinary wear and tear excepted. Should you decide to return the Equipment at the end of the contracted term, you will be provided return instructions and the Equipment will be returned to us at no expense to you.

10. Miscellaneous: You agree that the Lease is a Finance Lease as defined in Article 2A of the Uniform Commercial Code ("UCC"). You acknowledge that we have given you the Equipment supplier's name. We hereby notify you that you may have rights under the supplier's contract and may contact the supplier for a description of these rights. You agree that we are authorized, without notice to you, to supply missing information or correct obvious errors in the Lease. **This Lease shall be governed and construed in accordance with the laws of state of the Lessee. You consent to the non-exclusive jurisdiction, personal or otherwise, in any State or Federal Courts in such state and waive trial by jury.** You agree (i) that the Equipment will only be used for business purposes and not for personal, family, or household use, and will not be moved from the above location without our consent, and (ii) this Lease may be executed in counterparts and any facsimile, photographic or other electronic transmission and/or electronic signing of this Lease by you when manually countersigned by us or attached to our original signature counterpart and/or in our possession shall constitute the sole original chattel paper as defined in the UCC for all purposes and will be admissible as legal evidence thereof. At our option, we may require a manual signature. We may inspect the Equipment during the Lease term. We shall not be liable to you for indirect, special, or consequential damages. No failure to act shall be deemed a waiver of any rights hereunder.

11. NON-APPROPRIATION: (Applicable only if the Lessee is a State or political subdivision of a State) You are obligated only to pay such Lease Payments under any Schedule to this Agreement as may lawfully been

made from funds budgeted and appropriated for that purpose during your then current fiscal year. In the event you have requested and sufficient funds shall not be appropriated or are not otherwise legally available to pay the Lease Payments required to be paid in the next fiscal year, the Schedule shall be deemed to be terminated at the end of the current fiscal year. You agree to deliver written notice to us of such termination of at least 30 days prior to the end of the current fiscal year but failure to give such notice shall not extend the Lease Schedule term beyond the current fiscal year. If a Schedule is terminated in accordance with this Section, you agree, at your cost and expense, to peaceably deliver the Equipment to us at the location or locations specified by us.

ATTACHMENT 4 – KYOCERA STRAIGHT LEASE AGREEMENT TERMS AND CONDITIONS

Please read YOUR copy of this Lease Agreement carefully and feel free to ask US any questions YOU may have about it. Words “YOU” and “YOUR” refer to the “Customer” and the words “WE”, “US” and “OUR” refer to Kyocera Document Solutions America, Inc. (the “Company” and as supplier and manufacturer, the “Supplier”). Assignee is the Third Party leasing company billing and collecting in the name of the Lessor allowed under NASPO ValuePoint Master Agreement Terms and Conditions, Section III.D.1 (“Assignee”) to which payments are assigned.

1. LEASE: WE agree to lease to YOU and YOU agree to lease from US, the equipment listed above on any attached schedule, including all replacement parts, repairs, additions and accessories (“Equipment”).

2. TERM: This Lease Agreement is effective on the date that it is accepted and signed by US, and the term of this Lease Agreement begins on that date or any later date that WE designate (the “Commencement Date”) and continues thereafter for the number of months indicated above. Your obligation to pay the Lease Payments and YOUR other Lease Agreement obligations are absolute and unconditional and are not subject to cancellation, reduction, setoff or counterclaim except as specified under the NASPO ValuePoint Master Agreement Section III.F.6. All payments will be made to US at the address indicated or any other place WE indicate in writing. THIS AGREEMENT IS NON-CANCELABLE. The amount of each Lease Payment is based on the supplier’s best estimate of the Equipment cost including (if applicable), any installation, other related costs and estimated sales or use tax.

3. LATE CHARGES/DOCUMENTATION FEES: If a Lease Payment is not made within 45 days of the due date, YOU will pay US, a late charge of 1% of the payment but only to the extent permitted by law.

4. DELIVERY AND ACCEPTANCE: The costs of delivery and installation of the Equipment are included in the cost of the Equipment. If requested, YOU will sign a separate Equipment delivery and acceptance certificate.

5. USE, MAINTENANCE, REPAIR, SUPPLIES AND WARRANTIES: YOU have selected the Equipment and the Supplier. Assignee is not the Supplier of the Equipment and WE or our Assignee are leasing the Equipment to YOU “AS-IS”. WE OR OUR ASSIGNEE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE and our Assignee transfer to YOU for the term of this Lease Agreement all warranties, if any, made by the Supplier. YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS LEASE AGREEMENT AND EXCEPT FOR THE SUPPLIER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT THIS LEASE AGREEMENT OR THE EQUIPMENT. WE SHALL NOT BE LIABLE FOR ANY DELAYS IN MAKING DELIVERIES OR REPAIRS NOR IN ANY EVENT FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF THE EQUIPMENT. YOUR OBLIGATION TO PAY IN FULL ANY AMOUNT DUE UNDER THE LEASE AGREEMENT WILL NOT BE AFFECTED BY ANY DISPUTE, CLAIM, COUNTERCLAIM, DEFENSE OR OTHER RIGHT WHICH YOU MAY HAVE OR ASSERT AGAINST THE SUPPLIER.

6. TITLE, PERSONAL PROPERTY, and LOCATION AND INSPECTION: WE will have title to the Equipment. If the Lease Agreement is deemed to be a security agreement, YOU grant US a security interest in the Equipment and all proceeds thereof. YOU have the right to use the Equipment for the full Lease Agreement term provided YOU comply with the terms and conditions of this Lease Agreement. Although the Equipment may become attached to real estate, it remains personal property and YOU agree not to permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. If WE feel it is necessary, YOU agree to provide US with waivers of interest or lien, from anyone claiming any interest in the real estate on which any item of Equipment is located. WE also have the right, at reasonable times, to inspect the Equipment.

