

**PARTICIPATING ADDENDUM
to NASPO ValuePoint
Multi-Function Devices and Related Software, Services and
Cloud Solutions
Administered by the State of Colorado
with Toshiba America Business Solutions, Inc.
Master Agreement No. 188037
And
The State of Colorado
Contract # 194862**

1. PARTIES AND SCOPE

This Participating Addendum, including all of its attached exhibits and other documents incorporated by reference (the “Participating Addendum”), is entered into by and between **Toshiba America Business Solutions, Inc.** (the “Contractor”), and the State of Colorado (the “State”). This Participating Addendum covers participation in the **Multi-Function Devices and Related Software, Services and Cloud Solutions** Master Agreement led by the State of **Colorado** (the “Master Agreement”), for use by State agencies and other entities located in Colorado which are authorized by law to utilize State contracts with the prior approval of the State Purchasing Director. The specific Goods and Services provided under the Master Agreement are listed in **Exhibit C (Price Lists)** of this agreement.

2. PARTICIPATION

Agencies, political subdivisions and other entities (including cooperatives) authorized by the State’s statutes to use State contracts may make purchases under this Participating Addendum as of its Effective Date. Issues of interpretation and eligibility for participation are solely within the authority of the Chief Procurement Officer.

3. STATE MODIFICATIONS TO MASTER AGREEMENT AND APPLICABILITY

- A.** To the extent not modified by this Participating Addendum and all its exhibits, the Master Agreement and all its terms and conditions shall apply to this Participating Addendum. If any term of this Participating Addendum conflicts with the Master Agreement, then this Participating Addendum shall control for all transactions between the State and the Contractor under this Participating Addendum. All terms defined in the Master Agreement shall have the meaning given to them in the Master Agreement, except for those terms specifically defined differently in this Participating Addendum.
- B.** The following modifications shall be made to the Master Agreement with respect to Contractor’s performance pursuant to this Participating Addendum:
 - i.** §VI. 6.1.7, under Pricing, Payment & Leasing, shall be modified as follows:

“All-inclusive Cost Per Copy (CPC) programs shall be offered upon request by the Purchasing Entity, but pricing must not exceed Master Agreement pricing. Contractor must provide the Purchasing Entity with their pricing breakdown which enables the Purchasing Entity to easily compare the pricing in the CPC structure against the pricing in the Master Agreement.”

ii. §VII. 7.6, under Ordering and Invoicing Specifications, shall be modified as follows:

“All Orders pursuant to this Participating Addendum, shall contain the following:

7.6.1 Name of Purchasing Entity;

7.6.2 The name, phone number, and address of Purchasing Entity representative;

7.6.3 Order date;

7.6.4 Description of the Product and/or Service ordered;

7.6.5 Model number;

7.6.6 Price;

7.6.7 The Master Agreement number;

7.6.8 This Participating Addendum number; and

7.6.9 Any additional information requested by the Purchasing Entity.”

iii. §VII. 7.8, under Ordering and Invoicing Specifications, shall be modified as follows:

“Authorized Dealers may invoice the Purchasing Entity directly, with Purchasing Entity’s prior approval.”

iv. §VII. 7.12, under Ordering, shall be modified as follows:

“Contractor and/or Authorized Dealers may not estimate meter reads if a Purchasing Entity fails to submit the required information within the specified time-frame. The acquisition of timely meter readings shall be the Contractor and/or Authorized Dealer’s responsibility alone.”

v. §VII. 7.14, under Ordering, shall be modified as follows:

“Contractor, Third-Party leasing companies, and/or Authorized Dealers, shall bill property tax separately, unless otherwise requested by a Purchasing Entity.”

vi. §X. 10.11, under Warranty, shall be modified as follows:

“It will be at the discretion of the Purchasing Entity to negotiate additional warranty requirements with the Contractor.”

vii. §X. 10.12.4, under Lemon Clause, shall be modified as follows:

“This clause shall take precedence over any other warranty or Services clauses associated with the Master Agreement.”

viii. §II. B. 3.4, under Open Market Items of Exhibit A, Statement of Work, shall be modified as follows:

“NSP items shall be offered to a Purchasing Entity as a stand-alone option, and the maximum allowable amount of any NSP item in a single Order is \$5,000.”

- ix. **§III. D. 11**, under Leasing Overview of Exhibit A, Statement of Work, shall be modified as follows:

“The length of a Renewal Term shall be at the discretion of the Purchasing Entity, but at no time shall the Renewal Term exceed the Useful Life of the Device.”

- x. **§IV. A. 2**, under Standard Service Levels of Exhibit A, Statement of Work, shall be modified as follows:

“The Service Level Agreement (SLA) shall adhere to the following requirements:”

- xi. **§IV. A. 3.4**, under Meter Read Invoicing of Exhibit A, Statement of Work, shall be deleted in its entirety.

- xii. **§IV. A. 4.1 (a.)** under Service Level Calculations of Exhibit A, Statement of Work, shall be modified as follows:

“At the discretion of the Purchasing Entity, Contractor shall produce reports that can be measured against the required SLA components.”

- xiii. **§IV. A. 4.1 (b.)** under Service Level Calculations of Exhibit A, Statement of Work, shall be deleted in its entirety.

- xiv. **§IV. D. 3**, under Device Demonstration Requirements of Exhibit A, Statement of Work, shall be modified as follows:

“Upon request by a Purchasing Entity, showroom Devices for Groups A and B shall be converted to a purchase or lease providing the following conditions are met:”

- xv. **§IV. F. 2.**, under Sensitive Information of Exhibit A, Statement of Work, shall have the meaning as prescribed to it in **§4**, Definitions of Exhibit A, State Specific Terms, to this Participating Addendum.

- xvi. **§IV. F. 5.2**, under Hard Drive Removal and Surrender of Exhibit A, Statement of Work, shall be modified as follows:

“At the Purchasing Entity’s discretion, Contractor shall remove the hard drive from the applicable Device and provide the Purchasing Entity with custody of the hard drive before the Device is removed from the Purchasing Entity’s location, moved to another location, or any other disposition of the Device. The Purchasing Entity shall then be responsible for securely erasing or destroying the hard drive.”

