



Commonwealth of Massachusetts

Standard Contract Form Instructions and Contractor Certifications

This form is jointly issued and published by the Office of the Comptroller (CTR), the Executive Office for Administration and Finance (ANF), and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the [Standard Contract Form Instructions and Contractor Certifications](#), the [Commonwealth Terms and Conditions for Human and Social Services](#) or the [Commonwealth IT Terms and Conditions](#) which are incorporated by reference herein. Additional nonconflicting terms may be added by Attachment. Contractors are required to access published forms at CTR Forms: <https://www.macomptroller.org/forms>. Forms are also posted at OSD Forms: <https://www.mass.gov/lists/osd-forms>.

Contractor Legal Name Toshiba America Business Solutions, Inc.		
Contractor D/B/A Name Toshiba America Business Solutions Inc.		
Contractor Legal Address Number, street and apartment or suite number (Form W-9, W-4) 133 Flanders Road		
City Westborough	State MA	Zip Code 01851
Contract Manager Jeff Ballard	Phone 9494626327	
E-Mail jeff.ballard@tabs.toshiba.com	Fax	
Contractor Vendor Code VC6000237159		
Vendor Code Address ID		

Commonwealth Department Name Operational Services Division		
MMARS Department Code OSD		
Commonwealth Department Mailing Address Number, street and apartment or suite number One Ashburton Place, Room 1608		
City Boston	State MA	Zip Code 02108
Commonwealth Department Billing Address Number, street and apartment or suite number (If different)		
City	State	Zip Code
Commonwealth Department Billing Email Address		
Contract Manager Ryan Johnson		Phone 7814704384
E-Mail ryan.johnson2@mass.gov		Fax
DOC Code MA		



Commonwealth of Massachusetts

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ITE001

(e.g. "AD001")

AD001

Note: The Address ID must be set up for EFT payments.

RFR/Procurement or other ID Number

BD-25-1080-OSD03-SRC3-104686

MMARS Doc ID(s)

ITE001

MMARS Version Number

Budget Fiscal Year 2025

Should this Contract go to the Office of the Comptroller?

☐ Yes

☒ No

Is this a new contract or a contract amendment?

☐ **New Contract**

Complete the "FOR NEW CONTRACTS" section below.

☒ **Contract Amendment**

Complete the "FOR CONTRACT AMENDMENTS" section below.

FOR NEW CONTRACTS

Procurement or Exception Type

Check only one option.

☐ **Statewide Contract**

OSD or an OSD-designated Department.

☐ **Collective Purchase**

Attach OSD approval, scope, and budget.

☐ **Department Procurement**

Includes all Grants – Solicitation Notice
or RFR, and Response or other procurement
supporting documentation.

☐ **Emergency Contract**

Attach justification for emergency, scope, and budget.

☐ **Contract Employee**

Attach Employment Status Form, scope, and budget.

☐ **Other Procurement Exception**

Attach authorizing language, legislation with specific
exemption or earmark, and exception justification,
scope, and budget.

FOR CONTRACT AMENDMENTS

Current Contract End Date Prior to Amendment

2026-07-31

Amendment Amount

\$ _____

Check if there is no change to the contract amount.

Amendment Type

Check one option only. Attach details of amendment changes.

☒ **Amendment to Date, Scope or Budget**

Attach updated scope and budget.

☐ **Interim Contract**

Attach justification for Interim Contract and updated
scope/budget.

☐ **Contract Employee**

Attach any updates to scope or budget.

☐ **Other Procurement Exception**

Attach authorizing language/justification and updated scope and
budget.



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The Standard Contract Form Instructions and Contractor Certifications and the following Commonwealth Terms and Conditions document are incorporated by reference into this Contract and are legally binding.

Check ONE option.

☐ [Commonwealth Terms and Conditions](#)

☐ [Commonwealth Terms and Conditions for Human and Social Services](#)

☒ [Commonwealth IT Terms and Conditions](#)

Compensation

Check ONE option.

The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under

☒ **Rate Contract** (No Maximum Obligation)

Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.

☐ **Maximum Obligation Contract**

Enter total maximum obligation for total duration of this contract (or **new** total if Contract is being amended).

\$ _____

Prompt Payment Discounts (PPD)

Commonwealth payments are issued through Electronic Funds Transfer 45 days from invoice receipt. Contractors requesting **accelerated** payments must identify a Prompt Payment Discount as follows:

Payment issued within 10 days 3.00% PPD; Payment issued within 15 days 2.00% PPD;

Payment issued within 20 days 1.00% PPD; Payment issued within 30 days 0.00% PPD.

If PPD percentages are left blank, identify reason:

☐ Agree to standard 45-day cycle

☐ Statutory/legal or Ready Payments

☐ Only initial payment (Subsequent payments scheduled to support standard EFT 45-day payment cycle. See.

Brief Description of Contract Performance or Reason for Amendment

Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.

This amendment is to correct the NASPO ValuePoint Master Agreement number referenced in the original Standard Contract Form and Participating Addendum. All references to "Master Price Agreement #187646" in the original Standard Contract Form and Participating Addendum are hereby replaced with "Master Price Agreement #188037." This amendment makes no changes to the terms and conditions of the original agreement.



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Anticipated Start Date

Complete ONE option only.

The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:

___ 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date.

___ 2. may be incurred as of _____ a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date.

X 3. were incurred as of 11-03-2024 a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of _____ payments forever releases the Commonwealth from further claims related to these obligations.

Contract End Date

Contract performance shall terminate as of 07-31-2026 with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.

Certifications

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form, the Standard Contract Form Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response (excluding any language stricken by a Department as unacceptable, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#) incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Authorizing Signature for the Contractor

Signature and Date Must Be Captured at Time of Signature

X Larry White (Nov 15, 2024 11:32 PST) Larry White e)

Date: Nov 15, 2024

Print Name: Larry White

Print Title: President and CEO

Authorizing Signature for the Commonwealth

Signature and Date Must Be Captured at Time of Signature

X Anna Shpigel (Nov 15, 2024 12:23 PST))

Date: Nov 15, 2024

Print Name: Anna Shpigel

Print Title: Deputy Assistant Secretary

**Certifications,
Terms and
Conditions**

URL (below URL's can be viewed in PDF)



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Standard Contract Form Instructions and Contractor Certifications	https://www.macomptroller.org/wp-content/uploads/instructions_standard-contract-form.pdf
Commonwealth Terms and Conditions for Human and Social Services	https://www.macomptroller.org/wp-content/uploads/form_commonwealth-terms-and-conditions-for-human-and-socialservices.pdf
Commonwealth Terms and Conditions	https://www.macomptroller.org/wp-content/uploads/form_commonwealth-terms-and-conditions.pdf
Commonwealth IT Terms and Conditions	https://www.macomptroller.org/wp-content/uploads/form_commonwealth-terms-and-conditions-for-informationtechnology.pdf
Prompt Payment Discounts Policy	https://public.powerdms.com/MAComptroller/documents/1779666
Office of the Comptroller: Forms Website	https://www.macomptroller.org/forms
Operational Services Division: Forms Website	https://www.mass.gov/lists/osd-forms
801 CMR 21.07	https://www.mass.gov/law-library/801-cmr
815 CMR 2.00	https://www.mass.gov/law-library/815-cmr
815 CMR 9.00	https://www.mass.gov/law-library/815-cmr
M.G.L. c. 29, § 23A	https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter29/Section23A

Addendums

Title	Language

PARTICIPATING ADDENDUM
NASPO ValuePoint
MULTI-FUNCTION DEVICES AND RELATED SOFTWARE, SERVICES AND CLOUD SOLUTIONS

MASTER PRICE AGREEMENT #187646
Administered by the State of *Colorado*
between
***Toshiba America Business Solutions* (hereinafter “Contractor”) and the Commonwealth of**
Massachusetts (hereinafter “Participating State”) for Statewide Contract *ITE001*

1. Scope

This addendum by and between the Commonwealth of Massachusetts Operational Services Division and Toshiba America Business Solutions is based upon the NASPO ValuePoint Multi-Function Devices and Related Software, Services and Cloud Solutions Master Price Agreement with Toshiba America Business Solutions. This addendum hereby establishes Massachusetts Statewide Contract ITE001 for Multi-Function Devices and Related Software, Services and Cloud Solutions.

The Contractor has been awarded in the following categories:

- Group A - Multi-Function Devices, A3 - OEM only
- Group B - Multi-Function Devices, A4 - OEM and Non-OEM
- Group D - Single Function Printers - OEM and Non-OEM
- Group E - Large/Wide Format Equipment - OEM and Non-OEM
- Group G - Software - OEM and Non-OEM
- Group H - Consumable Supplies - OEM and Non-OEM
- Group I - Managed Print Services
- Sub-Group G1 - Software Related Services
- Sub-Group D1 - Specialty Printers (3D, receipt, barcode label, card, cable) - OEM and Non-OEM

2. Duration

The initial term of NASPO ValuePoint Multi-Function Devices and Related Software, Services and Cloud Solutions is two (2) years. In addition, this Contract has 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.

This Participating Addendum will expire upon the expiration of the master agreement, NASPO ValuePoint Multi-Function Devices and Related Software, Services and Cloud Solutions or the expiration of any contract renewals authorized by the Master Agreement and exercised by both the State of Colorado and the Commonwealth of Massachusetts.

3. Contract Pricing

Contractor will offer the following:

Products and Pricing will be based upon the Agreement and the Contractor's NASPO ValuePoint approved price list as of the date of signature of this Participating Addendum. If changes are made to the NASPO ValuePoint approved price list after the signature date of this Participating Addendum, Contractor shall provide a copy of the most recent NASPO ValuePoint approved price list, identifying such changes, to OSD in

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an editable, spreadsheet format. OSD reserves the right to identify particular products or services that are ineligible for purchase by Eligible Entities under ITE001.

4. Participation

The following are the Commonwealth entities (“Eligible Entities”) that are designated by the State Purchasing Agent as eligible to use this Addendum known as Statewide Contract ITE001:

1. Cities, towns, districts, counties and other political subdivisions
2. Executive, Legislative and Judicial Branches, including all Departments and elected offices therein
3. Independent public authorities, commissions and quasi-public agencies
4. Local public libraries, public school districts and charter schools
5. Public hospitals owned by the Commonwealth
6. Public institutions of higher education
7. Public purchasing cooperatives
8. Non-profit, UFR-certified organizations that are doing business with the Commonwealth
9. , and
10. Other entities when designated in writing by the State Purchasing Agent.

5. Commonwealth Modifications or Additions to Master Price Agreement

The following documents are incorporated into the resulting Contract as though fully set forth herein. In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- The Commonwealth of Massachusetts Terms and Conditions for Information Technology Contracts (**Attachment A**); []
- The Commonwealth of Massachusetts Standard Contract Form (**Attachment B**);
- This Participating Addendum and its attachments B, C, D, E, F, G and Exhibits 1(Lease) and 2(ECF), 3 (Toshiba Maintenance Agreement), & 18 (Master Software and Services Agreement).
- The NASPO ValuePoint Master Agreement Terms and Conditions, as modified herein or in the applicable Order or statement of work.
- The Order or statement of work signed by an Eligible Entity and Contractor.
- The Executed Equipment Confirmation Form or Purchase Order.
- The Quote

Although pursuant to Section 4, Contract Termination or Suspension, of the Commonwealth Terms and Conditions, the Commonwealth is allowed to terminate without cause, the Commonwealth hereby confirms that it and Eligible Entities will not exercise the termination without cause provision for leased equipment under a contract resulting from this Participating Addendum notwithstanding the order of precedence set forth in section 4 of the Participating Addendum.