7. MAINTENANCE: YOU are required, at YOUR own cost and expense, to keep the Equipment in good repair, condition and working order, except for ordinary wear and tear, while the Equipment is in your possession. All

replacement parts used or installed and repairs made to the Equipment will become OUR property. YOU may, with OUR prior written consent, make modifications to the Equipment, provided such modifications do not reduce the value or usefulness of the Equipment or result in the loss of any warranty or any certification necessary for the maintenance of the Equipment and such modifications must be easily removable without causing damage to the Equipment. Before returning the Equipment, YOU agree to remove such modifications and restore the Equipment to its original condition. If YOU fail to remove such modifications, WE are deemed the owner of such modifications. IN THE EVENT THE LEASE PAYMENTS INCLUDE THE COST OF MAINTENANCE AND/OR SERVICE BEING PROVIDED BY THE SUPPLIER, YOU ACKNOWLEDGE THAT OUR ASSIGNEE IS NOT RESPONSIBLE FOR PROVIDING ANY REQUIRED MAINTENANCE AND/OR SERVICE FOR THE EQUIPMENT. YOU WILL MAKE ALL CLAIMS FOR SERVICE AND/OR MAINTENANCE SOLELY TO THE SUPPLIER AND SUCH CLAIMS WILL NOT AFFECT YOUR OBLIGATION TO MAKE ALL REQUIRED LEASE PAYMENTS.

8. ASSIGNMENT: YOU AGREE NOT TO TRANSFER, SELL, LEASE, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS LEASE AGREEMENT WITHOUT OUR PRIOR WRITTEN CONSENT (WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD). YOU agree that WE may not sell, assign or transfer this Lease Agreement without notice to you and if WE do, the new owner will have the same rights and benefits that WE now have and will not have to perform any of OUR obligations and that the rights of the new owner will not be subject to any claims, defenses, or set-offs that YOU may have against US. Any such assignment, sale or transfer of this Lease Agreement or the Equipment will not relieve US of OUR obligations to YOU under this Lease Agreement.

9. REDELIVERY AND RENEWAL: Upon at least sixty (60) but not more than ninety (90) days prior to the expiration of the Lease term, WE shall advise YOU, in writing (email will be sufficient for a writing) of YOUR options at the end of the Lease term. Provided YOU have given thirty (30) days written notice, you shall exercise your option to i) renew the Lease Agreement on a month to month basis, or ii) return (or make available) the Equipment to us in good repair, condition and working order, ordinary wear and tear excepted. If YOU do fail to notify US, YOU will immediately make the Equipment available to us, in good repair, condition and working order, ordinary wear and tear excepted. Should you decide to return the Equipment at end of the contracted term, you will be provided return instructions and the Equipment will be returned to us at no expense to you.

10. LOSS OR DAMAGE: YOU are responsible for the risk of loss or destruction of, or damage to the Equipment while it is in your possession. No such loss or damage relieves YOU from any obligation under this Lease Agreement. YOU agree to promptly notify US in writing of any loss or destruction or damage to the Equipment and YOU will, at OUR option, a) repair the Equipment to good condition and working order, b) replace the Equipment with like Equipment in good repair, condition and working order, acceptable to US and transfer clear title to such replacement Equipment to US, such Equipment shall be subject to this Lease Agreement and be deemed the Equipment, or c) pay to US the present value of the total of all unpaid Lease Payments for the full Lease Agreement term plus the estimated fair market value of the Equipment at the end of the originally scheduled Lease Agreement term ("Residual"), with the accelerated Lease Payments and the Residual discounted at a rate of 4% per annum (the "Present Value Rate"), whereupon this Lease Agreement shall terminate. All proceeds of insurance received by US as a result of such loss or damage will be applied, where applicable, toward the replacement or repair of the Equipment or the payment of YOUR obligations.

11. RESERVED.

12. TAXES: YOU agree to pay all license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, lease, sale, purchase, possession or use of the Equipment, unless a valid tax exempt certificate can be provided and is in full force and effect, as part of the Lease Payment or as billed by US. If we are required to file and pay personal property tax, you agree to either (a) reimburse us for all personal property and other similar taxes and governmental charges associated with the ownership, possessing, or use of the Equipment when billed by jurisdictions; or (b) remit to us each billing period a pro-rated equivalent of such taxes and governmental charges not to exceed 0.363% of the cost of Equipment per month as part of the Lease Payment. YOU agree that if WE pay any taxes or charges on YOUR behalf, YOU will reimburse US for all such payments and will pay US interest and a late charge (as calculated in Section 3)

on such payments with the next Lease Payment, plus a fee for OUR collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities.

13. RESERVED.

14. DEFAULT: YOU are in default of this Lease Agreement if any of the following occurs: a) YOU fail to pay any Lease Payment or other sum within forty-five (45) days of when due; b) YOU breach any representation, warranty or other obligation under this Lease Agreement with US and this failure continues for forty-five (45) days after we notify you of default; c) any guarantor dies, YOU become insolvent or unable to pay YOUR debts when due; YOU stop doing business as a going concern; YOU merge, consolidate, transfer all or substantially all of YOUR assets; YOU make an assignment for the benefit of creditors or YOU undergo a substantial deterioration in YOUR financial condition; or (d) YOU voluntarily file or have filed against YOU involuntarily, a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator will be appointed for it or a substantial part of its assets.

15. REMEDIES: WE have the following remedies if a default should occur: a) Upon written notice, declare the entire balance of the unpaid Lease Payments for the full term immediately due and payable and you agree to compensate us, not as a penalty, by paying, the sum of: (i) all past due and current Lease Payments (or other periodic payments) and charges due under this Agreement and applicable Schedule; (ii) the present value of all remaining Lease Payments (or other periodic payments) and charges for the remainder of the term of such Lease, discounted at the rate of four percent (4%) per annum (or the lowest rate permitted by law, whichever is less); and (iii) with respect to any software, immediately terminate your right to use the software including the disabling (on-site or by remote communication) of any software; (iv) demand the immediate return and obtain possession of the software and re-license the software at a public or private sale; and/or (v) cause the software supplier to terminate the software license, support and other services under the software license); (vi) Charge YOU overdue account charges up to a maximum rate of one percent (1%) per month from the date of default until paid, but in no event more than the maximum rate permitted by law; and (vii) Require that YOU return the Equipment to US and in the event YOU fail to return the Equipment, enter upon the premises peaceably with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment will not constitute a termination of this Lease Agreement unless WE expressly notify YOU in writing. In the event the Equipment is returned or repossessed by US and unless WE have terminated this Lease Agreement, WE will sell or re-lease the Equipment to any persons with any terms WE determine, at one or more public or private sales, with or without notice to YOU, and apply the net proceeds deducting the costs and expenses of such sale or re-lease to YOUR obligations with YOU remaining liable for any deficiency and with any excess being retained by US. The credit for any sums to be received by US from any such lease shall be discounted to the date of the agreement at six percent (6%) per year. YOU are also required to pay (i) all expenses incurred by US in connection with the enforcement of any remedies, including all expenses of repossessing, storing, repairing and selling the Equipment, and (ii) reasonable attorneys' fees. YOU agree that any delay or failure to enforce OUR rights under this Lease Agreement does not prevent US from enforcing any rights at a later time. All of our rights are cumulative. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive lessee's rights under Article 2A(508-500) of the UCC.