4. EQUIPMENT, SERVICE, AND SOFTWARE OPTIONS

- A. A Purchasing Entity may purchase or lease Equipment and software under this Participating Addendum. Financing options include a Fair Market Value (FMV) Lease, Capital Lease, and Straight Lease. The lease terms available are 24, 36, 48 and 60 months.
- B. The State has reviewed and approved the terms and conditions in the Contractor’s documents,

which are attached hereto as **Attachments 1 through 11** and **Exhibit H**, and incorporated by reference. Purchasing Entities are still advised however, to conduct their own internal review of Contractor's documents prior to entering into any type of Order.

With the exception of the aforementioned Attachments and Exhibit, and Contractor's software documents, which are **not** incorporated into the Master Agreement or the Participating Addendum, nor have they been reviewed or approved by the State, no other Contractor documents are permissible under this Participating Addendum unless mutually agreed to in writing by Contractor and the State. Should there be a conflict between the terms and conditions of this Participating Addendum or the Master Agreement, and any terms in the Contractor's documents, this Participating Addendum and the Master Agreement shall govern according to the order of precedence set forth in **§8** below.

- C. In the event the Purchasing Entity receives or obtains copies of the language in any of the Exhibits or Attachments referenced in **§4.B.** above, and the language varies from what is listed in said Exhibits and/or Attachments, the language in the Exhibits and Attachments incorporated into this Participating Addendum shall prevail.
- D. A Purchasing Entity shall be solely responsible for the review and approval of all of Contractor's software documents, including, but not limited to: End User License Agreements, Click-Wrap Agreements and third-party software agreements.

5. PRIMARY CONTACTS AND PERSONNEL RESPONSIBILITIES

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

Primary Contact for the State:

Nikki Pollack
Colorado State Purchasing & Contracts Office

1525 Sherman Street, 5th Floor
Denver, CO 80203
(303) 866-5671
nikki.pollack@state.co.us

Primary Contact for the Contractor:

Jeff Ballard
Toshiba America Business Solutions,
Inc.

25530 Commercentre Drive
Lake Forest, CA 92630
949-462-6327
TABS-NASPO@tabs.toshiba.com

Each individual identified in this **§5** of the Participating Addendum shall be the primary contact of the designating Party. All notices required or permitted to be given under this Participating Addendum shall be in writing and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's primary contact at the address set forth above or **(C)** as an email with read receipt requested to the primary contact at the email address, if any, set forth above. If a Party delivers a notice to another through email and the email is undeliverable then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's primary contact at the address set forth above. Unless otherwise provided in this Participating Addendum, notices shall be effective upon delivery of the written notice.

In addition to the primary contact in this section, the Contractor shall also provide an individual who is ultimately responsible for the creation and submission of the quarterly volume report described in **Exhibit A** of this Participating Addendum. This individual, as named in this section, shall ensure that all required quarterly volume reports are accurate and delivered by the appropriate due date for that quarterly volume report. The Contractor may change this individual or their contact information by notice submitted to the other party in writing no later than 5 days following the date on which the change occurs, without a formal amendment to this Participating Addendum.

Individual Responsible for Quarterly Volume Report Creation and Submission:

Name Elisabeth Eby
Toshiba America Business Solutions, Inc.
25530 Commercentre Drive
Lake Forest, CA 92630
Phone Number 303-359-6251
Email elisabeth.eby@tabs.toshiba.com

6. SUBCONTRACTORS

The Contractor is authorized to use Subcontractors to provide sales and service support to any Purchasing Entity. All such approved Subcontractors authorized in the State of Colorado, are listed in the Colorado tab of the Toshiba Dealer List, which can be obtained on the State dedicated website and/or the NASPO ValuePoint website. The Contractor's Subcontractor's participation shall be in accordance with the terms and conditions set forth in the Master Agreement and this Participating Addendum, as appropriate.

7. ORDERS

Any Order placed by a Purchasing Entity in the State of Colorado for a Good or Service available under this Participating Addendum shall be governed by the prices and other terms and conditions under the Master Agreement and this Participating Addendum.

8. ORDER OF PRECEDENCE

All of the exhibits listed in this section are attached to this Participating Addendum and are incorporated herein by reference. In the event of a conflict or inconsistency between this Participating Addendum and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

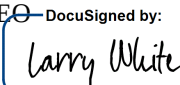
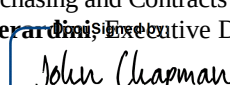
- A.** Colorado Special Provisions in **§21 of Exhibit A**, State Specific Terms
- B.** **Exhibit E**, Information Technology Provisions
- C.** **Exhibit G**, Safeguarding Requirements for Federal Tax Information, as applicable
- D.** **Exhibit D**, HIPAA Business Associate Agreement, as applicable
- E.** The provisions of this Participating Addendum
- F.** All other sections of **Exhibit A**, State Specific Terms
- G.** **Exhibit B**, Statement of Work
- H.** **Exhibit C**, Price Lists
- I.** **Exhibit F**, PII Certification, as applicable

J. Attachment 1 through Attachment 11, with equal precedence

K. Exhibit H, Sample D&A Certificate

Notwithstanding anything to the contrary herein, the State and Purchasing Entities shall not be subject to any provision incorporated in any terms and conditions appearing on Contractor's or Subcontractor's website, any provision incorporated into any click-through or online agreements, or any provisions incorporated into any other document or agreement between the Parties that **(i)** requires the State to indemnify or hold harmless Contractor or any other party, **(ii)** is in violation of State law as, regulations, rules, fiscal rules, policies, or other State requirements as deemed solely by the State or **(iii)** is contrary to any of the provisions incorporated into **Exhibit A, §20** or the main body of this Participating Addendum.