The Contractor is prohibited from requiring Customers to sign any documents not referenced herein without the prior written approval of the Operational Services Division, which approval will be evidenced by the publication of the approved document on the Commonwealth’s eProcurement portal COMMBUYS, www.commbuys.com.

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The Commonwealth of Massachusetts requires Contractors to submit the following forms signed using accepted forms of signatures (see section 11):

- The Commonwealth of Massachusetts Standard Contract Form – (signing the Standard Contract Form signifies acceptance of the Commonwealth Terms and Conditions) (**Attachment B**)
- The Commonwealth of Massachusetts Substitute W-9 (**Attachment C**)
- Prompt Payment Discount Form (**Attachment D**)
- Supplier Diversity Plan Forms (**Attachment E**)
- Contractor Authorized Signatory Listing (Choose either one of the following attachments)
 - **Attachment F.1:** Corporation (C or S), Partnership, Trust/Estate, Limited Liability Company
 - **Attachment F.2:** Signature for Individual, Sole-Proprietor or Single Member LLC
- Electronic Funds Transfer Sign Up Form (**Attachment G**)

5.1. Reporting Requirements

5.1.1. Reporting and Payment Due Dates

Reporting/Payment Period	Quarterly Report Due Date	Payment Due Date
January 1st – March 31st	April 30th	May 15th
April 1st – June 30th	July 30th	August 15th
July 1st – September 30th	October 30th	November 15th
October 1 – December 31st	January 30th	February 15th

5.1.2. Quarterly Sales, Supplier Diversity Program expenditure, and Environmentally Preferable Products report

OSD has developed a centralized process for collecting sales, SDP, and EPP data. Sales data is used by OSD to measure progress on contract spend from year-to-year. The reporting assists with forecasting future contract spend, evaluating Vendor performance, and tracking Vendor spend towards environmental products and their SDP commitment. EPP reporting allows the EPP Program to annually quantify benefits and spend on sustainable products. Reporting also assists with the development of new contracts and/or new categories of services under existing contracts. In the event the Commonwealth adopts an alternate reporting system, Vendors will be required to utilize such system as directed by the OSD Contract Manager.

Completion and submission of the Quarterly Sales and SDP Report is a requirement for all awarded Vendors under this contract each quarter. An Awarded Vendor must submit a Quarterly Sales and SDP Report each quarter regardless of whether they have had sales during a quarter.

Vendors are required to submit reports through the Commonwealth’s Vendor Report Management (VRM) System which may be accessed via web portal at <https://massosd.gob2g.com>. Vendors must maintain records such that they are able to report, for all invoices submitted under the contract, the purchasing entity name, the invoice number,

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the invoice date, the product/service description, the unit of measure, the price per unit, the quantity, the line total purchase amount, and any environmentally preferable product reporting requirements as applicable.

5.1.3. Statewide Contract Administration Quarterly Fee Payment and Report

This Statewide Contract is subject to a 1% Contract Administration Fee, which is created pursuant to MGL c. 7, § 3B and 801 CMR 4.02, and which is incorporated by reference into Statewide Contracts with the Operational Services Division (OSD). The price stated in any Bidder's Quote price and any Contractor's Statewide Contract shall be inclusive of this fee and Contractors shall not reflect this fee as a separate line item on customer invoices.

This fee will be based on 1% of the total dollar amounts, adjusted for credits or refunds, paid by Eligible Entities to the Statewide Contractor based on the statewide contract. All "Statewide Contracts" awarded, and all purchase orders and purchases made pursuant to this RFR are subject to this fee. Eligible entities are defined in Section 3, above.

Note that if the 1% Administration Fee is deductible as a business expense for federal income tax purposes, it is also deductible as an expense for Massachusetts tax purposes.

5.1.3.1. Quarterly Fee Payment

For each Reporting Period, as defined above in the Reporting Requirements and Due Dates section, Statewide Contractor shall pay to OSD a fee equal to one percent (1%) of the total payments (adjusted for credits or refunds) received from all Eligible Entities that have purchased from the Statewide Contractor pursuant to this Agreement. All payments must be received by OSD on or before 45 days after the last day of the Reporting Period or a Contractor will be considered in breach of contract.

Quarterly payments will include any periods less than a full calendar quarter if a contract does not start on the first day of a quarter or end on the last day of the quarter.

Payments are to be made through a web-based secure payment center, which is accessible through a link provided to Statewide Contractors by OSD. All Administration Fee payments are to be made directly through the secure payment center. Payments may be made via Automatic Clearing House (ACH) or by using one of the following credit cards: American Express, Discover, MasterCard and/or Visa. Payment of the Administration Fee by check is not permitted unless a contractor makes a written request for an exception and demonstrates, to the satisfaction of OSD's Contract Manager, that compliance poses a hardship.

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There is no charge to contractors to use ACH as OSD covers the nominal fee for using the ACH payment method. OSD will NOT cover the convenience fee for selecting credit card. The contractor is responsible for paying this non-refundable fee. The convenience fee (currently established by Statewide Contract PRF59A) is over and above the 1% Administration Fee and is subject to change during the term of the contract resulting from this bid. Prior to the due date for the Statewide Contractor's Administration Fee payment and report, the Statewide Contractor will receive an e-mail from OSD that includes all required information to submit payments via the secure payment center.

5.1.3.2. Statewide Contractor Administration Fee Quarterly Reporting

Electronically submitting your payment, which is comprised of the 1% administration fee of the total payments received by the Contractor from all Eligible Entities for the Quarter, will serve as the Statewide Contractor Administration Fee Report.

Each Statewide Contractor shall submit one Statewide Contractor Administration Fee Report for each Statewide Contract for each Reporting Period. The electronic submission of the payment shall serve as submission of the Statewide Contractor Administration Fee Report.

5.1.4. Audit

During the term of this Agreement and for a period of six years thereafter, the Operational Services Division, its auditors, the Office of the Inspector General, the Office of the Attorney General, or other authorized representatives shall be afforded access at reasonable times to Contractor's accounting records, including sales information on any system, reports, or files, in order to audit all records relating to goods sold or services performed pursuant to this Agreement. If such an audit indicates that Contractor has materially underreported Sales, then the Vendor shall be responsible for payment of the costs associated with the audit.

5.1.5. Other Terms

Contractors are responsible for compliance with all other contract reporting requirements including, but not limited to, contract detailed spend, Supplier Diversity Program (SDP) and other contract reports, as required by this contract.

All amounts payable by the Contractor to OSD under this Agreement that are not received by the due date specified shall bear simple interest from the date due until paid. The Late Payment Interest Rate is set by the Office of the State Comptroller on an annual basis and can be found by selecting the fiscal year in question on the Comptroller's Fiscal Year Updates webpage.

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In the event of the Contractor's breach of this policy including, but not limited to, non-reporting, non-payment, late reporting/payment, under-reporting/payment, the Commonwealth reserves the right to pursue all recourse and penalties available including, but not limited to, contract suspension and contract termination. The Commonwealth is allowed to suspend, terminate, or debar pursuant to Massachusetts General Laws Chapter 29, Section 29F, as amended, and pursuant to Section 4 of the Commonwealth Terms and Conditions. In addition, in the event the Contractor fails to make any payment when due, the Contractor shall be liable to the Commonwealth for all expenses, court costs, and attorneys' fees (including inside counsel) incurred in enforcing the terms and conditions of this Agreement.

For public instrumentalities of the Commonwealth, risk of loss of the leased equipment, as set forth Section 13 Risk of Loss, of the Commonwealth Standard Terms and Conditions, rests with Contractor, provided, however, notwithstanding any such provision and the order of precedence whereby the Commonwealth Standard Terms and Conditions supersede this Participating Addendum, Customer shall be liable for the leased equipment after Customer's acceptance and Customer shall be responsible for losses and damage to the equipment , in each case, to the extent permitted by law.

Subject to the Commonwealth's Bill Payment Policy and the Commonwealth Terms and Conditions for Information Technology Contracts, the Contractor may sell and assign to its affiliates and/or unaffiliated third parties from time to time its right, title and interest in and to: (a) leased equipment subject to purchase orders including the obligation to provide the right to use the Equipment; and (b) all payments and other amounts due and to become due under such

purchase orders and this Participating Addendum with respect to the leased equipment; but none of the obligations of Contractor under this Participating Addendum, the Master Agreement or any other document referenced in Section 1 of the Master Agreement, all of which obligations shall remain with Contractor.

Any required software licenses or End User License Agreements ("EULAs") including any click-through terms must be provided to the purchaser for review and acceptance prior to the commencement of any engagement under this contract. Any software license agreements not specifically negotiated and accepted by the purchaser are only accepted to the extent they do not conflict with or dilute the terms of ITE001.

5.1.6. Ad hoc reports

The Commonwealth Contract Manager may request additional reports from time to time. The Contractor must comply with these requests to the extent that the information requested is available.

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5.1.7. Reporting Sales

Contractors may report manually in the Vendor Report Management System website or may upload their report using a spreadsheet. It is advised to use the upload process for convenience. When reporting by spreadsheet Contractors must utilize the downloadable report template from the website. Contractors must fill in all requested columns in the report template. When a sales report is ready to submit the Contractor uploads their report using the "View/Add Sales Details" button and then select "Upload Sales Data." This will prompt the website to review and validate the report at which time you may receive "errors" or "alerts" on your report. An error will generally mean that there is an error in the report itself, such as missing information or a line total not matching the unit price and quantity, and these will require correcting before the website will accept the report. An alert will generally mean that a customer name is not recognized, and you will have the option of changing it or submitting it to the system with a request for a name exception. In most cases for an alert the Contractor should submit their customer names as-is and request an exception and OSD will reply to the Contractor if more information is needed. All reports require the following information:

- a) Purchasing Entity Name (must be specific and not a generic name i.e. "Commonwealth")
- b) Invoice Number
- c) Invoice Date (use "Short Date" format)
- d) Product/Service Description (be as descriptive as possible)
- e) Unit of Measure (i.e. "each" or "hour")
- f) Unit Price
- g) Quantity
- h) Line Total Purchase Amount (must equal Unit Price X Quantity)

Contractors must comply with additional sales, environment and climate information about products or services (e.g., third-party certifications, standards, post-consumer recycled content, etc.), data requested by OSD on the quarterly sales report.

5.1.8. Reporting SDP

Contractors report their SDP spend by selecting the "View/Add Diverse Expenditures" button and searching for their partner/partners. Once you have added an SDP partner you will be able to add the amount spent with them in that quarter.

5.1.9. Submitting the Report

Once sales and SDP have been completed you must return to the "This Sales Report" page and click "Submit Report" in order to finish.

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5.1.10. Report Schedule

Quarterly Sales and SDP Reporting must be received by OSD on or before 30 days after the last day of the quarter (as specified above) or the Contractor will be in breach of contract. The Quarterly Sales and SDP Reporting periods are based on the Massachusetts fiscal year calendar. Supplier Diversity Program Plan Forms and Instructions (Attachment E) Massachusetts [Executive Order 599](#) reaffirmed and expanded the Commonwealth’s policy to promote the award of state contracts in a manner that develops and strengthens diverse businesses. The Commonwealth’s [Supplier Diversity Program](#) (SDP) promotes the partnering of Awarded Statewide Contractors with [Supplier Diversity Office](#) (SDO) certified or recognized diverse business partners. All Bidders are required to make a meaningful financial commitment by partnering with one or more SDO certified or recognized business enterprises or non-profits. Bidders must identify their commitment in the form of a specific percentage of sales under the resulting contract which will be spent with an SDP partner or partners on a Massachusetts fiscal year basis. The percentage commitment will extend for the life of any resulting contract. Bidders will not be awarded unless they submit an acceptable SDP plan.