16. RESERVED.

17. RESERVED.

18. WARRANTIES: YOU warrant and represent that the Equipment will be used for business purposes, and not for personal, family or household purposes.

19. UCC FILINGS AND FINANCIAL STATEMENTS: YOU authorize US to file a Uniform Commercial Code ("UCC") financing statement with respect to the Equipment signed by US where permitted by the UCC and grant US the right to sign such financing statement on YOUR behalf. The filing of a financing statement is not to be construed as evidence that any security interest was intended to be created, but only to give public notice of

OUR ownership of the Equipment. If WE feel it is necessary, YOU agree to submit financial statements (audited if available) on a quarterly basis.

20. NOTICE: Written notices will be deemed to have been given when delivered personally, sent via e-mail or deposited in the United States mail, postage prepaid, addressed to the recipient at its address above or at any other address subsequently provided in writing.

21. UCC - ARTICLE 2A PROVISIONS: YOU agree that this Lease Agreement is a Finance Lease as that term is defined in Article 2A of the UCC. YOU acknowledge that WE have given YOU the name of the Supplier of the Equipment. WE hereby notify YOU that YOU may have rights under the contract with the Supplier and YOU may contact the Supplier for a description of any rights or warranties that YOU may have under this supply contract.

22. CHOICE OF LAW: This Lease Agreement shall in all respects be interpreted and all transactions subject to this Lease Agreement and all rights and liabilities of the parties under the Lease Agreement shall be determined and governed as to their validity, interpretation, enforcement and effect by the laws of the state of the Customer except for local filing requirements. **BOTH PARTIES WAIVE TRIAL BY JURY IN ACTION BETWEEN US.**

23. SEVERABILITY; WAIVERS: No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Lease Agreement which for any reason may be held unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Lease Agreement.

24. ELECTRONIC DOCUMENTATION: You agree, upon our request, to submit the original of this Lease Agreement to the Company via overnight courier the same day of the facsimile or other electronic transmission of the signed Agreement. Both parties agree that this Lease Agreement signed by you, whether manually or electronically, and submitted to us by facsimile or other electronic transmission shall, upon execution by us (manually or electronically, as applicable), be binding upon the parties. This lease may be executed in counterparts and any facsimile, photographic and/or other electronic transmission of this lease which has been manually or electronically signed by you when manually or electronically countersigned by us or attached to our original signature counterpart and/or in our possession shall constitute the sole original chattel paper as defined in the UCC for all purposes (including any enforcement action under paragraph 11) and will be admissible as legal evidence thereof. Both parties waive the right to challenge in court the authenticity of a faxed, photographic, or other electronically transmitted or electronically signed copy of this Agreement and any schedule.

ATTACHMENT 5 – KYOCERA CANCELLABLE RENTAL TERMS AND CONDITIONS

Please read YOUR copy of this Rental Agreement carefully and feel free to ask US any questions YOU may have about it. Words “YOU” and “YOUR” refer to the “Customer” and the words “WE”, “US” and “OUR” refer to Kyocera Document Solutions America, Inc. (the “Company” and as supplier and manufacturer, the “Supplier”).

1. RENTAL: WE agree to rent to YOU and YOU agree to rent from US, the equipment listed above (and on any attached schedule) including all replacement parts, repairs, additions and accessories (“Equipment”) on the terms and conditions of this Rental Agreement and on any attached schedule.

2. TERM: This Rental Agreement is effective on the date that it is accepted and signed by US, and the term of this Rental Agreement begins on that date or any later date that WE designate (the “Commencement Date”) and continues thereafter for the number of months indicated above. All payments will be made to US at the above address or any other place WE indicate in writing. YOU SHALL HAVE THE OPTION TO CANCEL THE RENTAL AT ANYTIME THROUGH THE TERM OF THIS AGREEMENT BY PROVIDING US WITH THIRTY (30) DAY PRIOR WRITTEN NOTICE.

3. LATE CHARGES/DOCUMENTATION FEES: If a Rental Payment is not made within 45 days of the due date, YOU will pay US, a late charge of 1% of the payment but only to the extent permitted by law.

4. DELIVERY AND ACCEPTANCE: The costs of delivery and installation of the Equipment are included in the cost of the Equipment. If requested, YOU will sign a separate Equipment delivery and acceptance certificate.

5. USE, MAINTENANCE, REPAIR, SUPPLIES AND WARRANTIES: Assignee is not the Supplier of the Equipment and WE or our Assignee are renting the Equipment to YOU “AS-IS”. WE OR OUR ASSIGNEE MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE AND OUR ASSIGNEE transfer to YOU for the term of this Rental Agreement all warranties, if any, made by the Supplier. YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS RENTAL AGREEMENT AND EXCEPT FOR THE SUPPLIER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT THIS RENTAL AGREEMENT OR THE EQUIPMENT. WE SHALL NOT BE LIABLE FOR ANY DELAYS IN MAKING DELIVERIES OR REPAIRS NOR IN ANY EVENT FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF THE EQUIPMENT.

6. TITLE, PERSONAL PROPERTY, and LOCATION AND INSPECTION: WE will have title to the Equipment. If the Rental Agreement is deemed to be a security agreement, YOU grant US a security interest in the Equipment and all proceeds thereof. YOU have the right to use the Equipment for the full Rental Agreement term provided YOU comply with the terms and conditions of this Rental Agreement. Although the Equipment may become attached to real estate, it remains personal property and YOU agree not to permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. If WE feel it is necessary, YOU agree to provide US with waivers of interest or lien, from anyone claiming any interest in the real estate on which any item of Equipment is located. WE also have the right, at reasonable times, to inspect the Equipment.