THE PARTIES HERETO HAVE EXECUTED THIS PARTICIPATING ADDENDUM

CONTRACTOR Toshiba America Business Solutions, Inc. Name: Larry White Title: President and CEO By: <u> Larry White</u> A6B11ECE7C8740D... Date: <u>10/15/2024</u>	STATE OF COLORADO Jared Polis, Governor Department of Personnel and Administration State Purchasing and Contracts Office Tony Gherardini, Executive Director By: <u> John Chapman</u> EF45AFDEB51E414... Sherri Maxwell, Chief Procurement Officer, or John Chapman, State Purchasing Manager Date: <u>10/15/2024</u>
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STATE OF COLORADO
Governor's Office of Information Technology

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

STATE CHIEF INFORMATION OFFICER
David Edinger, Chief Information Officer and Executive Director

By:  Renée Albersheim
B4A1D6B1641D4B8...

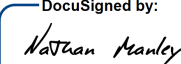
Name & Title: Renée Albersheim Manager Contracts Management

Date: 10/16/2024

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

In accordance with §24-30-202, C.R.S., this Participating Addendum is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By:  Nathan Manley
66856696CC1A43A...

Name & Title: Nathan Manley Controller Delegate
Controller Delegate

Effective Date: 10/16/2024

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EXHIBIT A, STATE SPECIFIC TERMS

1. AUTHORITY

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

2. PURPOSE

The Parties are entering into this Participating Addendum for the Contractor to provide **A3 MFD, A4 MFD, Single-function Printers, Large/Wide Format Equipment, Software, Supplies, Managed Print Services, Software Related Services, and Specialty Printers** to Purchasing Entities. The Contractor was selected as a result of **RFP-NP-23-001**.

3. TERM

A. Initial Term - Work Commencement

The Parties' respective performances under this Participating Addendum shall commence on the Effective Date, and shall be co-terminus with NASPO ValuePoint Master Agreement **188037**. Unless this Participating Addendum is terminated earlier, as described herein, or the State cancels its participation as described in the Master Agreement (the "Term"), the term of the Participating Addendum shall follow the Master Agreement initial term and will be automatically extended beyond the initial term if the Master Agreement term is extended (See **§3.B.**).

B. Extension of Term

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

C. End of Term Extension

If this Participating Addendum approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor's primary contact listed in **§5** of the Participating Addendum and in accordance with **§5** of this Participating Addendum, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Participating Addendum in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of this Participating Addendum.

D. Order Term

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

outstanding Orders shall survive the expiration or termination of this Participating Addendum until all Orders are complete.

E. Early Termination in the Public Interest

The State is entering into this Participating Addendum to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Participating Addendum by the State for breach by Contractor, which shall be governed by §15.A.i.

i. Method and Content

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

ii. Obligations and Rights

Upon receipt of notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §15.

iii. Payments

If the State terminates this Participating Addendum in the public interest, the Purchasing Entities shall pay Contractor according to their orders with the Contractor. The sum of any and all payments shall not exceed the maximum amount payable to Contractor under each order, which includes for the avoidance of doubt, the remaining stream of lease payments through the end of the term.

4. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Administration Fee”** means the fee that is due to the State for the administration of this Participating Addendum, as described in §7.A. of this **Exhibit A**.
- B. “Attachments”** means the following attachments included in this Contract:
 - i. Attachment 1**, Toshiba Lease Agreement Terms and Conditions
 - ii. Attachment 2**, Toshiba Service Level Agreement
 - iii. Attachment 3**, Toshiba Maintenance Agreement
 - iv. Attachment 4**, Toshiba \$1 Buyout Lease Addendum
 - v. Attachment 5**, Toshiba Lease Order Form
 - vi. Attachment 6**, Toshiba Lease Order Form Schedule
 - vii. Attachment 7**, Toshiba M&S Activation for Purchased Equipment
 - viii. Attachment 8**, Toshiba Sample MPS Statement of Work
 - ix. Attachment 9**, Toshiba Asset Relocation Request Form
 - x. Attachment 10**, Toshiba Fleet Monitoring Tool Site Survey

xi. Attachment 11, Toshiba Statement of Services

- C. **“Breach of Contract”** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- D. **“Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- E. **“Ceiling Price”** means the maximum price a Contractor or a Subcontractor may charge for a Good or Service under this Participating Addendum.
- F. **“Chief Procurement Officer”** means the individual to whom the Executive Director of the Department of Personnel & Administration has delegated his or her authority pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the State.
- G. **“CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- H. **“Click-Wrap Agreement”** means a type of electronic agreement which includes an electronic signature that involves a Purchasing Entity clicking a simple button to accept the agreement.
- I. **“Confidential Information”** means any and all information that is normally considered confidential in nature, and includes, but is not limited to, all State Records not subject to disclosure under the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S. (“CORA”).
- J. **“Contract”** means this Participating Addendum, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- K. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by a Purchasing Entity for Orders placed under this Participating Addendum.
- L. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- M. **“Deliverable”** means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Contractor’s Work that is intended to be delivered to the State or Purchasing Entity by Contractor.
- N. **“Effective Date”** means the date Contract is signed by the State Controller or their designee.
- O. **“End of Term Extension”** means the time period defined in **§3.C.** of this **Exhibit A**.
- P. **“End User License Agreement” (EULA)** means a legal contract between a software

supplier and a customer or end user, which specifies in detail the rights and restrictions which apply to the use of the software.