5.2.1. Eligible SDP Partner Certifications

The list below identifies the types of SDO certified business enterprises and non-profits that are eligible to be SDP partners. The Commonwealth reserves the right to amend this list at any time.

- Minority-Owned Business Enterprise (MBE)
- Minority Non-Profit Organizations (M/NPO)
- Women-Owned Business Enterprise (WBE)
- Women Non-Profit Organization (W/NPO)
- Veteran-Owned Business Enterprise (VBE)
- Service-Disabled Veteran-Owned Business Enterprise (SDVOBE)
- Disability-Owned Business Enterprise (DOBE)
- Lesbian, Gay, Bisexual, and Transgender Business Enterprise (LGBTBE)

5.2.2. Eligible Types of Business-to-Business Relationships

Bidders and Contractors may engage SDP Partners in the following two ways:

Subcontracting, defined as a partnership in which the SDP partner is involved in the provision of products and/or services to the Commonwealth.

Ancillary Products and Services, defined as a business relationship in which the SDP partner provides products or services that are not directly related to the Contractor’s contract with the Commonwealth but may be related to the Contractor’s own operational needs.

Other types of business-to-business relationships are not acceptable under this contract. All provisions of this RFR applicable to subcontracting shall apply equally to the engagement of SDP

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Administered by the State of *Colorado*
between
***Toshiba America Business Solutions* (hereinafter “Contractor”) and the Commonwealth of**
Massachusetts (hereinafter “Participating State”) for Statewide Contract *ITE001*
Partners as subcontractors.

5.2.3. Program Flexibility

The SDP encompasses the following provisions to support Bidders in establishing and maintaining sustainable business-to-business relationships meeting their needs:

- SDP Partners are **not** required to be subcontractors.
- SDP Partners are **not** required to be Massachusetts-based businesses.
- SDP Partners **may be changed or added** during the term of the contract if the Contractor continues to meet its SDP Commitment.

5.2. Climate and Sustainable Products and Service Requirements

5.3.1. Environmental Requirements for Contractor

5.3.1.1. Accurate Labeling of Environmentally Preferable Products (EPPs)

The Purchasing Entity reserves the right to require the Vendor to remove any environmental claims that are false, vague, misleading or unsubstantiated in catalogs, price sheets, websites or other marketing materials that are provided to the Purchasing Entity under this contract. The Vendor must label imaging equipment with EPEAT registration level and identify toner as OEM or Remanufactured in any catalogs, marketing materials, price lists, and online ordering portal associated with this contract. Upon request of the Purchasing Entity, the Vendor must provide documentation that each product sold has the required third-party certification(s) or other environmental attributes listed below.

If the Contractor is offering an online ordering catalog through COMMBUYS PunchOut functionally, it must have an option to filter by EPP products.

5.3.1.2. Training

Contractor must offer educational/marketing materials and at least one training (at the request of the contract user) that can be accessed by contract users explaining its EPP labeling and reporting practices.

5.3.1.3. Blocking Products

Contractor agrees to block from its ordering system any products that do not comply with the Environmental Specifications listed below or that are not in compliance with environmental laws adopted by the Commonwealth of Massachusetts. OSD may consider failure to comply with the Environmental Specifications for this contract as well as the EPP labeling, reporting, and training requirements described above to be grounds for termination of this contract.

5.3.1.4. Packaging

Contractor may not offer packaging containing intentionally added lead, cadmium, mercury, hexavalent chromium or PFAS (measured as total organic fluorine) above 100 ppm. In addition, the Contractor must agree to work with all distributors to remove products packaged with

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polystyrene void fill such as packing “peanuts” and report annual progress to OSD in addition to alternative environmentally preferable packaging that is used.

5.3.2. Environmental Specifications

Products and services offered on this contract must comply with the Commonwealth of Massachusetts’ environmental, health and safety laws, regulations, and executive orders. This includes, but is not limited to:

Executive Order 515: Establishing an Environmental Purchasing Policy for Executive Departments. View the Environmentally Preferable Products (EPPs) Procurement Program General Information, Requirements and Guidance for detailed information about the program at <https://www.mass.gov/doc/epp-general-information-requirements-and-guidance/download>.

Senate Bill 9: An Act Creating a Next Generation Roadmap for Massachusetts Climate Policy aims to achieve Net Zero emissions by 2050, which furthers the Commonwealth’s efforts to combat climate change and protect vulnerable communities. The full Act may be viewed at <https://malegislature.gov/Bills/192/S9>.

Executive Order 594: Leading By Example: Decarbonizing and Minimizing Environmental Impacts of State Government requires all eligible state agencies to assess and implement strategies to mitigate greenhouse gas emissions and other environmental impacts when planning for and undertaking projects related to the design, construction, operations, and maintenance of state facilities, and the procurement of goods and services, including vehicles. View EO 594: Leading By Example requirements at <https://www.mass.gov/executive-orders/no-594-leading-by-example-decarbonizing-and-minimizing-environmental-impacts-of-state-government>.

Appliance Efficiency Standards: Pursuant to G.L. c. 25B. The Department of Energy Resources (DOER) has adopted regulations under 225 CMR 9.00, which can be accessed at <https://www.mass.gov/regulations/225-CMR-900-appliance-energy-efficiency-standards-testing-and-certification-program>, for testing the energy efficiency of certain appliances and lamps. Manufacturers must certify Covered Products to DOER in the Northeast Energy Efficiency Partnerships (NEEP State Appliance Standards Database which can be found at <https://neep.org/SASD>. Covered products that are not certified are prohibited under this contract. Products covered by this regulation may not be shipped for sale in Massachusetts unless they have been certified by the DOER.

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Vendor agrees to adhere to the Environmental Specifications listed below. In addition, the Commonwealth of Massachusetts reserves the right to adopt additional environmental specifications designed to protect human health and the environment over the life of this contract.

EPEAT Requirements

All imaging equipment offered for sale must meet the Global Electronics council Electronic Procurement Environmental Assessment Tool (EPEAT) bronze registration or higher as identified in the NASPO ValuePoint Multi- Function Devices and Related Software Services and Cloud Solutions Contract and prefers those that are labeled as EPEAT Climate+. In addition, the Commonwealth requires the following categories to also meet EPEAT Bronze requirements:

Group D - Single-function

Printers Group F – Scanners

Firmware

Vendors must refrain from issuing any firmware updates that intentionally disable remanufactured cartridges that, at the time of the firmware update, use aftermarket electronic circuitry to operate with the registered product’s then-current manufacturer firmware.

Toner Cartridges

All toner cartridges allowable for sale under this agreement must also abide by the requirements outlined in the Commonwealth’s ITE001 for Multi-Function Devices and Related Software, Services and Cloud Solutions.

Ship with Duplex Mode ON

All imaging equipment should ship with duplex mode set to “on” by default

5.3. COMMBUYS Market Center

COMMBUYS is the official source of information for this Bid and is publicly accessible at no charge at www.commbuys.com. Information contained in this document and in COMMBUYS, including file attachments, and information contained in the related Bid Questions and Answers (Q&A), are all components of the Bid, as referenced in COMMBUYS, and are incorporated into the Bid and any resulting contract.

Vendors are solely responsible for obtaining all information distributed for this Contract via COMMBUYS.

It is Contractor’s responsibility to check COMMBUYS for any amendments, addenda or modifications to this Contract.

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5.4.1. COMMBUYS Subscription

A free COMMBUYS Seller subscription provides value-added features, including automated email notification associated with posting and modifications to COMMBUYS records.

Contractor agrees that: (1) they will maintain an active seller account in COMMBUYS; (2) they will, when directed to do so by the procuring entity, activate and maintain a COMMBUYS-enabled catalog using Commonwealth Commodity Codes; (3) they will comply with all requests by the procuring entity to utilize COMMBUYS for the purposes of conducting all aspects of purchasing and invoicing with the Commonwealth, as added functionality for the COMMBUYS system is activated; (4) they understand and acknowledge that all references to the Comm-PASS website or related requirements, shall be superseded by comparable requirements pertaining to the COMMBUYS website; and (6) in the event the Commonwealth adopts an alternate market center system, successful Bidders will be required to utilize such system, as directed by the procuring entity. Commonwealth Commodity Codes are based on the United Nations Standard Products and Services Code (UNSPSC).

The COMMBUYS system introduces new terminology, which bidders and contractors must be familiar with in order to conduct business with the Commonwealth. To view this terminology and to learn more about the COMMBUYS system, please visit the COMMBUYS Resource Center.

Contractor is required to maintain a valid email address in COMMBUYS in order to receive notifications.

COMMBUYS supports a supplier's Web-based catalog from which purchases can be made by any eligible COMMBUYS buyer. Contractors who already maintain or are developing a Website for product ordering are advised that links to their sites will only be enabled within COMMBUYS if the system is limited to or can distinguish between Statewide Contract customers and retail or commercial customers. Contractors who already maintain or are developing a Website for product information are advised that links to their site will only be enabled within COMMBUYS if content is restricted to terms authorized under their Statewide Contract.

6. Performance and Payment Timeframes

All term leases, rentals, maintenance or other agreements for services entered into during the duration of this Contract and whose performance and payment time frames extend beyond the duration of this Contract shall remain in effect for performance and payment purposes (limited to the time frame and services established per each written agreement). No written agreement shall extend five (5) years beyond the final termination date of this Statewide Contract. No new leases, rentals, maintenance or other agreements for services may be executed after the Contract has expired.

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7. Primary Contacts

The primary contact individuals for this participating addendum are as follows (or their named successors):

Lead State

Name	Nikki Pollack
Address	Department of Personnel & Administration State Purchasing & Contracts Office 1525 Sherman Street, 5th Floor Denver, Co 80203
Telephone	303-866-5671
Fax	
E-mail	nikki.pollack@state.co.us

Cooperative Contract Manager

Name	Joel Atkinson
Address	
Telephone	(850) 848-1250
Fax	
E-mail	jatkinson@naspovaluepoint.org

Contractor – Local Government Account Manager

Name	Jeff Ballard
Address	
Telephone	(949) 462-6327
Fax	
E-mail	TABS-NASPO@TABS.toshiba.com

Participating Entity

Name	Ryan Johnson Strategic Sourcing Manager (SSM)
Address	Operational Services Division, One Ashburton Place, Room 1608 Boston, MA
Telephone	781-470-4384
Fax	617-720-4527
E-mail	Ryan.Johnson2@mass.gov

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8. Purchase Order Instructions

All orders should contain the following (1) Mandatory Language “PO is subject to Massachusetts Statewide Contract ITE001 and NASPO ValuePoint Contract # 187646” (2) Your Name, Address, Contact, & Phone-Number (3) Purchase order amount. Purchase Orders and payments may be made only to the Contractor identified above and on COMMBUYS.

9. Price Agreement Number

All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Massachusetts Statewide Contract number: ITE001 and the NASPO ValuePoint price agreement number: 187646].