7. MAINTENANCE: YOU are required to keep the Equipment in good repair, condition and working order, except for ordinary wear and tear, while the Equipment is in your possession. All replacement parts used or installed and repairs made to the Equipment will become OUR property. YOU may, with OUR prior written consent, make modifications to the Equipment, provided such modifications do not reduce the value or usefulness of the Equipment or result in the loss of any warranty or any certification necessary for the maintenance of the Equipment and such modifications must be easily removable without causing damage to the Equipment. Before returning the Equipment, YOU agree to remove such modifications and restore the Equipment to its original condition. If YOU fail to remove such modifications, WE are deemed the owner of such modifications. YOU WILL MAKE ALL CLAIMS FOR SERVICE AND/OR MAINTENANCE SOLELY TO THE SUPPLIER. AND SUCH CLAIMS WILL NOT AFFECT YOUR OBLIGATION TO MAKE ALL REQUIRED

RENTAL PAYMENTS.

8. ASSIGNMENT: YOU AGREE NOT TO TRANSFER, SELL, RENT, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS RENTAL AGREEMENT WITHOUT OUR PRIOR WRITTEN CONSENT (WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD). YOU agree that WE may not sell, assign or transfer this Rental Agreement without notice to you and if WE do, the new owner will have the same rights and benefits that WE now have and will not have to perform any of OUR obligations and that the rights of the new owner will not be subject to any claims, defenses, or set-offs that YOU may have against US. Any such assignment, sale or transfer of this Rental Agreement or the Equipment will not relieve US of OUR obligations to YOU under this Rental Agreement.

9. REDELIVERY AND RENEWAL: Provided YOU have given thirty (30) days written notice, you shall exercise your option to i) renew the Rental Agreement on a month to month basis, or ii) return (or make available) the Equipment to us in good repair, condition and working order, ordinary wear and tear excepted. If YOU do fail to notify US, YOU will immediately make the Equipment available to us, in good repair, condition and working order, ordinary wear and tear excepted.

10. LOSS OR DAMAGE: YOU are responsible for the risk of loss or destruction of, or damage to the Equipment, while it is in your possession. No such loss or damage relieves YOU from any obligation under this Rental Agreement. YOU agree to promptly notify US in writing of any loss or destruction or damage to the Equipment and YOU will, at OUR option, a) repair the Equipment to good condition and working order, b) replace the Equipment with like Equipment in good repair, condition and working order, acceptable to US and transfer clear title to such replacement Equipment to US, such Equipment shall be subject to this Rental Agreement and be deemed the Equipment, or c) pay to US the present value of the total of all unpaid Rental Payments for the full Rental Agreement term plus the estimated fair market value of the Equipment at the end of the originally scheduled Rental Agreement term with the accelerated Rental Payments and the Residual discounted at a rate of 4% per annum (the "Present Value Rate"), whereupon this Rental Agreement shall terminate. All proceeds of insurance received by US as a result of such loss or damage will be applied, where applicable, toward the replacement or repair of the Equipment or the payment of YOUR obligations.

11. RESERVED

12. TAXES: YOU agree to pay all license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, rental, sale, purchase, possession or use of the Equipment, unless a valid tax exempt certificate can be provided and is in full force and effect, as part of the Rental Payment or as billed by US. If we are required to file and pay personal property tax, you agree to either (a) reimburse us for all personal property and other similar taxes and governmental charges associated with the ownership, possessing, or use of the Equipment when billed by jurisdictions; or (b) remit to us each billing period a pro-rated equivalent of such taxes and governmental charges not to exceed 0.363% of the cost of Equipment per month as part of the Rental Payment. YOU agree that if WE pay any taxes or charges on YOUR behalf, YOU will reimburse US for all such payments and will pay US interest and a late charge (as calculated in Section 3) on such payments with the next Rental Payment, plus a fee for OUR collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities.

13. RENTAL PROVISIONS: Cancellable Rentals shall not exceed a termination charge of three (3) months of Total Monthly Payments.

14. DEFAULT: YOU are in default of this Rental Agreement if any of the following occurs: a) YOU fail to pay any Rental Payment or other sum within forty-five (45) days of when due; b) YOU breach any representation, warranty or other obligation under this Rental Agreement with US and this failure continues for forty-five (45) days after we notify you of default; c) YOU merge, consolidate, transfer all or substantially all of YOUR assets; d) YOU make an assignment for the benefit of creditors; or (e) YOU voluntarily file or have filed against YOU involuntarily, a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator will

be appointed for it or a substantial part of its assets.

15. REMEDIES: WE have the following remedies if a default should occur: a) Charge you overdue account charges up to a maximum rate of one percent (1%) per month from the date of default until paid, but in no event more than the maximum permitted by law; b) Charge YOU a return-check or non-sufficient funds charge ("NSF Charge") to reimburse US for the time and expense incurred with respect to a check that is returned for any reason including non-sufficient or uncollected funds, such NSF Charge is stipulated and liquidated at \$25.00; and c) Reposes the Equipment or Require that YOU return the Equipment to US and in the event YOU fail to return the Equipment, enter upon the premises peaceably with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment will constitute a termination of this Rental Agreement. YOU are also required to pay (i) all expenses incurred by US in connection with the enforcement of any remedies, including all expenses of repossessing, storing, repairing and selling the Equipment, and (ii) reasonable attorneys' fees. YOU agree that any delay or failure to enforce OUR rights under this Rental Agreement does not prevent US from enforcing any rights at a later time.

16. RESERVED.

17. RESERVED.

18. WARRANTIES: YOU warrant and represent that the Equipment will be used for business purposes, and not for personal, family or household purposes.

19. UCC FILINGS AND FINANCIAL STATEMENTS: YOU authorize US to file a Uniform Commercial Code ("UCC") financing statement with respect to the Equipment signed by US where permitted by the UCC and grant US the right to sign such financing statement on YOUR behalf. The filing of a financing statement is not to be construed as evidence that any security interest was intended to be created, but only to give public notice of OUR ownership of the Equipment. If WE feel it is necessary, YOU agree to submit financial statements (audited if available) on a quarterly basis.