- Q. “Environmentally Preferable Products”** means products that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose, as defined in §24-103-904, C.R.S.
- R. “Exhibits”** means the following exhibits attached to this Contract:
- i. Exhibit A**, State Specific Terms.
 - ii. Exhibit B**, Statement of Work.
 - iii. Exhibit C**, Products and Price List
 - iv. Exhibit D**, HIPAA Business Associate Agreement, as applicable
 - v. Exhibit E**, Information Technology Provisions
 - vi. Exhibit F**, PII Certification, as applicable
 - vii. Exhibit G**, Safeguarding Requirements for Federal Tax Information, as applicable
 - viii. Exhibit H**, Sample D&A Certificate
- S. “Extension Term”** means the time period defined in **§3.B**.
- T. “Goods”** means any movable material acquired, produced, or delivered by Contractor as set forth in this Participating Addendum and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- U. “Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation **(i)** successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; **(ii)** unwanted disruption or denial of service; **(iii)** the unauthorized use of a State system for the processing or storage of data; or **(iv)** changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- V. “Initial Term”** means the time period defined in **§3.A** of this **Exhibit A**.
- W. “Order”** means any delivery order, purchase order, contract, agreement or other binding document used by a Purchasing Entity to order the Goods and Services described in this Participating Addendum from the Contractor, and shall include any modification to such a document.
- X. “Party”** means the State or Contractor, and **“Parties”** means both the State and Contractor.
- Y. “Purchasing Entity”** means any entity or organization that has been authorized by the State to place Orders with the Contractor, and may include, without limitation, agencies of the State, government supported institution of higher education within the State, political subdivisions of the State, authorized non-profit organizations and other authorized entities.
- Z. “PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.

- AA. “PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- BB. “PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- CC. “Sensitive Information”** means privileged or proprietary information that, if compromised through alteration, corruption, loss, misuse, or unauthorized disclosure, could cause serious harm to the organization owning it.
- DD. “Services”** means the services to be performed by Contractor as set forth in this Participating Addendum, and shall include any services to be rendered by Contractor in connection with the Goods.
- EE. “State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PCI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- FF. “State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13) (a), C.R.S.
- GG. “State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- HH. “State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- II. “Subcontractor”** means third-parties, if any, engaged by Contractor pursuant to **§20.B.** to aid in performance of the Work. The term “Subcontractor” includes, without limitation, any dealers, distributors, partners or resellers engaged by the Contractor to perform the Work.
- JJ. “Tax Information”** means federal and State of Colorado tax information including, without

limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.

KK. “Total Value of the Contract” means the total amount spent under all Orders by all Purchasing Entities through use of this Participating Addendum, either through issuance of an additional Contract or Purchase Order.

LL. “Work” means the Goods delivered and Services performed pursuant to this Contract.

MM. “Work Product” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

5. STATEMENT OF WORK

Contractor shall complete the Work as described in this Participating Addendum and in accordance with the provisions of **Exhibits B and C**, the Master Agreement, and with any Purchasing Entity’s Order. Contractor personnel shall work cooperatively with State and Purchasing Entity staff to ensure the completion of the Work.

A. Ordering and Order Fulfillment

i. Ordering

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

that they are part of this Participating Addendum and shall have a link to the State's designated web location, as determined by the State. Contractor shall ensure that all Environmentally Preferable Products are clearly listed on internet-based portal and electronic catalogs.

- g.** If Contractor provides an internet-based portal or electronic catalog, Contractor shall also provide paper catalogs or catalogs on other digital media upon request by a Purchasing Entity.
- h.** If Contractor's catalog will be either hosted on or accessed through the State's eCommerce system, when available, then Contractor shall comply with all policies, procedures and directions from the State in relation to hosting its catalog on or making its catalog accessible through that system. Contractor shall ensure that all information made available through the State's eCommerce system is accurate and complies with this Participating Addendum.

6. PAYMENTS TO CONTRACTOR

A. Payments Under Orders

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

B. Payment Procedures

i. Invoices

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

ii. Payment Disputes

Unless different procedures are specified in an Order, if Contractor disputes any

calculation, determination or amount of any payment, Contractor shall notify the Purchasing Entity issuing the Order in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the determination or calculation of the payment by that Purchasing Entity. The Purchasing Entity will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the Purchasing Entity's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the Purchasing Entity has concluded its review, and the Purchasing Entity shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iii. Available Funds-Contingency-Termination of Order

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

The Purchasing Entity may effect such termination by giving Contractor a written notice of termination, to the Contractor's primary contact in accordance with **§5** of the Participating Addendum, and by paying to Contractor any amounts which are due and have not been paid through the last day of the Fiscal Year for which appropriated funds are available. The Purchasing Entity shall endeavor to give notice of such termination not less than 30 days prior to the day of non-availability of funds, and shall notify Contractor of any anticipated termination.

iv. Discount and Delinquency Period

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

7. PAYMENTS TO STATE

A. Administrative Fees

- i. Each State Fiscal Year quarter, Contractor shall, using a form as directed by the State, calculate an Administrative Fee equal to 1% of the total sales made under Orders during that State Fiscal Year quarter. Contractor shall pay the State the Administrative Fee for each State Fiscal Year quarter within 45 days following the end of that State Fiscal Year quarter.
- ii. Contractor shall remit all administrative fees to the State's primary contact identified in §5 of the Participating Addendum and with the payee as "State of Colorado."

8. REPORTING – NOTIFICATION

A. Volume Reporting

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

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

B. Additional Operational Reporting

Upon request by the State, the Contractor shall provide operational reporting that includes all detailed and summary transaction, historical or payment information related to the State or any of the Purchasing Entities as requested by the State. The Contractor shall provide all such additional reports within 10 Business Days following the State's request for that information, unless the State agrees to a longer period of time in writing.

C. Environmentally Preferable Product Reporting

Upon request by the State, the Contractor shall provide detailed reporting on environmentally preferable products, as defined in the State's Environmentally Preferable Purchasing Policy, that are purchased or made available under this Participating Addendum. The scope and detail of such reports shall be agreed upon by the State and the Contractor. The Contractor shall provide all such additional reports within 10 Business Days following the State's request for that information, unless the State agrees to a longer period of time in writing.

D. Litigation Reporting

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

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

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

F. SOC 1 Type II Annual Report

If Contractor performs Work for any of the State's IT systems that impact the State's Comprehensive Annual Financial Report as reasonably determined by the Colorado Office of the State Controller, such determination shall be expressly noted on the face of the Order for Contractor's review and determination as to whether it can accept or must reject such Order. If Contractor accepts such Order Contractor, on an annual basis, shall deliver to the State, at Contractor's sole cost and expense, Contractor's System and Organization Controls 1 Type II Report ("SOC 1 Type II Report") prepared by a qualified independent audit firm with respect to the Statement on Standards for Attestation Engagements, Reporting on Controls at a Service Organization (SSAE) as promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants, as amended, from time to time.

9. CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Contractor Records”) performed by the Contractor and any Subcontractors, that are required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until seven (7) years after the expiration or earlier termination of this Participating Addendum, unless a longer period is required by applicable law (the “Record Retention Period”).

B. Inspection

Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. Audits and inspections shall be subject to any reasonable conditions Contractor may impose to protect the confidentiality, integrity, and availability of its data and systems.

C. Monitoring

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

D. Final Audit Report

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

E. Periodic Business Reviews

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

10. CONFIDENTIAL INFORMATION-STATE RECORDS**A. Confidentiality**

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Participating Addendum, permitted by law, necessary for the performance of the Work, or approved in Writing by the State. Contractor shall provide for the security of all State Confidential

Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, and policies. If the Purchasing Entity determines that under an Order Contractor or any of its Subcontractors will or may receive the following types of data, it shall be noted expressly in the Order for Contractor's review and determination as to whether it can accept the Order or must reject the Order; and, in the event Contractor accepts such Order, Contractor or its Subcontractors shall provide for the security of such data according to the following: **(i)** if, and only to the extent, that Contractor accesses, receives, or processes Federal Tax Information on behalf of State, the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Contract as an Exhibit, if applicable, **(ii)** when processing credit card payments from Purchasing Entities under this Participating Addendum, Contractor will use a payment processor that is compliant with the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** when Contractor is processing CJI on behalf of the State, the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** if Contractor is processing PHI on behalf of the State, the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's primary contact as identified in §5 of the Participating Addendum.

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations. Upon the expiration or termination of this Participating Addendum, Contractor shall return State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants that it will use best efforts in continuing to protect the confidentiality of such State Confidential Information, and that it will cease to use such State Confidential Information.

D. Incident Notice and Remediation

Once Contractor confirms an Incident that impacts confidential State data held by Contractor on Contractor's computer systems or network, it shall notify the State promptly and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. In the event Contractor or any of Contractor's agents, employees,

assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as reasonably directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Data Protection and Handling

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

F. Safeguarding PII

If the Purchasing Entity determines that under an Order Contractor or any of its Subcontractors will or may receive and process PII under an Order, it shall be noted expressly in the Order for Contractor's review and determination as to whether it can accept the Order or must reject the Order; and, in the event Contractor accepts such Order, Contractor shall provide for the security of such PII in accordance with the applicable Exhibits to this Participating Addendum. Contractor shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement, unless required by court order, subpoena or other applicable law. If the Purchasing Entity determines that under an Order Contractor will be given direct access to any State databases containing PII it shall be noted expressly in the Order for Contractor's review and determination as to whether it can accept the Order or must reject the Order; and, in the event Contractor accepts such Order, Contractor shall execute, on behalf of itself and its employees, and Subcontractors (if applicable), the certification attached hereto as **Exhibit F** on an annual basis during the term of the Order and Contractor's duty and obligation to certify as set forth in **Exhibit F** shall continue as long as Contractor has direct access to any State databases containing PII under the Order.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Participating Addendum, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's

prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Participating Addendum.

C. Disclosure to the State

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

12. INSURANCE

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

A. Workers' Compensation

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

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

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

C. Automobile Liability

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

D. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, and extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 per claim; and

- ii. \$2,000,000 general aggregate.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 per claim; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

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

- i. \$1,000,000 per claim; and
- ii. \$1,000,000 general aggregate.

G. Additional Insured

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

H. Primacy of Coverage

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

I. Cancellation

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

J. Subrogation Waiver

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

K. Public Entities

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

L. Certificates

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

13. LIMITATION OF CONTRACTOR'S LIABILITY TO STATE

The liability of Contractor, its Subcontractors, and their respective personnel to the State for any claims, liabilities, or damages relating to this Contract shall be limited to, direct damages not to exceed three (3) times the Total Value of the Contract or \$1,000,000.00, whichever is greater.

No limitation on Contractor's liability to the State under this Section shall limit or affect:

- A.** Contractor's indemnification obligations to the State under this Contract;
- B.** Any claims, losses, or damages caused by Contractor, its Subcontractors, or their respective personnel, for which coverage is available under any insurance required under this Contract;
- C.** Claims or damages arising out of bodily injury, including death, or damage to tangible property of the State where such claim or damage is caused by Contractor, its Subcontractors, or their respective personnel; or
- D.** Claims or damages resulting from the recklessness, bad faith, or intentional misconduct of Contractor or its Subcontractors

14. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §15 for that Party. Notwithstanding any provision of this Participating Addendum to the contrary, the State, in its discretion in order to protect the public interest of the State, need not provide notice or a cure period and may immediately terminate this Participating Addendum in whole or in part or institute any other remedy in this Participating Addendum; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

15. REMEDIES

A. State's Remedies

If Contractor is in breach under any provision of this Participating Addendum and fails to cure such breach, the State, following the notice and cure period set forth in §14, shall have all of the remedies listed in this section in addition to all other remedies set forth in this

Participating Addendum or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Contractor's uncured breach, the State may terminate this entire Participating Addendum or any part of this Participating Addendum. Contractor shall continue performance of this Participating Addendum to the extent not terminated, if any.

If after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Participating Addendum had been terminated in the public interest under **§3. E.**

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Removal

Demand immediate removal of any of Contractor's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Participating Addendum is deemed by the State to be contrary to the public interest or the State's best interest.

c. Intellectual Property

If any Work infringes, or if the State in its reasonable discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, at the option of and as approved by the State or Purchasing Entity **(i)** secure that right to use such Work for the State, Purchasing Entity and Contractor; **(ii)** replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, **(iii)** remove any infringing Work and refund the amount paid for such Work to the Purchasing Entity.