10. OSD Logo Use

Successful Bidders will be provided a COMMBUYS Logo and Statewide Contract Logo (Statewide Contract Logos) for print and online marketing of said Contractor’s goods and services available on Statewide Contract. Statewide Contract Logos may only be used for the purpose of promoting the use of Statewide Contracts and does not guarantee any sales of services and/or commodities marketed. Statewide Contract Logos are only allowed to be used by Statewide Contractors who are registered on COMMBUYS and only to market those services/commodities available on their Statewide Contract(s). Statewide Contractor must adhere to all terms in their Statewide Contract(s) and be in good standing, which includes not having any outstanding issues (such as non-compliance with any reporting requirements) and not being debarred, terminated, or suspended, as determined by the Commonwealth Contract Manager and Strategic Sourcing Team (SST). COMMBUYS and other marks, graphics, logos, page headers, icons, scripts unique to OSD on www.mass.gov and www.commbuys.com are the trademarks and/or trade dress and property of the Commonwealth, use of which is prohibited without prior approval by the Commonwealth. In no case shall such trademarks or trade dress be used in any manner that is likely to cause confusion, that disparages or discredits the Commonwealth and in connection with any service or product that is not sponsored, endorsed, or produced by the Commonwealth. OSD reserves the right to accept or reject any proposed uses of the Statewide Contract Logos which do not fully support these terms. All proposed online and print materials are subject to review by OSD, which may assess the appropriateness of proposed content. Use of the logos which does not, in the opinion of OSD, support the general purpose outlined herein may be rejected, including uses that contain libelous, slanderous, obscene, profane, violent, criminal, or otherwise objectionable content, which will be rejected. Statewide Contractors must adhere to the Statewide Contractor Marketing Requirements as set forth in each Statewide Contract. Statewide Contractor acknowledges that their having a Statewide Contract and their use of Statewide Contract Logos is not an endorsement of the Contractor by the Commonwealth or OSD. All marketing materials must be reviewed by the Contract Manager and OSD’s Marketing Department for approval before distribution. Should the Statewide Contractor be instructed by OSD to cease utilizing the COMMBUYS Logo and/or Statewide Contract Logo, Statewide Contractor shall promptly remove the logo(s) from

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all printed and electronic marketing material. OSD reserves the right to terminate the OSD Logo Use of all Statewide Contractors at any time, for any reason, and/or modify the logos. Upon request of OSD to update logo(s) to newer versions, Statewide Contractors shall promptly update their materials accordingly. Marketing information must be factual in nature in order to promote those goods and/or services for which the Contractor has a Statewide Contract and must not be critical of other Statewide Contractors; and Contractors must not display the Commonwealth of Massachusetts Seal for commercial purposes because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law. Contractors may only utilize email lists to market to Commonwealth eligible entities if such emails contain an “Unsubscribe” option in order to allow recipients to opt out of receiving such emails.

11. Attachments

11.1 Master Agreement Attachments not applicable to this PA

- Attachment 7 – Toshiba Amendment to Opt Out
- Attachment 8 – Toshiba Opinion of Council

11.2 Master Agreement Attachments amended

- Attachment 3 – Maintenance Agreement
- Attachment 18 - MSSA

11.3 Required for the Participating Addendum

- Attachment A – Commonwealth of Massachusetts Terms and Conditions
- Attachment B – Commonwealth of Massachusetts Standard Contract Form
- Attachment C – Massachusetts Substitute W-9 Form
- Attachment D – Commonwealth of Massachusetts Prompt Payment Discount Form
- Attachment E – Commonwealth of Massachusetts Supplier Diversity Program Forms
- Attachment F.1 or F.2 – Contractor Authorized Signatory Listing
- Attachment G – Authorization for Electronic Funds Transfer

12. Accepted Forms of Signatures

1. Traditional “wet signature” (ink on paper);
2. Electronic signature that is either:
3. Hand drawn using a mouse or finger if working from a touch screen device; or
4. An uploaded picture of the signatory’s hand drawn signature
5. Electronic signatures affixed using a digital tool such as Adobe Sign or DocuSign.

If using an electronic signature, the signature must be visible, include the signatory’s name and title, and must be accompanied by a signature date.

Please be advised that typed text of a name not generated by a digital tool such as Adobe Sign or DocuSign, even in computer-generated cursive script, or an electronic symbol, are not acceptable

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forms of electronic signature.

13. Individual Customer

Each State agency and political subdivision, as a Participating Entity, that purchases products/services will be treated as if they were Individual Customers. Except to the extent modified by a Participating Addendum, each agency and political subdivision will be responsible to follow the terms and conditions of the Master Agreement; and they will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each agency and political subdivision will be responsible for their own charges, fees, and liabilities. Each agency and political subdivision will have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor will apply the charges to each Participating Entity individually.

This Participating Addendum and the NASPO ValuePoint Master Price Agreement Contract # 187646 (administered by NASPO ValuePoint together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary to or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

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

Authorizing Signature for the Contractor Signature and Date Must Be Captured at Time of Signature X <u>Larry White</u> Larry White (Nov 1, 2024 09:50 PDT)	Authorizing Signature for the Commonwealth Signature and Date Must Be Captured at Time of Signature X  Anna Shpigel (Nov 1, 2024 19:49 EDT)
Date: 11/01/2024	Date: 11/01/2024
Print Name: Larry White	Print Name: Anna Shpigel
Print Title: President and CEO	Print Title: Deputy Assistant Secretary

Exhibit 1
To Commonwealth of Massachusetts Participating Addendum ITE001

AGREEMENT FOR LEASE OF EQUIPMENT
a Contract Between

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF LESSEE)

and
Toshiba America Business Solutions, Inc.

(NAME, CONTACT PERSON, ADDRESS, PHONE, FACSIMILE NUMBER OF LESSOR)

WHEREAS, ("Lessee") is authorized to lease under the above referenced NASPO-ValuePoint Master Agreement (formerly "WSCA-NASPO Master Agreement") and the Commonwealth of Massachusetts Participating Addendum thereto, collectively Massachusetts Statewide Contract ITE001; and

WHEREAS, it is deemed that the lease of this equipment is both necessary and for the good of Lessee;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **LEASE TERM.** This Agreement shall be effective from the date of acceptance of Leased Equipment to the date that is months thereafter, unless sooner terminated by either party as set forth in this Agreement in Section 6.
2. **DEFINITIONS.** "Lease Term" means the term of this Agreement as set forth in Section 1. "Leased Equipment" means the equipment described in the ITE001 Equipment Confirmation Form (hereinafter known as "Order Form"), which is attached to and incorporated herein, and any replacement equipment provided by Lessor during the term of this Agreement. "Lessor" means Toshiba America Business Solutions, Inc.
3. **CONSIDERATION (RENT).** The parties agree that for the Lease Term set forth in Section 1 above, Lessor leases to Lessee the equipment described in the ITE001 Equipment Confirmation Form and for the lease payments set forth in the ITE001 Equipment Confirmation Form, excluding meter charges, late fees and applicable taxes.
4. **POSSESSION, TITLE AND RETURN.**
 - (a) Lessee shall have possession of the Leased Equipment for the Lease Term set forth in Section 1 above, unless this Agreement is earlier terminated in accordance with Section 6 below, and shall keep such Leased Equipment at the location specified in the ITE001 Equipment Confirmation Form, or such other location as Lessor may agree in writing.
 - (b) Lessor covenants that it has good title to the Leased Equipment, except any intangible property or associated services such as periodic software licenses and prepaid database subscription rights included in the Leased Equipment, if any.
 - (c) At the expiration of the term of this Agreement, it shall be Lessee's responsibility to secure or remove all data from any and all disk drives or magnetic media of the Leased Equipment and make the Leased Equipment available to Lessor for pickup at Lessee's premises. all costs of removing and transporting the Leased Equipment at the expiration of the Lease Term shall be the responsibility of Lessor.
 - (d) For public instrumentalities of the Commonwealth, risk of loss of the Leased Equipment rests with Lessor; provided, however, Lessee shall be liable for the Leased Equipment after it is delivered to Lessee's designated location, accepted by Lessee, and Lessee is responsible for self- insurance coverage to cover losses, in each case, to the extent permitted by M.G.L. c. 258, M.G.L. c. 29, § 30, and M.G.L. c. 7A, § 16. For Eligible Entities other

than public instrumentalities of the Commonwealth, risk of loss of the Leased Equipment rests with Lessor until the Leased Equipment is delivered to Lessee's designated location and delivery is accepted by Lessee, at which time risk of

loss passes to Lessee as provided for in the Master Agreement Section 11.a., "Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations."

5. TERMINATION.

(a) Termination By Mutual Consent. Any discretionary or vested right of renewal notwithstanding, this Agreement may be terminated upon written notice by mutual consent of both parties (and by Lessor's assignee if this Lease is assigned).

(b) Termination for Nonappropriation. For public instrumentalities of the Commonwealth, the continuation of this Agreement beyond the current fiscal period is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by Lessee's legislature, governing body and/or federal sources. If for any reason Lessee's funding is not appropriated or is withdrawn, limited, or impaired, Lessee may terminate this Agreement, and Lessor waives any and all claim(s) for damages, provided, however, that Lessee shall make all payments due under the lease up to the effective date of such non-appropriation and shall be responsible for lease payments until the Lessor receives the Leased Equipment from Lessee.

(c) Termination for Default or Breach. A default or breach may be declared with or without termination. This Agreement may be terminated by either party upon written notice to the other party for any material breach or default by the other party of any terms, conditions, covenants, or obligations of this Agreement hereinafter a "Default Event". Should the Default Event remain uncured following written notification and a thirty day cure period, then termination for a the uncured Default Event is effective thirty (30) days following service of notice, or upon any subsequent date specified in the notice of termination.

(d) Although pursuant to Section 4, Contract Termination or Suspension, of the Commonwealth Terms and Conditions, the Commonwealth is allowed to terminate the Statewide Contract ITE001 without cause, the Commonwealth and Eligible Entity hereby confirm that such termination provision will not apply to any leased equipment issued pursuant to the Agreement for Lease resulting from the Participating Addendum. Termination of the Statewide Contract ITE001, Master Agreement or the Participating Addendum will not affect any leased equipment issued pursuant to the Agreement for Lease resulting from the Participating Addendum.

6. WARRANTY AND MAINTENANCE OF EQUIPMENT. All services performed under this Agreement shall be of workmanlike quality, consistent with the standards of the trade, profession or industry. Lessor shall assign to Lessee all manufacturer's warranties on the Leased Equipment, which shall be not less than a full ninety days warranty. Lessor shall be responsible for ongoing service and maintenance of the Leased Equipment for the duration of the Lease Term. EXECPT AS OTHERWISE SET FORTH HEREIN, LESSOR DOES NOT MAKE ANY EXPRESS OR

IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, REPRESENTATION OR WARRANTY ARISING OUT OF USAGE AND TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. EXCEPT AS PROVIDED HEREIN, THE PARTS AND SERVICES ARE PROVIDED "AS IS."

7. LESSOR REMEDIES. Termination by Lessor due to Lessee's material breach or default will be subject to a termination charge, which is equal to the balance of lease payments and other amounts due hereunder (including any current or past due amounts) for leases. Defaulting Lessee shall be responsible for returning Equipment to the Lessor.

8. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement. Any services performed by Lessor before this Agreement is effective or after it ceases to be effective are performed at the sole risk of Lessor.