20. NOTICE: Written notices will be deemed to have been given when delivered personally or deposited in the United States mail, postage prepaid, addressed to the recipient at its address above or at any other address subsequently provided in writing.

21 RESERVED.

22. CHOICE OF LAW: This Rental Agreement shall in all respects be interpreted and all transactions subject to this Rental Agreement and all rights and liabilities of the parties under the Rental Agreement shall be determined and governed as to their validity, interpretation, enforcement and effect by the laws of the state of the Customer except for local filing requirements. **BOTH PARTIES WAIVE TRIAL BY JURY IN ANY ACTION BETWEEN US.**

23. SEVERABILITY; WAIVERS: No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Rental Agreement which for any reason may be held unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Rental Agreement.

ATTACHMENT 6 – KYOCERA COTERMINOUS ADDENDUM TERMS AND CONDITIONS

WHEREAS, Lessor, Creditor, or Lender as applicable (“Creditor”) and the above described Lessee, Debtor, or Borrower as applicable (“Debtor”) have determined that it is to their mutual benefit to make certain additions to the above described Lease or Contract (“Contract”).

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound and pursuant to the Terms and Conditions of the Contract, it is hereby agreed as follows:

1. The above described items of additional equipment (“Additional Equipment”) are added to the Equipment in the Contract.
2. Creditor hereby leases, rents, or finances (as applicable) the Additional Equipment to the Debtor (jointly and severally, if more than one) pursuant to the above described additional monthly payment (“Additional Monthly Payment”) and for the above described number of monthly payments.
3. Creditor shall invoice Debtor for the Additional Monthly Payment and sales tax (if applicable) for the Additional Equipment. The first Additional Monthly Payment is due on the date the Additional Equipment is delivered to Debtor and subsequent payments are due on the same day of each month thereafter which will continue for the above described term.
4. The amount of each Additional Monthly Payment is based on the supplier’s best estimate of the cost of the Additional Equipment including (if applicable) installation and other related costs and the estimated sales or use tax.
5. If Debtor has not accepted the Additional Equipment in all respects for the purpose of this Addendum within 30 days of Equipment delivery, Debtor authorizes Creditor to increase the Monthly Payment amount of the original Contract to reflect the cost of the Additional Equipment, in order to maintain the rate of return reflected by the above described payment schedule. The term of this Addendum shall run concurrent with the term of the Contract.
6. Debtor agrees to pay all adjusted Additional Monthly Payments as and when due under this Addendum.
7. Debtor will be charged a returned-check or non-sufficient funds charge (“NSF Charge”) to reimburse Creditor for the time and expense incurred with respect to a check that is returned for any reason including non-sufficient or uncollected funds, such NSF Charge is stipulated and liquidated at \$ 25.00.
8. Debtor agrees that Creditor may combine the Additional Monthly Payment and sales tax with the current Contract payment and invoice Debtor for the combined payment.
9. It is expressly agreed by the parties that this Addendum is supplemental to the Contract which is by reference made a part hereof, and all the Terms and Conditions and provisions thereof, unless specifically modified herein, are to apply to this Addendum and are made a part of this Addendum as though they were expressly rewritten, incorporated and included herein.
10. In the event of any conflict, inconsistency or incongruity between the provisions of this Addendum and any of the provisions of the Lease or Schedule, the provisions of this Addendum shall in all respects govern and control.

YOU AGREE THAT THIS CONTRACT MAY BE EXECUTED IN COUNTERPARTS AND ANY FACSIMILE, PHOTOGRAPHIC OR OTHER ELECTRONIC TRANSMISSION AND/OR ELECTRONIC SIGNING OF THIS CONTRACT BY YOU WHEN MANUALLY COUNTERSIGNED BY US OR ATTACHED TO OUR ORIGINAL SIGNATURE COUNTERPART AND/OR IN OUR POSSESSION SHALL CONSTITUTE THE SOLE ORIGINAL CHATTEL PAPER AS DEFINED IN THE UCC FOR ALL PURPOSES AND WILL BE ADMISSIBLE AS LEGAL EVIDENCE THEREOF. AT OUR OPTION, WE MAY REQUIRE A MANUAL SIGNATURE.

ATTACHMENT 7 – KYOCERA SERVICE MAINTENANCE AGREEMENT



National/Government Account Program
 225 Sand Road
 Fairfield, NJ 07004-0008
 Phone: (973) 461-4297
 Fax: (973) 882-4411

SERVICE MAINTENANCE AGREEMENT

BILL TO LOCATION:	SERVICE LOCATION:
Customer's Name:	Customer's Name:
Address:	Address:
City, State, Zip:	City, State, Zip:
E-mail:	Phone:
☐ MFP/PRINTERS ALL INCLUSIVE MAINTENANCE: (INCLUDES SUPPLIES) Color and Black & White Devices. Includes Labor, Parts, Drums Toner. (Does not include Paper or Staples)	Fax:
	Key Operator:
	E-mail:
☐ MFP/PRINTER ALL INCLUSIVE MAINTENANCE: (NO SUPPLIES INCLUDED) Color and Black & White Devices. Includes Labor, Parts & Drums only.	Servicing Dealer/KDA Branch:
	Billing Type:
	☐ Quarterly Billing/Overage Plan ☐ Monthly Billing/Overage Plan
	Install Date: ____/____/____
	Contract Start Date: ____/____/____
	Contract End Date: ____/____/____ (After the end date, contracts will be renewed on same billing program.)
☐ OTHER PLAN (w/ explanation):	

(For future acquisitions of contracted products under a KDA National Account Pricing Agreement please attached list of models and service rates.)

(For future acquisitions of contracted products under a KDA National Account Pricing Agreement please attached list of models and service rates.)

PRODUCTS (Model Number)	SERIAL NUMBER	MINIMUM CHARGE	YEARLY/MONTHLY COPIES INCLUDED	EXCESS COPY CHARGES	STARTING METER READING

* PLEASE INCLUDE TAX WHERE APPLICABLE. * THIS AGREEMENT SHALL BE SUBJECT TO THE TERMS AND CONDITIONS ON THE REVERSE SIDE.