B. Contractor's Remedies

If the State is in breach of any provision of this Participating Addendum and does not cure such breach, Contractor, following the notice and cure period in **§14** and the dispute resolution process in **§166** shall have all remedies available at law and equity. If a Purchasing

Entity is in breach of a provision of an Order, Contractor shall have all remedies available to it under that Order and available at law and equity.

C. Purchasing Entity's Remedies

- i. If Contractor is in breach under any provision of an Order by a Purchasing Entity, the Purchasing Entity shall have all of the remedies listed in that Order, all remedies listed in **§15.A.ii** above, all remedies listed here in **§15.C** and all other remedies available by law or equity. The Purchasing Entity may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.
- ii. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that breach or termination within 5 Business Days following Contractor's receipt of that notice of breach or termination.
- iii. **Payments and Damages**
 - a. Notwithstanding anything to the contrary, Purchasing Entities shall only pay Contractor for accepted Work received as of the date of termination. A Purchasing Entity may withhold any amount that may be due Contractor as the Purchasing Entity deems necessary until Contractor corrects its Work or to protect itself against loss including, without limitation, loss as a result of outstanding liens and costs incurred by the Purchasing Entity in procuring from third parties replacement Work as cover.
 - b. Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State or appropriate Purchasing Entity for any damages sustained by the State or Purchasing Entity in connection with any breach by Contractor, and the Purchasing Entity may withhold payment to Contractor for the purpose of mitigating the Purchasing Entity's damages.

A Purchasing Entity may deny payment to Contractor for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed in a commercially unsatisfactory manner; provided, that any denial of payment shall be equal to the value of the obligations not performed.

16. DISPUTE RESOLUTION

A. Order Disputes, Termination and Resolution

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

- iii. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that breach or termination within 5 Business Days following Contractor's receipt of that notice of breach or termination.

B. Initial Resolution

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

C. Resolution of Controversies arising under this Participating Addendum

If the initial resolution described in §16.B. fails to resolve the dispute within ten (10) Business Days, Contractor shall submit any alleged breach of this Participating Addendum by the State to the Procurement Official of the State Purchasing and Contracts Office as described in in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

The scope of this Participating Addendum does not include work that would qualify for the transfer of ownership of any intellectual property.

B. Exclusive Property of the State

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

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or Work or Work Product or necessary to use a Deliverable or

Work or Work Product (collectively, "Contractor Property"). Contractor Property shall be licensed to the State to the extent necessary to effectuate the purposes of this Participating Addendum. Contractor Property shall be licensed to Purchasing Entity according to the terms of each respective Order.

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

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

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

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

20. GENERAL PROVISIONS

A. Assignment

Contractor's rights and obligations under this Participating Addendum are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the State shall be subject to the provisions of this Participating Addendum. State will allow Contractor to assign Equipment lease orders placed under the Participating Addendum.

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Contractor shall submit to the State a copy of each subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Participating Addendum shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Participating Addendum.

C. Binding Effect

Except as otherwise provided in **§20.A.**, all provisions of this Participating Addendum, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

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

E. Captions and References

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

F. Counterparts

This Participating Addendum may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

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

H. Digital Signatures

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

I. Modification

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

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

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

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

L. Severability

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

M. Survival of Certain Contract Terms

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

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Participating Addendum. Contractor shall honor any tax exemption that any Purchasing Entity has, and shall not charge any Purchasing Entity any excise, sales, or use taxes from which that Purchasing Entity is exempt.

O. Third Party Beneficiaries

Except for a Purchasing Entity and/or the Parties' respective successors and assigns described in **§20.A**, this Participating Addendum does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Participating Addendum and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Participating Addendum are incidental to this Participating Addendum, and do not create any rights for such third parties.

P. Waiver

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

Q. CORA Disclosure

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

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

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

T. Accessibility

- A.** Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- B.** The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

U. Indemnification

i. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any negligent act or wrongful omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Participating Addendum.

ii. Confidential Information Indemnification

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

omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §10.

iii. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any third party claim that any claim that any Good manufactured by Contractor which is provided under this Contract (collectively, "IP Deliverables"), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right of a third party. Contractor's obligations hereunder shall not extend to infringement claims which arise based on the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is **(a)** provided by Contractor or Contractor's subsidiaries or affiliates; **(b)** specified by Contractor to work with the IP Deliverables; **(c)** reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or **(d)** is reasonably expected to be used in combination with the IP Deliverables.

iv. Accessibility Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S., where applicable.

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

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

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

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

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

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

C. GOVERNMENTAL IMMUNITY

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

or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

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

E. COMPLIANCE WITH LAW

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE

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

G. PROHIBITED TERMS

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

H. SOFTWARE PIRACY PROHIBITION

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

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

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

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

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

EXHIBIT B - STATEMENT OF WORK

1. GOODS AND/OR SERVICES

Contractor shall provide Goods and Services per **Exhibit A, Statement of Work**, of the **Master Agreement**, contract #**188037**, or as otherwise indicated in §3, State Modifications to Master Agreement and Applicability, of the Participating Addendum.

2. OTHER PROJECT REQUIREMENTS

A. Delivery of Goods and Performance of Services

- i.** Contractor shall provide all Goods and perform all Services described in each Order.
- ii.** Unless specifically agreed to otherwise in an Order, Contractor shall deliver all Goods under an Order in good, working and undamaged condition. All Goods shall be free on board ("F.O.B.") destination to the location specified in the Order.
- iii.** If a good in an Order is out of stock, Contractor may only provide a substitute good if it has notified the Purchasing Entity for that Order, in writing, that the good is out of stock and has received the Purchasing Entity's approval to provide the substitute good. Purchasing Entities may request additional information comparing the substitute good with the original good in the Purchasing Entity's sole discretion.