9. LESSEE REPRESENTATIONS. Lessee represents that: (a) this Agreement and any documents required to be delivered in connection with this Agreement (collectively, the "Documents") have been duly authorized by Lessee in accordance with all applicable laws, rules, ordinances and regulations; (b) the Documents are valid, legal, binding agreements, enforceable in accordance with their terms and the person(s) signing the Documents, if applicable, have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices

indicated below their signatures; (c) the Leased Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of Lessee's authority and shall be used during the Lease Term only by Lessee to perform such function; (d) Lessee intends to use the Leased Equipment for the entire Lease Term and shall take all necessary action to include in Lessee's annual budget any funds required to fulfill Lessee's obligations each fiscal period during the Lease Term; (e) Lessee has complied fully with all applicable law governing open meetings, public bidding and appropriations, required in connection with this lease and the debt under applicable state law; (f) unless this lease is a Capital Lease, Lessee's obligations to remit Lease Payments constitutes a current expense and not a debt under applicable state law; (g) this Agreement is binding on Lessee and Lessee's successors and assigns; and (h) all financial information Lessee has provided is true and a reasonable representation of Lessee's financial condition.

10. ASSIGNMENT. Lessee may not assign, unless the assignee is another Commonwealth department, or dispose of any rights or obligations under this Agreement or sublease the Leased Equipment without Lessor's prior written consent. With the prior written consent of the OSD Contract Manager, Lessor may assign all or any portion of this Agreement or its interest in the Leased Equipment; provided that service obligations on the Leased Equipment shall remain with Toshiba America Business Solutions, Inc. and expressly not with Lessor's assignee and such service obligations must conform to the terms of the WSCA-NASPO Master Agreement and the Commonwealth of Massachusetts Participating Addendum. Lessor's assignee shall have Lessor's rights under this Agreement, but none of Lessor's obligations.
11. AGREEMENT AND MODIFICATION. This Agreement is made pursuant to the NASPO Master Agreement identified above, and the Commonwealth of Massachusetts Participating Addendum to that Master Agreement, the terms of which are incorporated herein by reference. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties, unless the same is in writing and signed by the respective parties hereto.
12. NOTICE. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally in hand, (b) delivered by telephone, facsimile or email with simultaneous regular mail, or (c) mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above or such other address as the other party may have provided written notice of in accordance with this Section 12. For purposes of computing times from service of notice, service of notice by delivery in hand shall be effective on the date of delivery; notices that are mailed shall be effective on the third calendar day following the date of mailing.
13. ELECTRONIC DOCUMENTATION. This Agreement may be executed in counterparts and signed by the parties manually or electronically. The executed counterpart that has Lessor's original signature and/or is in Lessor's possession shall constitute chattel paper as that term is defined in the UCC and shall constitute the original agreement for all purposes. If Lessee transmits this Agreement to Lessor by facsimile or other electronic transmission, the transmitted copy shall be binding upon the parties. Neither party may raise as a defense to the enforcement of this Agreement that it was signed or transmitted electronically.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby.

LESSOR:
Toshiba America Business Solutions, Inc.

LESSEE:

By: _____
Name: _____
Title: _ Date: _ Date:

By: _____
Name: _____ Title:



ITE001 Equipment Confirmation Form
Multi-Function Devices and Related Software, Services, and Cloud Solutions

This form **must** be used for Photocopiers, Printers, Digital Duplicators, and Facsimile Machines **lease or rental** and may be used for purchases of equipment and/or maintenance plans. All terms and conditions of the Statewide Contract between the Commonwealth of Massachusetts and CONTRACTOR are incorporated herein and made a part hereof. Conflicting or additional terms, conditions or agreements included in or attached to this form, which conflict with the terms of the Statewide Contract shall be considered to be superseded and void.

P.O. or Encumbrance Document Number: _____

Fiscal Year: _____

ELIGIBLE ENTITY (Buyer):				CONTRACTOR (Seller):			
Contact Person:				Contact Person:			
E-mail:		Buyer FEIN:		E-mail:			
Phone:		Fax:		Phone:		Fax:	
Billing Address:				Contractor Address:			
Contact: Phone:							
Delivery Address (If different from Billing Address Above):				<i>If applicable:</i> Leasing Company: CONTRACTOR / Leasing Company agreement # (If applicable): Authorized Dealer:			
Contact: Phone:				☐ Operational (FMV) Lease Term: # Months: _____ ☐ Rental (Not to exceed 6 months) ☐ Purchase			
Check off the applicable box(es) for equipment type:							
☐ Convenience Copiers		☐ Production Copiers		☐ Wide Format Devices			
☐ Printers		☐ Digital Duplicators		☐ Scanners/Micrographic Equipment/Fax			
EQUIPMENT MODEL NUMBER	EQUIPMENT DESCRIPTION (e.g. Digital Black & White 35cpm)	QTY	MONTHLY LEASE, PURCHASE or RENTAL COST	TRADE-IN ALLOWANCE	MONTHLY NET TOTAL LEASE, PURCHASE or RENTAL COST	MAINTENANCE PLAN (describe in the column below, including price) OR ☐ See Attached Vendor's ECF MAINTENANCE SCHEDULE	
			\$	\$	\$		
			\$	\$	\$		
			\$	\$	\$		
			\$	\$	\$		
			\$	\$	\$		
TOTAL MONTHLY PAYMENT			\$	\$	\$	\$	
Special Instructions/Additional Information (e.g. equipment model traded, supplies exchanged):							

NOTE: Contractors are required to provide the following start-up supplies. Paper items necessary to operate the equipment are excluded.

Category 1 – As specified in the Participating Addendum with the CONTRACTOR or as specified in the ECF Maintenance Plan/Schedule

Eligible Entity and Contractor signatures below acknowledge **ONLY** that the equipment order has been placed **pending** delivery, installation, start-up supplies and training.

ELIGIBLE ENTITY (Buyer):	
Signature:	_____
Name (Print):	_____
Title:	_____
Date:	_____

CONTRACTOR (Seller):	
Signature	_____
Name (Print):	_____
Title:	_____
Date:	_____

Eligible Entity and Contractor signatures below acknowledge completion of the four (4) items below to the Eligible Entities satisfaction in addition to the payment start and termination dates.

Eligible Entity must initial all four (4) items below acknowledging completion prior to final approval.

Initial

- | | |
|-------|---|
| _____ | 1. Equipment delivered undamaged |
| _____ | 2. Received start-up supplies (as shown above) and the ESP Power Protection (if required). |
| _____ | 3. Equipment is installed and operational and power management features are enabled. |
| _____ | 4. Received satisfactory training from the Contractor including instructions on how to use power management features. |

➤ *Lease, Rental or Purchase payment terms do not begin until the appropriate items above have been approved by the Eligible Entity.*

Start Date of this Lease, Purchase or Rental Agreement:

Month _____ Day _____ Year _____

Termination Date of this Lease, Purchase or Rental Agreement:

Month _____ Day _____ Year _____

Payment Start Date:

Month _____ Day _____ Year _____

Payment End Date:

Month _____ Day _____ Year _____

ELIGIBLE ENTITY (Buyer):	
Signature:	_____
Name (Print):	_____
Title:	_____
Date:	_____

CONTRACTOR (Seller):	
Signature	_____
Name (Print):	_____
Title:	_____
Date:	_____

The above signatures are authorized by their respective organizations to bind the said organization to the terms and conditions of the above agreement.

EXHIBIT 3 – TOSHIBA MAINTENANCE AGREEMENT
Revised for the Commonwealth of Massachusetts

TOSHIBA	MAINTENANCE AGREEMENT Attachment 3
	Administered by the State of Colorado #RFP-NP-23-001

These maintenance terms are pursuant to a Participating Addendum under NASPO ValuePoint Master Agreement administered by the State of Colorado #RFP-NP-23-001 (the "Master Agreement"). By accepting this Attachment, Customer agrees to purchase the services as set forth in the Maintenance Order Form. Contractor agrees to provide parts, labor, ink, toner, and toner collection containers (the "Maintenance Services") for the equipment listed in Attachment 5, Toshiba Lease Order Form in accordance with the terms and conditions of the Master Agreement and the Maintenance Agreement Terms below.

MAINTENANCE AGREEMENT TERMS

- 1. TERM:** Each asset shall be annually renewable on each yearly anniversary date for an additional one (1) year period. Contractor shall notify Customer in writing of any such pending anniversary date no later than ninety (90) days prior to such date, and Customer shall have until thirty (30) days prior to such date to notify Contractor in writing that it wishes to renew the term for an additional year in order for such renewal to take effect. Renewals may not go beyond the expiration nor termination of the Participating Addendum or Master Agreement.
- 2.** For each piece of equipment under this Maintenance Agreement there will be a Start Date & Start Meter. Service for each piece of equipment will be provided from the Start Date & Start Meter until this Maintenance Agreement is terminated or the equipment is withdrawn from service.
- 3. REMOVAL FROM SERVICE.** Customer may withdraw individual equipment by providing thirty (30) day written notice prior to the Renewal Date. Customer is responsible for all remaining Minimum Payments if Customer is in default or if equipment is withdrawn prior to Renewal Date.
- 4. INVOICING CHARGES.** Payments shall be made in accordance with the Commonwealth of Massachusetts standard terms and conditions.
- 5.** Contractor may estimate the number of clicks used if requested Meter Readings are not received before a new billing period begins. Contractor will adjust the estimated charge for overage clicks upon receipt of actual Meter Readings. Notwithstanding any adjustment, the Customer will never pay less than the Minimum Payment. Customer will provide meter readings via an automated website.
- 6. CONSUMABLE SUPPLIES.** All supplies delivered as part of this Maintenance Agreement remain the property of Contractor until and unless they are consumed by the equipment in the performance of this Agreement. Any supplies not consumed as specified and not surrendered to Contractor upon expiration or termination of the Maintenance Services for an asset will be invoiced to the Customer at Contractor's then current Master Agreement prices. Parties agree that the Commonwealth is self-insured and that this coverage includes for supplies in case of loss under any circumstances. Notwithstanding the foregoing, the risk of loss of the consumable supplies shall be transferred from Contractor to Customer if such consumable supplies are stored at Customer's facility.
- 7. TAXES.** Unless Tax Exempt (as evidenced by certificate or in the case of exempt sales to federal, state, and local government entities a seller may also document the exemption by retaining a copy of a government issued purchase order, government check or voucher in place of the exemption certificate). In addition to the charges due under this Maintenance Agreement, the Customer agrees to pay amounts equal to any taxes resulting from this Maintenance Agreement, or any activities hereunder, exclusive of taxes based upon net income.