CUSTOMER'S SIGNATURE

DATE

KYOCERA SIGNATURE

DATE

PRINTED NAME & TITLE OF PERSON SIGNING

PRINTED NAME & TITLE OF PERSON SIGNING

NOT VALID UNTIL PAID IN FULL AND SIGNED BY AN AUTHORIZED KYOCERA REPRESENTATIVE

Maintenance Agreement Terms and Conditions

1. Kyocera Document Solutions America, Inc. or an Authorized Kyocera Dealer (both referred to herein as "KDA") will provide full maintenance service for the copiers, printers, multi-functional machines and related accessories (referred to as "Products") described on the front of this Agreement. KDA will provide preventative maintenance calls in conjunction with regular or emergency service calls for the Products.
2. On a monthly Billing Plan the Customer is billed each month with a Minimum Charge and an Excess Copy Charge based upon the number of copies made on the Products. Unless specifically stated on the front of this Agreement, paper and staples, are excluded.
3. Some Products may be connected to an automatic meter reading device which will report the number of copies made each year on an Annual Billing Plan or each month on a Monthly Billing Plan and upon which invoices will be based. If an automatic meter reading device is not installed or fails to report properly, Customer shall provide KDA by telephone with the actual meter reading on the last business day of each one-year period on an Annual Billing Plan or each calendar month on a Monthly Billing Plan. KDA may estimate the number of copies used if such reading is not received by KDA. The estimated Copy Charge shall be adjusted upon receipt of actual meter reading.
4. If toner and toner disposal tanks are elected to be included in the service provided under the Agreement, KDA will provide KDA brand toner and toner disposal tanks to the customer, based upon normal yield. If Customer's usage of supplies exceeds the normal yields for the copier being serviced by more than 15%, KDA will invoice and Customer agree to pay, for the excess supplies at KDA's Master Agreement pricing. Any toner in storage at the Customer location is the property of KDA and KDA's representative may take an inventory periodically during normal business hours, at KDA's discretion.
5. Service calls under this Agreement will be made by KDA during KDA's normal business hours. Customer must provide adequate space for operation and maintenance of the Products and reasonable storage space for supplies to be used with the Products. Customer agrees to provide for the Products adequate electricity (including if necessary a dedicated 220v/20 amp wall outlet of 110v/15 amp or 20 amp wall outlet based on electrical wiring specification of Products), non-dedicated analog telephone line for an automatic meter reading device (with proper connection such as RJ-11 telephone connector) within seven feet of copier. The telephone line must not have any special features, such as "call waiting" and must be capable of making an outside long distance call.
6. During the term of this Agreement, KDA will provide without charge, replacement parts for parts which have been worn or broken through normal use. All other parts furnished will be billed to Customer at KDA's published parts prices in effect at the time such parts are sold.
7. If any Product is moved to a location which is significantly further from KDA servicing location than the original location, KDA may elect to discontinue the service and refund the Maintenance Agreement price, or service the Equipment based on the Service Zone requirements, as outlined in the Master Agreement.
8. This Agreement will not apply to service made necessary by accident, misuse, abuse, neglect, theft, riot, vandalism, electrical power failure, power surges, low or high voltage in the electrical line, fire, water or other casualty, or to repair made necessary as a result of either service by personnel other than KDA personnel or the used of supplies or parts not meeting KDA's published specifications. KDA will charge customer for repairs and parts, due to the foregoing, at the prices per the Master Agreement, when such service work is performed.
9. When service work beyond the scope of this Agreement is required, KDA will submit a cost estimate for such service work. If such service work is authorized by the Customer, a separate invoice will be rendered.
10. This Agreement covers only the Products listed on the front of this Agreement and does not include any Products, equipment or accessories not listed.
11. This Agreement may not be assigned by the Customer.
12. This Agreement does not include applicable taxes. All taxes levied or imposed, now or hereafter, by any

government authority shall be timely paid by the Customer.

13. If Customer defaults in any payments under this Agreement, then KDA shall be entitled to all expenses of collection, including reasonable attorney's fees, whether or not suit is brought, plus an interest and finance charge of 1% per month or the maximum allowed by law, whichever is less, on the unpaid balance.
14. This Agreement shall be deemed to accurately represent the intent of the parties, notwithstanding any variance with the terms and conditions of any order submitted by the Customer in respect to KDA's service, or any oral representative made by any KDA representative.
15. This Agreement shall remain in full force and effect for successive Coverage Periods, but may be terminated at any time after the initial Coverage Period by either party on thirty (30) days prior written notice to the other party. The Maintenance Agreement price for the new period may be increased to reflect the age of the equipment or increased costs to KDA, but at no time shall exceed Master Agreement pricing. Customer's obligation to pay all charges which have accrued shall survive any termination of this Agreement. KDA reserves the right not to renew this Agreement for specific Products if in KDA's sole discretion it believes a Product service overhaul is required.

ATTACHMENT 8 – KYOCERA SAMPLE MPS STATEMENT OF WORK



Attachment 8 -
Kyocera Sample MPS

ATTACHMENT 9 – KYOCERA SOFTWARE FINANCE AGREEMENT

1. Agreement: You (“Obligor”) agree to pay us (“Payee”), pursuant to this Agreement, the installment payments identified above for the System (defined as the equipment (“Equipment”), software (“Software”) and the right to receive consulting, maintenance and other related services (collectively, “Support”) listed above). Obligor is deemed to have unconditionally and irrevocably accepted the System on the date Obligor signs the delivery and acceptance certificate (the “Commencement Date”). The Agreement starts on the Commencement Date and the installment payments (“Payments”) shall be payable in arrears beginning on the Commencement Date or any later date designated by Payee and thereafter until all amounts are fully paid. OBLIGOR’S OBLIGATION TO PAY ALL PAYMENTS AND ANY OTHER SUMS DUE HEREUNDER SHALL BE ABSOLUTE, UNCONDITIONAL AND NONREFUNDABLE, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SETOFF, DEFENSE, CLAIM, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT, FOR ANY REASON WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY CLAIM THAT ANY SUPPLIER OR LICENSOR FAILED TO PERFORM, OR HAS BREACHED ANY OF ITS REPRESENTATIONS OR WARRANTIES OR COVENANTS, UNDER ANY SOFTWARE AGREEMENT OR THE EXPIRATION, REVOCATION OR TERMINATION IN WHOLE OR IN PART OF ANY SOFTWARE AGREEMENT FOR ANY REASON OR ANY LICENSE OR THE LICENSES GRANTED UNDER ANY SOFTWARE AGREEMENT AND/OR ANY RELATED MAINTENANCE, SUPPORT AND/OR OTHER SERVICES AGREEMENT HAVE BEEN REVOKED OR OTHERWISE TERMINATED FOR ANY REASON. Accordingly, in the event of any breach or default under any Software Agreement, Obligor’s sole remedy shall be against the licensor (“Licensor”) under the Software Agreement. Obligor acknowledges and agrees that the License fee(s) (“License Fee”) specified in Software Agreement was fully earned by Licensor when the Licensed Software was delivered and that the fee for Services (“Service Fee”), if any, specified in any Software Agreement will be fully earned in advance on the applicable payment due date set forth in the Software Agreement; provided, however, that Obligor may still pursue any warranty claims against Licensor (but not against Payee or any Assignee (defined below)) in accordance with the terms and conditions of the Software Agreement. Obligor will pay Payee a late charge of 1% of the payment, on any payment not made within 45 days of the due date, but only to the extent permitted by law.