B. Additional Terms

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

EXHIBIT C - PRICE LISTS

1. Contractor has been awarded the following categories:

- Group A – A3 MFD
- Group B – A4 MFD
- Group D - Single-function Printers
- Group E - Large/Wide Format Equipment
- Group G - Software
- Group H - Supplies
- Group I – Managed Print Services
- Sub-Group D1 – Specialty Printers
- Sub-Group G1 – Software Related Services

2. The price lists are located on the NASPO ValuePoint website, and are incorporated into this Participating Addendum by reference. Changes in product and pricing must be approved by the Lead State and shall be effective when published to the NASPO ValuePoint website at <https://naspovaluepoint.org/portfolio/multi-function-devices-and-related-software-services-and-cloud-solutions/>

3. **Pricing**

A. Price Lists

The State may also publish any pricing information under this Participating Addendum, including, without limitation the pricing information shown in this **Exhibit C**, on the State's website and any other website as the State determines is necessary or efficient to facilitate the use of this Participating Addendum by Purchasing Entities.

B. Price Decreases and Ceiling Prices

The prices listed in this **Exhibit C** are Ceiling Prices, and Contractor may offer lower prices to Purchasing Entities, and Purchasing Entities may negotiate lower prices with Contractor, without the review or approval of the State. Contractor shall not allow a Subcontractor to charge an amount greater than the Ceiling Price for any Order.

B. Environmentally Preferable Purchasing

- i. Contractor shall provide training regarding the environmentally preferable products, as defined in the State's Environmentally Preferable Purchasing Policy, that are purchased or made available under this Participating Addendum. This training shall be provided at no additional cost, unless otherwise agreed upon by the Parties, and shall be presented at a time and in a manner as agreed upon by the Parties.
- ii. The State reserves the right to request additional provisions and requirements to ensure this Participating Addendum is in compliance with all State regulations and policies, including all sustainable purchasing and environmentally preferable purchasing policies or executive orders.

EXHIBIT D - HIPAA BUSINESS ASSOCIATE AGREEMENT (AS APPLICABLE WITH PURCHASING ENTITY)

The State and Contractor agree that transmission of the types of data that would require the Contractor or Subcontractor to sign a HIPAA Business Associate Agreement (BAA) may potentially occur under this agreement. To be compliant with HIPAA, a Purchasing Entity may request that the Contractor or Subcontractor agree to the terms of a BAA identical or substantially similar to the terms contained in this Exhibit D. It shall be the responsibility of each Purchasing Entity to ensure that a HIPAA BAA is duly executed, when applicable.

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

1. Purpose

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information (“PHI”). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

2. Definitions

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a.** Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.
- b.** Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c.** Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

3. Obligations and Activities of Business Associate

a. Permitted Uses and Disclosures

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.
 - ii. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
 - iii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
 - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
 - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
 - iv. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.
- b. Minimum Necessary.** Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

c. Impermissible Uses and Disclosures

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

d. Business Associate's Subcontractors

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.
- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.

- iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- e. **Access to System.** If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <http://oit.state.co.us/about/policies>.
- f. **Access to PHI.** Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- g. **Amendment of PHI**
 - i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
 - ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- h. **Accounting Rights.** Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- i. **Restrictions and Confidential Communications**
 - i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
 - A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
 - B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
 - ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
 - iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.
- j. **Governmental Access to Records.** Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.
- k. **Audit, Inspection and Enforcement**

- i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
- ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

l. Appropriate Safeguards

- i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
- ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
- iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
- iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

m. Safeguard During Transmission

- i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
- ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

n. Reporting of Improper Use or Disclosure and Notification of Breach

- i. Business Associate shall, as soon as reasonably possible, but promptly after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.

- ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
- iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
- iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.

o. Business Associate's Insurance and Notification Costs

- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
 - A. loss of PHI data;
 - B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
 - C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.
- ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).
- iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
- iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.

p. Subcontractors and Breaches

- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.
- ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.

q. Data Ownership

- i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
- ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.
- r. **Retention of PHI.** Except upon termination of this Agreement as provided in Section 5 below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 2.h above, for a period of six years.

4. Obligations of Covered Entity

- a. **Safeguards During Transmission.** Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
- b. **Notice of Changes**
 - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
 - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

5. Termination

a. Breach

- i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
- ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

b. Effect of Termination

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.

- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. Injunctive Relief

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

7. Limitation of Liability

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

8. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

9. Certification

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

10. Amendment

- a. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
 - i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.

- ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
 - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
 - iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:
 - A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
 - B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

11. Assistance in Litigation or Administrative Proceedings

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

12. Interpretation and Order of Precedence

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

13. Survival

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

1. Purpose

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

2. Additional Terms

- a. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
 - i. Reserved.
- b. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
 - i. Reserved.
- c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
 - i. Reserved.
- d. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
 - i. Reserved.
- e. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
 - i. Reserved.
- f. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement:
 - i. Reserved

EXHIBIT E - INFORMATION TECHNOLOGY PROVISIONS

When identified as applicable expressly in an Order (which is then accepted by Contractor) based on the Products and/or Services to be provided under an Order by Contractor to the Purchasing Entity because the Contractor or any Subcontractor is given access to State Information Technology resources or State Records by the State or its agents in connection with Contractor's performance under the Contract, this Exhibit regarding **Information Technology Provisions** (the "Exhibit") shall be deemed an essential part of the agreement between the State and Contractor as described in the Contract to which this Exhibit is attached. Unless the context clearly requires a distinction between the Contract and this Exhibit, all references to "Contract" shall include this Exhibit.