8. **INSTALLATION AND ACCESS TO EQUIPMENT.** Customer agrees to provide adequate space, environment and appropriated electrical requirements including, if required, a dedicated 120 volt or 220 volt electrical line, as published in the Operator and Service Manuals for the operation and maintenance of the equipment. If Contractor has installed a power filter/surge protector on the equipment, it must at all times remain continuously installed. If it is removed Customer agrees to purchase a replacement from Contractor immediately. Contractor shall have full and free access to the equipment to provide service thereon.
9. If persons other than Contractor representatives install conversions, feature additions, accessories or perform service on equipment and as a result further repair by Contractor is required, such repairs shall be made at Contractor's applicable Time and Material rates and terms then in effect, per the Master Agreement pricing. If such additional repair is required, Contractor may immediately withdraw the equipment from this Maintenance Agreement.
10. **KEY OPERATOR - END-USER TRAINING.** Customer agrees to designate a Key Operator for training on the use, supplications and features of the equipment. The Key Operator will be responsible for normal Key Operator activities as detailed in the Operations Manual and for training additional end-user. If the Key Operator assignment changes, Customer agrees to designate a new Key Operator immediately. Contractor agrees to provide training for the designated Key Operator and to provide initial training for end-users on the use, applications and features of the equipment. Additional training requested by Customer will be at Contractor Master Agreement hourly rates.
11. **EXCLUSIONS.** Service under this Maintenance Agreement does not include:
- a. Furnishing paper, staples (unless purchased by the Customer), replacement print heads, batteries, ribbons, media, periodic maintenance on thermal printers or any of the following;
 - b. Service of equipment if moved outside of Contractor's designated service area;
 - c. Repair of damage or increase in service time caused by accident, misuse, negligence, abuse or disaster;
 - d. Service of accessories, attachments or click control devices other than those of the same manufacturer as the equipment;
 - e. Painting or refinishing of the equipment;
 - f. Making specification changes;
 - g. Performing key operator functions as described in the operator manual;
 - h. Moving equipment, repair of damage or increase in service time caused by the use of the equipment for other than the ordinary use for which designed;
 - i. Repair of damage caused by electrical surges or lightning strikes, if equipment is connected to a Contractor supplied power filter/surge protector repairs will be included;
 - j. Repair of damage or increase in service time caused by failure to continually provide a suitable installation environment as defined by the manufacturer, with all the facilities prescribed by Contractor including, but not limited to, adequate space, electrical power, air conditioning or humidity control
 - k. Repair of equipment that has been designated as obsolete by the manufacturer and genuine OEM parts are no longer available.
 - l. Repair of damage or increase of service time caused by Customer's use of media outside the specifications as described in the operator manual.
12. This Maintenance Agreement is not assignable, its right, duties and obligations may not be assigned or transferred by the Customer without the prior written consent of Contractor. Any attempt to assign or transfer any of the rights, duties or obligations of this Maintenance Agreement without such consent is void. Contractor's service provided outside the scope of this Maintenance Agreement will be furnished at Contractor's applicable time and material rates and terms then in effect. Contractor is not responsible for failure to render service due to causes beyond its control.

Exhibit 18 Master Software and Services Agreement For Commonwealth of Massachusetts

This MASTER SOFTWARE AND SERVICES AGREEMENT (“Agreement”) is entered into as of the Effective Date by and between Toshiba America Business Solutions, Inc. a California corporation with an address of 25530 Commercentre Drive, Lake Forest, CA 92630 (“TABS”) including its division Toshiba Business Solutions (“TBS”), (collectively or individually TABS and TBS shall be referred to as the “Contractor”) and the Client specified below (“Client”). For on-premises based software solutions only, the following clauses are not applicable to this Agreement and hereby stricken 1.2, 1.8, 4, 6, and 8. For cloud-based or hybrid solutions (whereby both an on-premises solution(s) and cloud-based solution(s) will be implemented), all terms apply.

1. Definitions.

1.1 “Confidential Information” means, with respect to a party hereto, all information or material which (i) the party identifies in writing as confidential; and (ii) which from all the relevant circumstances should reasonably be assumed to be confidential and proprietary, whether or not marked, designated, or otherwise identified as “confidential” or “proprietary.” Neither party shall have any obligation with respect to information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party; (ii) was previously received by the receiving party without restriction or received by the receiving party from a third party who had a lawful right without restriction to disclose such information; or (iii) is independently developed by the receiving party without reference to Confidential Information.

1.2 “Data Management Services” or “DMS” means the Internet-based transactional application and database services provided by Contractor that are accessible to Client through the Internet for managing business processes and information.

1.3 “Documentation” means the documentation, including any Third Party Materials provided by or on behalf of Contractor with the Product at the time of delivery and any updates that Contractor may, in its discretion, provide from time-to-time. The Documentation will be included in the definition of “Product” under this Agreement and subject to all restrictions and limitations relating to the Product.

1.4 “Licensed Entities” means those Client entities specifically identified in a SOS as licensed to use a Product.

1.5 “SOS,” or “Statement of Services,” “Statement of Work,” or “Statement of Support” as applicable, is defined in Section 2.

1.6 “Product” refers to such Software, Third Party Materials, Subscription Services, and professional Services, including implementation services, consulting and software integration services, outsourced business processing services, and other DMS

projects, as each may be licensed by Client under a SOS from time-to-time, including any Documentation.

1.7 “Software” means the object code version of any software that may be licensed by Contractor to Client under a SOS for installation on Client’s systems. To the extent any updates or enhancements are delivered to Client as part of Support, such updates and enhancements will be deemed included in the definition of “Software.”

1.8 “Subscription Service” means an application or database product hosted by Contractor or its agents, including the DMS, and made available for remote access and use by Client and its Licensed Entities under a SOS.

1.9 “Support” means Contractor’s then current support and maintenance program for the relevant Product, as more fully described in the relevant SOS.

1.10 “Third Party Materials” means software and data licensed or provided by third parties. Applicable third-party license agreements and disclaimers, if any, will be provided with the relevant Products. All third-party software licenses must be provided and mutually agreed upon prior to the start of any Statement of Services or Statement of Work. Any third-party license agreements not specifically negotiated and accepted are only accepted to the extent they do not conflict with or dilute the terms of ITE001.

2. **SOS.** This is a master software and services agreement under which Client may place an order for one or more Products under a Statement of Services or Statement of Work, as applicable. Each order will be set forth in a written SOS or other form provided by Contractor, which is only effective when signed by both parties. The SOS will (i) specifically reference and is governed by this Agreement and (ii) identify the relevant Product being licensed, the term of license or subscription, and any other relevant terms not otherwise set forth in this Agreement. The form of SOS is attached to and made a part of this Agreement as Schedule A-1 (Statement of Services), Schedule A-2 (Statement of Work), and Schedule A-3 (Statement of Support).

3. **Software License.** This Section applies only in the event Client licenses Software from Contractor pursuant to a SOS. Subject to the terms and conditions of this Agreement and Client’s payment of all relevant fees, Contractor hereby grants to Client a non-exclusive, perpetual, non-transferable (except pursuant to Section 22.1), limited license to use for its internal business purposes the Software at the Licensed Entities. Client may make one copy of the Software for backup and archival purposes.

4. **Subscription Services License.** This Section applies only in the event Client licenses Subscription Services as a Software as a Service (“Subscription Services”) from Contractor pursuant to a SOS. Subject to the terms and conditions of this Agreement and

Exhibit 18 Master Software and Services Agreement For Commonwealth of Massachusetts

Client's payment of all relevant fees, Contractor hereby grants to Client a non-exclusive, non-transferable (except as otherwise set forth herein), limited license to access and use for its internal business purposes the Subscription Services in connection with the Licensed Entities. The initial term of the foregoing license will be as set forth in the applicable SOS. Client shall be solely responsible for connection of Client's systems to a telecommunications service that provides Internet access for purposes of Client's access and use of the Subscription Services.

5. Restrictions. Client may only use the Products as described in the applicable Documentation, including operation of Software only on the hardware and software configurations specified in the SOS or associated Documentation. Client shall ensure the Licensed Entities comply with all applicable terms of this Agreement. Any breach of this Agreement by any employee or agent of Client shall constitute a breach by Client. Except as expressly authorized by this Agreement, Client will not (and will not allow any third party to): (i) permit any unauthorized user or any third party to access and use the Products; (ii) decompile, disassemble, or reverse engineer the Products; (iii) use the Products or any Contractor Confidential Information to develop a competing product or service; (iv) use or allow others to use any Product for the benefit of any third party; (v) use any Product, or allow the transfer, transmission, export, or re-export of any Product or portion thereof, in violation of any export control laws or regulations administered by the U.S. Commerce Department or any other government agency; or (vi) remove any copyright, trademark, proprietary rights, disclaimer or warning notice included on or embedded in any part of a Product (including any screen displays, etc.) or any other products or materials provided by Contractor hereunder. Under no circumstances, shall Contractor be liable or responsible for any use, or any results obtained by the use, of the Products in conjunction with any other software or third-party products. All such use shall be at Client's sole risk.

6. Availability of Subscription Services. The provisions of this Section apply only to Subscription Services. The Subscription Services will be available for access and use by Client in accordance with the terms set forth in the applicable SOS or Third-Party Materials. The Subscription Services will be available for access and use by Client an average of at least ninety-five percent (95%) of the time ("Availability Requirement"), excluding any period of Permitted Unavailability (as defined below). Client shall provide notice to Contractor of any unavailability for access or use and document such disruption for review by Contractor. "Permitted Unavailability" includes Planned Outages (as defined below) and any unavailability due to causes beyond the reasonable control of Contractor, including, without limitation: telecommunication failures; interruption or failure of telecommunication or digital transmission links; Internet slow-

downs or failures; and unavailability resulting from the actions or inactions of Client or a failure of Client's communications link or systems. "Planned Outages" means the period during which Contractor conducts standard systems maintenance. Contractor shall use reasonable efforts to schedule Planned Outages during non-peak hours. In the event Contractor fails to achieve the Availability Requirement, Contractor shall use commercially reasonable efforts to correct the interruption as promptly as practicable. In the event Contractor fails to achieve the Availability Requirement in three consecutive months during the term of this Agreement, Client may terminate this Agreement without further obligation and receive a prorated refund of any pre-paid, unused recurring fees..

7. Information Security for Subscription Services. Contractor has developed, implemented, and will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to (i) ensure the security and confidentiality of confidential information provided to it, (ii) protect against anticipated threats or hazards to the security or integrity of such confidential information, (iii) protect against unauthorized access or use of such confidential information, (iv) minimize accidental or unlawful destruction, loss, alteration or unauthorized disclosure or access of Client Data (as such term is defined in Section 8), and (v) ensure the proper disposal of confidential information. All personnel handling such confidential information have been appropriately trained in the implementation of its information security policies and procedures. Contractor regularly audits and reviews its information security policies and procedures to ensure their continued effectiveness and determine whether adjustments are necessary considering then-current circumstances including, without limitation, changes in technology, its or its vendors', contactors', and licensor's information systems or threats or hazards to confidential information. In the event of unauthorized access to confidential information or non-public personal information, each party shall cooperate with the other party, provide any notices and information regarding such unauthorized access to appropriate law enforcement agencies and government regulatory authorities, and affected individuals which are deemed necessary. Contractor shall promptly report to Client any compromise of security that it becomes aware of regarding Client Data and reasonably cooperate with Client in investigating the compromise. CLIENT ACKNOWLEDGES THAT SECURITY SAFEGUARDS, BY THEIR NATURE, ARE CAPABLE OF CIRCUMVENTION AND THAT CONTRACTOR DOES NOT AND CANNOT GUARANTEE THAT THE SUBSCRIPTION SERVICES, CONTRACTOR'S SYSTEMS, AND THE INFORMATION CONTAINED THEREIN (INCLUDING CONFIDENTIAL INFORMATION) CANNOT BE ACCESSED

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BY UNAUTHORIZED PERSONS CAPABLE OF OVERCOMING SUCH SAFEGUARDS. CONTRACTOR SHALL NOT BE RESPONSIBLE FOR ANY SUCH UNAUTHORIZED ACCESS.

8. Ownership; Client Data.

8.1 Ownership. The Products are licensed, not sold. Except for the limited licenses granted in Sections 3 and 4, Contractor and its licensors reserve all right, title, and interest, express or implied, in and to the Products. Client acknowledges and agrees it shall not use any Confidential Information disclosed by Contractor to Client in connection with this Agreement to contest the validity of any Contractor intellectual property. Any such use of Contractor's information and data shall constitute a material, non-curable breach of this Agreement.