2. Ownership: Obligor owns the System and grants Payee a security interest in the System and all proceeds thereof.

3. Warranty Disclaimer; Use and Maintenance: PAYEE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OF THE DESIGN OR CONDITION OF THE LICENSED SOFTWARE, ITS DURABILITY, OR NONINFRINGEMENT, THE QUALITY OF THE SERVICES OR THE MATERIAL OR WORKMANSHIP OF THE LICENSED SOFTWARE, OR THE CONFORMITY OF THE LICENSED SOFTWARE OR SERVICES TO THE PROVISIONS OR SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO, AND PAYEE HEREBY SPECIFICALLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES. To the extent made to Payee, we transfer to Obligor any manufacturer or provider warranties for the System. Obligor is required at Obligor’s cost to keep the System in good working condition and to pay for all supplies and repairs. If the System includes the cost of Support provided by a third party, Obligor agrees that Payee is not responsible to provide the Support and Obligor will make all Support claims against the third party.

4. Assignment: Obligor may not transfer, sell, sublease, sublicense, assign, pledge hypothecate or otherwise transfer, dispose of or relinquish possession or control of or encumber either the System or any rights herein without our prior written consent (which consent shall not be unreasonably withheld). Obligor acknowledges and agrees that Payee and any Assignee may not sell, grant a security interest in, assign or otherwise transfer (collectively “Transfer”), in whole or in part, this Agreement or any of its interests, rights or obligations with respect thereto, including without limitation any or all Payments and other sums due or to become due hereunder, to such third party as Payee or such Assignee, as applicable, in its discretion may select (each Payee transferee or assignee, together with any subsequent transferees or assignees, herein referred to as “Assignee”) without notice to Obligor. Each Assignee shall have, to the extent provided in any Transfer document, Payee’s rights, powers, privileges and remedies with respect thereto, but shall not be obligated to

Obligor to observe or perform any duty, covenant or condition required to be observed or performed by Payee or any Licensor or Supplier. No Transfer shall relieve Payee from any of its obligations to Obligor. OBLIGOR SHALL NOT ASSERT AGAINST ASSIGNEE ANY CLAIMS, DEFENSE, COUNTERCLAIM OR SETOFF THAT OBLIGOR MAY AT ANY TIME HAVE AGAINST PAYEE OR ANY SUPPLIER OR LICENSOR. Obligor shall pay Payee, or Assignee, as applicable, all amounts due and payable under this Agreement, but shall pursue any claims under any Software Agreement against only Licensor. Obligor agrees that, upon receipt of notice from Payee, or Assignee, as applicable, (i) it shall be bound by such Transfer, (ii) Payments shall be made to Assignee, (iii) Obligor shall promptly comply with, and (if requested) acknowledge in writing, such instructions, (iv) Assignee shall have and be entitled to exercise any and all rights and remedies of Payee hereunder, and (v) all references herein to Payee shall include Assignee. Unless a default has occurred and is continuing, neither Payee nor its Assignees will interfere with Obligor's quiet enjoyment or use of the Licensed Software in accordance with the Software Agreement's terms and conditions.

5. Risk of Loss: Obligor is responsible for all System risk of loss and damage and if any loss or damage occurs Obligor is nonetheless required to satisfy all of Obligor's obligations hereunder.

6. Taxes: Obligor is responsible for and agrees to pay when due, either directly or as reimbursement to Payee any charges in connection with the purchase, ownership and use of the System except for taxes or charges included in the Total Financed Amount unless a valid tax exempt certificate can be provided and is in full force and effect.

7. Default and Remedies: Obligor is in default under this Agreement if: (i) Obligor fails to pay any amount within forty-five (45) days of when due; (ii) any representation or warranty made by Obligor proves to be false in any material respect when made; (iii) a material breach by Obligor of any provision of this Agreement (other than a breach covered by (i) above) where Obligor fails to correct such breach within forty-five (45) days of its receipt of written notice thereof; (iv) an event of default occurs and is continuing under any other related agreement, including, without limitation, the Software Agreement, after the giving of any required notice and the expiration of any applicable cure period; or (v) Obligor shall commit an act of bankruptcy or become or be adjudicated insolvent or bankrupt or make an assignment for the benefit of creditors or become unable or admit in writing its inability to pay its debts as they become due, or a trustee receiver or liquidator shall be appointed for Obligor, or for a substantial part of its property, with or without its consent, or bankruptcy, arrangement, reorganization, composition, readjustment, liquidation, insolvency, dissolution or similar proceedings under any present or future statute, law or regulation shall be instituted by or against Obligor, Obligor shall file an answer admitting the material allegations of a petition filed against it in any such proceeding, or Obligor shall cease doing business as a going concern, or Obligor shall, without Payee's prior consent, sell, transfer, pledge or otherwise dispose of all or any substantial part of its assets, or consolidate or merge with any other entity; (viii) Lessee, its owner(s) or any guarantor(s) are listed on a US or foreign government sanctions list or are subject to sanctions therefrom.. If Obligor is in default Payee may: (i) declare the entire balance of unpaid payments for the full term immediately due and payable to Payee and you agree to compensate us, not as a penalty, by paying, the sum of: (a) all past due and current amounts due (or other periodic payments) and charges due under this Agreement; (b) the present value of all remaining amounts due (or other periodic payments) and charges for the remainder of the term of this Agreement, discounted at the rate of four percent (4%) per annum (or the lowest rate permitted by law, whichever is higher); and (c) the present value (at the same discount rate as specified in clause, and with respect to any Software) immediately terminate your right to use the Software including the disabling (on-site or by remote communication) of any Software; (d) demand the immediate return and obtain possession of the Software and re-license the Software at a public or private sale; and/or (e) cause the Software supplier to terminate the Software license, support and other services under the Software license); (ii) charge you overdue account charges up to a maximum rate of one percent (1%) per month from the date of default until paid, but in no event more than the maximum rate permitted by law; (iii) require that Obligor immediately return the System to Payee or Payee may peaceably repossess it if Obligor fails to return it to Payee, (iv) cause any Software or Support provider to terminate, as applicable, all of Obligor's rights to use or have available, as applicable, any or all of any or all Software and/or Support and/or (v) pursue any rights or remedies available at law or in equity. Any return or repossession will not be considered a termination or cancellation of this Agreement. If the System is returned or repossessed Payee will sell, rent or otherwise dispose of the System at terms Payee determines, at one or more public or private sales, with or without notice to Obligor, and apply the net proceeds (after

deducting any related expenses) to Obligor's obligations. Obligor remains liable for any deficiency with any excess being retained by Payee. All remedies are cumulative and not exclusive. Except as expressly provided herein, Obligor hereby waives grace, demand, presentment for payment, notice of non-payment, protest and notice of protest, notice of dishonor or default, notice of intent to accelerate, notice of acceleration and diligence in collecting and bringing of lawsuit and/or other enforcement action. To the extent permitted by law, Obligor agrees that neither Payee nor any Assignee nor Licensor shall be required to license, lease, transfer or use any Licensed Software in mitigation of any damages resulting from Obligor's default.

8. Representations, Warranties and Covenants: Obligor represents and warrants to Payee, and any Assignee, as applicable, that (a) the Obligor is duly organized, validly existing and in good standing under the applicable laws of its jurisdiction of organization; (b) this Agreement is a genuine, legal, valid and binding obligation of Obligor, enforceable against Obligor in accordance with its terms, subject to applicable bankruptcy and other similar laws affecting creditor's rights generally, and the execution, delivery and performance of this Agreement will not violate or create a default under any law (including any applicable usury law, regulation, judgment, order, instrument, agreement or charter document binding on Obligor or its property; (c) this Agreement has been duly authorized, executed by Obligor's duly authorized representative(s), and delivered and (e) any and all financial information furnished to Payee, and any Assignee, as applicable, by Obligor is and will be true and correct in all material respects and prepared in accordance with generally accepted accounting principles. Obligor acknowledges that (a) it has independently ordered the Licensed Software and Services, if any, from Licensor based on its own judgment, and expressly disclaims any reliance upon statements made to Obligor by Payee or any Assignee, if any, with respect to such Licensed Software and, if any, Services; and (b) this Agreement is separate and distinct from the Software Agreement with Licensor, and the terms and conditions of such Software Agreement are not incorporated into nor made a part hereof.

9. Miscellaneous: This Agreement shall be governed and construed in accordance with the laws of state of Lessee. OBLIGOR CONSENTS TO JURISDICTION, PERSONAL OR OTHERWISE, IN ANY STATE OR FEDERAL COURT IN SUCH STATE. BOTH PARTIES WAIVE TRIAL BY JURY IN ANY ACTION BETWEEN US. Obligor agrees that the System will only be used for business purposes and not for personal, family or household use. Obligor agrees that this Agreement may be executed in counterparts and any facsimile, photographic or other electronic transmission and/or electronic signing of this Agreement by Obligor when manually countersigned by Payee or attached to Payee's original signature counterpart and/or in Payee's possession shall constitute the sole original chattel paper as defined in the UCC for all purposes and will be admissible as legal evidence thereof. At Payee's option, Payee may require a manual signature. Payee may inspect the System during the Agreement term. This Agreement constitutes the complete and exclusive agreement of Obligor and Payee with respect to the subject matter hereof and supersedes all prior oral or written understandings, including, without limitation any inconsistent terms set forth in the Software Agreement. No term or provision of this Agreement may be amended, waived, discharged, or terminated except by a written instrument signed by Obligor and Payee, or, as applicable, Assignee thereof. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement will remain in full force and effect and in no way will be affected, impaired or invalidated. This Agreement has been entered into in connection with a Software License, Services and Maintenance Agreement (as amended, extended or replaced from time to time, each a "Software Agreement") between Obligor and Licensor. The terms of the Software Agreement remain unchanged and in full force and effect, except as otherwise provided for herein. In the event that Licensed Software from Licensor does not perform as warranted or in the event of any other dispute or default under the Software Agreement, Obligor shall be entitled to pursue against the Licensor all of Obligor's rights and remedies arising under the Software Agreement, and nothing in this Agreement shall diminish or waive any rights and remedies which Obligor may have against Licensor under the Software Agreement. All obligations under this Agreement shall survive any termination of the licenses and Services relating to the Licensed Software. IN NO EVENT SHALL PAYEE OR ASSIGNEE HAVE ANY LIABILITY, NOR SHALL OBLIGOR HAVE ANY REMEDY AGAINST PAYEE OR OBLIGOR, FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER FORESEEABLE OR NOT, FOR ANY LOSS OF PROFITS OR SAVINGS, LOSS OF USE OR ANY OTHER COMMERCIAL LOSS. OBLIGOR ACKNOWLEDGES THAT PAYEE AND/OR ASSIGNEE DID NOT (i) SELECT, MANUFACTURE, DISTRIBUTE OR LICENSE THE LICENSED SOFTWARE COVERED BY THE SOFTWARE AGREEMENT, NOR (ii) SELECT NOR PROVIDE

OR AGREE TO PROVIDE THE SERVICES THEREUNDER AND THE OBLIGOR HAS MADE THE SELECTION OF SUCH SOFTWARE AND SERVICES BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY ASSIGNEE OR ITS AGENTS. Obligor agrees to execute and deliver any instrument, furnish any information or perform any other act reasonably necessary or convenient to carry out the provisions of this Agreement.