8.2 Client Data. Except for the limited license below, nothing contained in this Agreement shall be construed as granting Contractor any right, title, or interest in or to any Client provided data or other content input into the Products, including Personal Data (as defined in Section 8.3) (the "Client Data"). Limited to performance under this Agreement and a mutually agreed upon SOW and the duration thereof, Client grants Contractor the non-exclusive, irrevocable, royalty-free, sublicensable right and license to collect, store, use, compile, modify, translate and disclose such Client Data only: (i) as required by law; and (ii) in aggregated form that does not identify Client, and (v) in connection with performing its obligations under this Agreement. No Client data will be stored or accessed outside of the United States.

8.3 Personal Data. If Client or its users or any third parties acting on Client's behalf, access or use a Product to collect, store, process, transmit, by any means any information from which a person (a data subject) can be reasonably identified ("Personal Data"), Client shall ensure that all such activities and use comply with applicable laws and data subject rights. Client shall provide legally adequate privacy notices to the required parties, and obtain all necessary consents from the data subjects of the Personal Data (and parental consents where applicable), including under the Children's Online Privacy Protection Act ("COPPA"), the General Data Protection Regulation ("GDPR"), the UK General Data Protection Regulation ("UK GDPR"), California Consumer Privacy Act ("CCPA") and similar laws. Client represents to Contractor that Client has provided all necessary privacy notices, obtained all necessary consents, and possesses lawful grounds to allow Client to access and use the Products in accordance with the terms of this Agreement and applicable laws. Client is responsible for notifying Contractor if any data collected or stored using the Products must be deleted under applicable laws.

8.4 Processing of Personal Data. The storage, processing, and transmission of Client Data is an essential feature of the Products. Client consents to Contractor and its contractors, and affiliates,

collecting, storing, processing, and transmitting Client Data and Personal Data included therein. This Agreement incorporates Contractor's Privacy Policy, as may be updated from time to time.

8.5 Sharing Personal Data. In addition, certain Products may provide the ability to share content with other users and third parties, which may include the ability to share and display information about an individual (e.g., name, email address, username) when such functionality. By choosing to use the applicable Products and sharing functionality, Client consents to the sharing of such information for this purpose.

8.6 Diagnostics and Telemetry Data. Contractor may store diagnostic and telemetry data about the operation of the Products, including performance, usage, configuration, and errors ("Telemetry Data"). Contractor may periodically transmit and receive the Telemetry Data from the Products. Client Data does not include Telemetry Data. Contractor does not access or transmit Client Data as part of the Telemetry Data. Contractor retains all rights, title, and interest to the Telemetry Data.

8.7 Client Data Warranties. Client represents and warrants that it has obtained all rights, consents, and permissions necessary to input the Client Data into the Products and to grant the foregoing rights and licenses to Contractor, and that: (i) Client either owns or has the right to authorize Contractor's use of Client Data as set forth herein, (ii) the Client Data does not infringe, misappropriate, or otherwise violate any copyright, trademark, patents, trade secrets or other proprietary rights.

9. Registration. Contractor may request certain information in connection with the registration of Products, including contact name, email address, username, or password. By providing this information, Client consents to its collection and use by Contractor in accordance with Contractor's Privacy Policy, to provide non-promotional communications regarding the Products, including notices related to Client's account, transactions, update availability, Product recalls, safety concerns, or changes to our policies and terms. Client is responsible for maintaining the confidentiality of its username, password, and account information, and for all activities that occur in connection with Client's account and or under any username and password or account associated with Client's account. Client is also responsible for the accuracy of the information provided in connection with Client's account and any user thereunder, and for keeping such account information up to date. Client assumes all responsibility for any loss, theft, or other destruction of any data resulting from any failure to comply with these obligations.

10. Feedback. Client may provide suggestions, comments, or other feedback (collectively, "Feedback") to Contractor with respect to its products and services, including the Product. Feedback is voluntary and Contractor is not required to hold it in confidence. Contractor may use Feedback for any purpose without

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obligation of any kind. Client hereby grants Contractor an irrevocable, non-exclusive, perpetual, royalty-free license to use the Feedback in connection with Contractor's business, including enhancement of the Product.

11. Support. To the extent purchased by Client, Contractor shall provide the Support described in the applicable SOS for the Product licensed. Support includes periodic releases, and upgrades and updates to the Products as may be made generally available by Contractor to its Clients for no additional charge from time to time. Any new or additional features or functions may be offered separately and may be subject to additional access or license fees, support or maintenance charges, or other fees and costs. Contractor reserves the right to charge separately for any new Products, databases, and functionality that are not generally released to Contractor's Clients without charge.

12. Training. To the extent applicable, Contractor will provide the training services set forth in the SOS. Client shall reimburse Contractor for all expenses and out-of-pocket costs related to onsite training.

13. Term and Renewal. This Agreement shall commence on the Effective Date and, subject to any earlier permitted termination in accordance with this Agreement, shall remain in effect with respect to each Product until the expiration of both the initial license term set forth for such Product in the applicable SOS relating thereto and any renewal terms therefore as provided in this Section 13. Each SOS will specify an initial term for the license granted with respect to each such Product.

14. Termination.

14.1 Termination for Cause. Either party may terminate this Agreement on written notice to the other party if the other party is in material breach of its obligations hereunder and fails to cure the breach within thirty (30) days of such written notice. In addition, either party may, in its sole discretion, elect to (i) terminate this Agreement on written notice to the other party upon the bankruptcy or insolvency of the other party or upon the commencement of any voluntary or involuntary winding up, or upon the filing of any petition seeking the winding up of the other party, or (ii) terminate any relevant SOSs or this Agreement, as the case may be, as and when permitted by and in accordance with Sections 6, 15.1, or 20.

14.2 Termination for Convenience. Client may terminate any SOS or this Agreement upon sixty (60) days advance written notice to Contractor, without cause.

14.3 Effect of Termination. Upon any termination or expiration of a SOS or this Agreement, all rights and licenses granted to the Products will automatically terminate and Client shall have no further right to possess, access, or use the Products. Any termination of the Agreement shall terminate all outstanding

SOS(s). On Contractor's request, Client shall provide Contractor with a signed written statement confirming that any Software has been permanently removed from Client's systems, if applicable. If termination does not result from a breach of this Agreement by Client, subject to the terms for any Third-Party Materials, Client shall have the limited right for thirty (30) days after such license termination to export or print Client entered information from the Product and not to enter any new information into the Product or use it for any other purpose. Client may, at its option and subject to the terms for any Third-Party Materials, extend the foregoing thirty (30) day period for up to six (6) months at Contractor's then current transition services rates, providing such rates do not exceed NASPO ValuePoint Master Agreement pricing; all access to the Product during this period shall be read-only. The following Sections shall survive any termination or expiration of this Agreement: 1, 5, 10, 13, 15 (to the extent of fees accrued prior to termination), 17, 19, 21, and 22.

15. Fees.

15.1 In general. Client shall pay Contractor the fees set forth in the applicable SOSs.

15.2 Payment of Invoices. All invoices shall be paid by Client within forty-five (45) days of invoice date. Payments not made within sixty (60) days shall be subject to late charges of (i) one percent (1%) per month of the overdue amount or (ii) the maximum amount permitted under applicable law, whichever is less. In the event an invoice remains unpaid forty-six (46) or more days from the invoice date, Contractor may, in its discretion, terminate the applicable SOS and suspend access to Subscription Services. The applicable SOS may specify certain fees to be paid by electronic funds transfer ("EFT"). Client hereby authorizes Contractor to initiate an EFT from Client's bank account indicated in Schedule B in an amount equal to the fees set forth in the applicable SOS in accordance with the payment terms set forth in the applicable SOS. All payments made by EFT will be paid in immediately available funds.

15.3 Taxes. All taxes, duties, fees and other governmental charges of any kind (including sales and use taxes, but excluding taxes based on the gross revenues or net income of Contractor) that are imposed by or under the authority of any government or any political subdivision thereof on the fees for the Products and Support provided by Contractor under this Agreement, shall be borne solely by Client, unless Client can evidence its tax exemption and shall not be considered a part of a deduction from or an offset against such fees. If Client loses tax exempt status, it shall pay any taxes due as part of any renewal or payment. Client shall promptly notify Contractor if its tax status changes.

15.4 Travel and other Expenses. Client will pay, or reimburse Contractor for, any out-of-pocket expenses, including, without limitation, travel and travel-related expenses, incurred by

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Contractor at the request of or with the approval of Client in connection with the performance of this Agreement. Reasonable and customary expenses incurred by Contractor, including without limitation expenses incurred for travel, local transportation, lodging and meals, will be billed to Client at Contractor's actual cost.

15.5 Subpoenas and Other Legal Process. In the event Contractor is requested or authorized by Client or is required by government regulation, summons, subpoena or other legal process to produce its documents, Client Data, or personnel as witnesses with respect to the Products and other services provided to Client under this Agreement, Client will, so long as Contractor is not the subject of the investigation or proceeding in which the information is sought, reimburse Contractor at its then current standard professional services rates for its time and materials services, as well as the fees and expenses of its counsel, incurred in responding to such requests.

16. Suspension of Access to Subscription Services. The provisions of this Section apply only to Subscription Services. Contractor may, in its sole discretion, suspend Client's access to a Subscription Service for any of the following reasons (i) to prevent damages to, or degradation of, the Subscription Service or Contractor's systems; (ii) to comply with any law, regulation, court order, or other governmental request; (iii) to otherwise protect Contractor from potential legal liability; or (iv) in the event an invoice remains unpaid for more than forty-five (45) or more days from the invoice date. Contractor shall use reasonable efforts to provide Client with notice prior to or promptly following any suspension of access to a Subscription Service. Contractor will restore access to the Subscription Service as soon as the event giving rise to suspension has been resolved. This Section shall not be construed as imposing any obligation or duty on Contractor to monitor Client's use of the Subscription Service or the data and other content uploaded by Client to the Subscription Service.

17. Confidentiality.

17.1 Each party's Confidential Information shall remain the sole and exclusive property of that party. Each party recognizes the importance of the other's Confidential Information. In particular, each party recognizes and agrees that the Confidential Information of the other is critical to its respective businesses and that neither party would enter into this Agreement without assurance that the other party will take appropriate steps designed to preserve the confidentiality of such information and the value thereof as provided in this Section 17 and elsewhere in this Agreement. The foregoing and the other terms of this Section 17 are and will remain subject to the disclaimers set forth at the end of Sections 7 and 19. Accordingly, each party agrees as follows:

(a) Each party (i) will treat as confidential and use measures that are reasonable, and at least as protective as those it uses to

safeguard the confidentiality of its own Confidential Information (but in no event less than reasonable care), to preserve the confidentiality of any and all Confidential Information that it obtains from the other party and (ii) will use or, subject to the disclaimers in Sections 7 and 19, disclose such Confidential Information solely as permitted under this Agreement;

(b) Each party may disclose the other party's Confidential Information or provide access to the same to its responsible employees and agents who reasonably need to know or access such information in connection with the fulfillment of its obligations hereunder and may make copies of Confidential Information only to the extent permitted or contemplated under or pursuant to this Agreement; and

(c) To the extent required by applicable law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over the receiving party, the receiving party may disclose Confidential Information in accordance with such law or order or requirement. The receiving party will use reasonable efforts not to release Confidential Information pending the outcome of any measures taken by the disclosing party to contest, otherwise oppose or seek to limit such disclosure by the receiving party and any subsequent disclosure or use of Confidential Information that may result from such disclosure. The receiving party will cooperate with and aid the disclosing party regarding such measures. Notwithstanding any such compelled disclosure by the receiving party, such compelled disclosure will not otherwise affect the receiving party's obligations hereunder with respect to Confidential Information so disclosed.

17.2 Each party acknowledges that due to the unique nature of the other party's Confidential Information, the disclosing party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, the disclosing party shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure.

17.3 On the expiration or termination of the Agreement, the receiving party shall promptly return to the disclosing party all copies, whether in written, electronic, or other form or media, of the disclosing party's Confidential Information, or destroy all such copies and, if requested by the disclosing party, certify in writing to the disclosing party that such Confidential Information has been destroyed. Each party's obligations of non-disclosure regarding Confidential Information are effective as of the Effective Date and will expire three years from the date first disclosed to the receiving party.

18. Limited Warranty. Contractor warrants to Client that for a period of sixty (60) days from delivery or initial use by Client, the Product shall operate in substantial conformity with its

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Documentation. Third Party Materials are subject to the terms set forth in the applicable third-party license agreements and disclaimers, if any, will be provided with the relevant Products. If Client purchases or procures any third-party products or services as part of the Products that are not provided with their own agreement or terms, Contractor shall pass through or assign to the Client the rights Contractor obtains from the manufacturers, vendors or licensors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable. To the extent that such rights are not assignable by Contractor, Contractor agrees that Client may assert or enforce any right Contractor may have to enforce such representations, warranties and covenants, or if such can only be enforced by Contractor under its own name, upon written request by Client, Contractor shall take all reasonable action requested by Client to enforce such representations, warranties and covenants. Notwithstanding the foregoing, Client's sole and exclusive remedy, and Contractor's sole and exclusive liability, for a breach of the foregoing warranties shall be the provision of Support services, replacement of a Product if necessary, or a credit for the pre-paid portion of the applicable fee for the affected Product, as determined in Contractor's sole discretion.

19. Disclaimer of Warranties. EXCEPT AS PROVIDED IN SECTION 18 (LIMITED WARRANTY), THE PRODUCTS, SUPPORT, TRAINING, AND ANY OTHER SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL FAULTS, AND WITHOUT WARRANTIES OF ANY KIND. CONTRACTOR AND ITS VENDORS AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY OF INFORMATION, TITLE, AND NON-INFRINGEMENT. ALL THIRD-PARTY MATERIALS ARE PROVIDED AS-IS, WITHOUT WARRANTIES OF ANY KIND. CONTRACTOR MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY PRESENT OR FUTURE METHODOLOGY EMPLOYED IN ITS GATHERING OR REPRODUCING OF ANY THIRD-PARTY MATERIAL, OR AS TO THE ACCURACY, CURRENCY OR COMPREHENSIVENESS OF THE SAME. CLIENT EXPRESSLY AGREES AND ACKNOWLEDGES THAT USE OF PRODUCTS IS AT CLIENT'S SOLE RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CONTRACTOR OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE ANY OTHER WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF CONTRACTOR'S OBLIGATIONS HEREUNDER. CONTRACTOR IS NOT ENGAGED IN RENDERING LEGAL OR OTHER PROFESSIONAL SERVICE. IF LEGAL OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE

SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE SOUGHT. CLIENT ASSUMES ALL RESPONSIBILITY WITH RESPECT TO ANY DECISIONS OR ADVICE MADE OR GIVEN AS A RESULT OF THE USE OF THE PRODUCTS. CLIENT AGREES THAT THE PRODUCTS ARE NOT INTENDED TO REPLACE CLIENT'S PROFESSIONAL SKILL AND JUDGMENT AND ARE NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY OR OTHER PROFESSIONAL.

THE PRODUCTS MAY BE USED TO ACCESS AND TRANSFER INFORMATION, INCLUDING CONFIDENTIAL INFORMATION, OVER THE INTERNET. CLIENT ACKNOWLEDGES AND AGREES THAT CONTRACTOR AND ITS VENDORS AND LICENSORS DO NOT OPERATE OR CONTROL THE INTERNET AND THAT: (I) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE; OR (II) UNAUTHORIZED THIRD PARTIES (E.G., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE CLIENT'S DATA, WEB-SITES, COMPUTERS, OR NETWORKS. CONTRACTOR SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY SUCH ACTIVITIES NOR SHALL ANY SUCH ACTIVITIES CONSTITUTE A BREACH BY CONTRACTOR OF ITS OBLIGATIONS OF CONFIDENTIALITY HEREUNDER.

20. Indemnity. Contractor will indemnify and defend Client from any claim, demand, action, proceeding, judgment, or liability arising out of a claim by a third-party that Client's use of a Product in conformance with the terms of this Agreement infringes a United States patent issued as of the Effective Date or copyright of that third party. The foregoing indemnification obligation of Contractor is contingent upon Client promptly notifying Contractor in writing of such claim, permitting Contractor sole authority to control the defense or settlement of such claim, and providing Contractor reasonable assistance in connection therewith. If a claim of infringement under this Section 20 occurs, or if Contractor determines a claim is likely to occur, Contractor will have the right, in its sole discretion, to either: (i) procure for Client the right or license to continue to use the Product free of the infringement claim; or (ii) modify the Product to make it non-infringing, without loss of material functionality. If either of these remedies is not reasonably available to Contractor, Contractor may, in its sole discretion, immediately terminate the relevant SOS(s) and return the prorated portion of any prepaid, unused fees for future use of the infringing Product. Notwithstanding the foregoing, Contractor shall have no obligation with respect to any claim of infringement that is based upon or arises out of (the "Excluded Claims"): (xi) the use or combination of the Products with any hardware, software, products, data or other materials not provided by Contractor; (xii) modification or alteration of the Products by anyone other than Contractor; (xiii) Client's use of

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Products in excess of the rights granted in this Agreement; (xiv) any Third Party Materials; (xv) a breach of Client's representations or warranties; or (xvi) the negligence or more culpable acts or omissions (including recklessness or willful misconduct) by Client or any third party on behalf of Client. The provisions of this Section 20 state the sole and exclusive obligations and liability of Contractor and its licensors and suppliers for any claim of intellectual property infringement arising out of or relating to the Products or this Agreement and are in lieu of any implied warranties of non-infringement, all of which are expressly disclaimed.

21. Limitation of Liability and Damages. EXCEPTING AS PROVIDED FOR IN THE COMMONWEALTH TERMS AND CONDITIONS FOR INFORMATION TECHNOLOGY CONTRACTS, NEITHER CONTRACTOR NOR ITS VENDORS AND LICENSORS SHALL HAVE ANY LIABILITY TO CLIENT OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, SALES, BUSINESS, DATA, OR OTHER INCIDENTAL, CONSEQUENTIAL, OR SPECIAL LOSS OR DAMAGE, INCLUDING EXEMPLARY AND PUNITIVE DAMAGES, OF ANY KIND OR NATURE RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, THE PRODUCTS, AND ANY SERVICES RENDERED HEREUNDER.

22. General Provisions.

22.1 Assignment. Client may not assign this Agreement without Contractor's prior written authorization, which shall not be unreasonably withheld. Any such permitted assignment, however, shall not increase the scope (including any material change in the size of Client's organization) of the license granted hereunder without payment of Contractor's then-current fees for any increased scope. Any delegation or assignment in violation of the foregoing provisions shall be void and deemed a material breach of this Agreement. This Agreement will bind and inure to the benefit of the parties and their respective successors and permitted assigns.

22.2 Amendment and Waiver. This Agreement may not be modified or amended except by a writing signed by both parties. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

22.3 Governing Law. This Agreement will be governed pursuant to the Commonwealth IT Terms Section 16.

22.4 Severability. In the event that any provision of this Agreement is held to be illegal, or otherwise unenforceable, such provision will be severed, stricken and replaced with a legal and

enforceable provision which most closely reflects the intent of the parties with respect thereto and the remainder of this Agreement shall continue in full force and effect; provided, however, that if the severing and striking of such provision results in a material alteration of this Agreement not able to be appropriately addressed through a replacement provision as contemplated above, the remaining provisions of this Agreement shall be adjusted equitably so that no party benefits disproportionately.

22.5 Entire Agreement; Purpose and Effect of Agreement. This Agreement, together with the SOS(s) and any other exhibits and attachments hereto and thereto, as well as the Commonwealth of Massachusetts Participating Addendum to the Toshiba NASPO Master Agreement constitutes the entire agreement between the parties regarding its subject matter and supersedes any and all prior or contemporaneous letters, memoranda, representations, discussions, negotiations, understandings and agreements, whether written or oral, with respect to such subject matter. In the event of a conflict between the body of this Agreement and any SOS, exhibit, other attachment, this Agreement, or the Client's purchase order, the Client's purchase order shall govern.

22.6 Notices. Any notice required or permitted to be given by either party under this Agreement will be made in writing and shall be deemed to have been received upon delivery by hand, by facsimile (followed by delivery of a hard copy thereof within five (5) business days of such facsimile) or via Federal Express, or an equivalent reputable courier service, expense prepaid, addressed to the party as set forth on the signature block hereof or to such other address as a party may designate in writing to the other party.

22.7 Relationship of Parties. The parties to this Agreement are independent contractors; there is no relationship of agency, partnership, joint venture, employment or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf.

22.8 Force Majeure. If either party is prevented from performing any of its obligations under this Agreement due to any cause beyond the party's factual control, including, without limitation, an act of God, fire, flood, explosion, war, embargo, government regulation, civil or military authority, acts or omissions of carriers, transmitters, providers of telecommunications or Internet services, vandals, or hackers (a "force majeure event"), time for that party's performance will be extended for the period of the delay or inability to perform due to such occurrence without liability to the other party; provided, however, that Client will not be excused from the payment of any sums of money owed by Client to Contractor after the force majeure event concludes. In addition, neither party will have the right to claim damages or to terminate this Agreement because of a force majeure event.

22.9 Reserved.

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22.10 No Third-Party Beneficiaries. Except for Contractor's suppliers and licensors, this Agreement shall not be construed to make Licensed Entities or any other person or entity, a third-party beneficiary hereof.

22.11 Counterparts. This Agreement may be signed in counterparts, all of which upon execution and delivery shall be considered an original and together shall constitute one agreement. Signed facsimile copies of this Agreement will legally bind the parties to the same extent as original documents.

22.12 Export Control. Client agrees that it will not in any form export, re-export, resell, ship, or divert or permit to be exported, re-exported, resold, shipped or diverted, directly or indirectly, any product or technical data or software furnished hereunder, or the direct product of such technical data or software, in violation of the laws, regulations, rules or orders or any jurisdiction, including applicable import and export laws.

22.13 Government Restricted Rights. The Products are provided with Restricted Rights. Use, duplication or disclosure by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software Restricted Rights at FAR clause 52.227-19 or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 et seq. or its successor. The Products are proprietary data, all rights of which are reserved under the copyright laws of the United States.

[End of Agreement; signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

Client Legal Name < Enter Client Legal Name Here>

Toshiba America Business Solutions, Inc.

By:

By:

Authorized Name: _____

Authorized Name: _____

Authorized Title: _____

Authorized Title: _____

Authorized
Signature: _____

Authorized
Signature: _____

Date: _____

Date: _____

Notice Address: _____

Notice Address: 25530 Commercentre Drive
Lake Forest, CA 92630

With Copy To: _____

With Copy To: TABS Legal Department
25530 Commercentre Drive
Lake Forest, CA 92630