1. PROTECTION OF SYSTEM DATA

- A. Where applicable, all provisions of this Exhibit that refer to Contractor shall apply equally to any Subcontractor performing work in connection with the Contract.
- B. The terms of this Exhibit shall apply to the extent that Contractor's obligations under this Contract include the provision of Information Technology goods or services to the State. Information Technology is computer-based equipment and related services designed for the storage, manipulation, and retrieval of data, and includes, without limitation:
 - i. Any technology, equipment, or related services described in §24-37.5-102(2), C.R.S.;
 - ii. The creation, use, processing, disclosure, transmission, or disposal of State Records, including any data or code, in electronic form; and
 - iii. Other existing or emerging technology, equipment, or related services that may require knowledge and expertise in Information Technology.
- C. Contractor shall, and shall cause its Subcontractors to meet all of the following:
 - i. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Contract.
 - ii. Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards.
 - iii. Comply with applicable State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing.
 - iv. Provide that security is not compromised by Contractor employees or Subcontractor employees unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments.
 - v. Promptly report all Incidents to a designated representative of the State's Office of Information Security ("OIS"). The parties acknowledge and agree, however, that this section constitutes notice of the ongoing existence and occurrence of attempted but unsuccessful Incidents for which no further notice shall be required. Such unsuccessful Incidents shall include, but not be limited to, pings and

vi. Comply with all applicable (as of the date of the Contract) rules, policies, procedures, and standards issued by the Governor’s Office of Information Technology (“OIT_which are expressly listed by applicable policy, rule, procedure or standard in the applicable Order for Contractor’s review and determination as to acceptance. If Contractor accepts the Order with such security terms expressly detailed, Contractor shall comply with such applicable terms.

- ## 2. DATA HANDLING

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consent of OIS. Contractor shall communicate any request regarding non-U.S. access to State Records to the Security and Compliance Representative for the State. The State shall have sole discretion to grant or deny any such request.

- C. Upon request by the State made any time prior to 60 days following the termination of this Contract for any reason, whether or not the Contract is expiring or terminating, Contractor shall make available to the State a complete download file of all State data.
 - i. This download file shall be made available to the State within 10 Business Days of the State's request, shall be encrypted and appropriately authenticated, and shall contain, without limitation, all State Records.
 - ii. Upon the termination of Contractor's provision of data processing services, Contractor shall, as directed by the State, return all State Records provided by the State to Contractor, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If any legal obligation imposed upon Contractor prevents it from returning or destroying all or part of the State Records provided by the State to Contractor, Contractor shall protect the confidentiality of all State Records provided by the State to Contractor and will not actively process such data anymore. Contractor shall not interrupt or obstruct the State's ability to access and retrieve State Records stored by Contractor.
- D. The State retains the right to use the established operational services to access and retrieve State Records stored on Contractor's infrastructure at its sole discretion and at any time. Upon reasonable request of the State or of the supervisory authority, Contractor shall submit its data processing facilities for an audit of the measures referred to in this Exhibit in accordance with the terms of this Contract during normal business hours and at the State's sole expense. All audits shall be subject to any reasonable conditions and restrictions Contractor may impose to protect the confidentiality, availability, and integrity of its data and systems, shall be conducted at the State's sole expense, and shall be conducted during Contractor's regular business hours after reasonable advance written notice to Contractor with minimal disruption to Contractor's business. Audits shall be limited to once each year unless the State has credible evidence that a violation of this Agreement has occurred.

3. DELIVERY AND ACCEPTANCE

- A. Contractor shall provide and maintain a quality assurance system acceptable to the State for any Work or Deliverables under this Contract and shall provide to the State only such Work or Deliverables that have been inspected and found to conform to the specifications identified in this Contract and any applicable solicitation, bid, offer, or proposal from which this Contract results.
- B. Contractor's delivery of any Work or Deliverables to the State shall constitute certification that such Work or Deliverable has been determined to conform to the applicable specifications, and Contractor shall make records of such quality assurance available to the State upon request during the term of the Contract or at any time within three years following expiration or termination of the Contract.
- C. For any Work or Deliverables other than the purchase or license of commercially available goods or software, acceptance of the Work or Deliverable shall require affirmative written communication from the State to the Contractor that such Work or Deliverable has been accepted by the State. Such communication shall be provided within a reasonable time period

from the delivery of the Work or Deliverable and shall not be unreasonably delayed or withheld.

4. WARRANTY

The warranties for all Work or Deliverables provided are as described in the NASPO Master Agreement.

5. COMPLIANCE

A. In addition to the compliance obligations imposed by the main body of the Contract, Contractor shall comply with:

- i.** Intentionally Omitted.
- ii.** All information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any specifically incorporated industry standards or guidelines, as applicable based on the classification of the data relevant to Contractor's performance under the Contract. Such obligations may arise from:
 - a.** Health Information Portability and Accountability Act (HIPAA).
 - b.** IRS Publication 1075.
 - c.** Payment Card Industry Data Security Standard (PCI-DSS).
 - d.** FBI Criminal Justice Information Service Security Addendum.
 - e.** CMS Minimum Acceptable Risk Standards for Exchanges.
 - f.** Electronic Information Exchange Security Requirements and Procedures For State and Local Agencies Exchanging Electronic Information With The Social Security Administration.

Notwithstanding the foregoing or anything to the contrary, all applicable security and/or privacy obligations, including, but not limited to the regulations mentioned above, shall be expressly identified in the Order and identified prior to the execution of the Order.

- iii.** In the event that classification of the data relevant to Contractor's performance under an Order requires Contractor comply with Payment Card Industry Data Security Standard (PCI-DSS), the State will identify in writing the requirement prior to the execution of such Order and such requirement will be expressly set forth in the Order.
- B.** Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the standards and guidelines applicable to Contractor's performance under the Contract.
- C.** Contractor shall allow the State reasonable access and shall provide the State with information reasonably required to assess Contractor's compliance. Such access and information may include:
 - i.** An annual SOC2 Type II audit including, at a minimum, the Trust Principles of Security, Confidentiality, and Availability, or an alternative audit recommended by OIS; or

- ## 6. TRANSITION OF SERVICES

7. LICENSE OR USE AUDIT RIGHTS

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**EXHIBIT F - PII CERTIFICATION (AS APPLICABLE WITH PURCHASING
ENTITY)**

**STATE OF COLORADO
THIRD PARTY INDIVIDUAL CERTIFICATION FOR ACCESS TO PII
THROUGH A DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

Signature: _____

Printed Name: _____

Date: _____

EXHIBIT F - PII CERTIFICATION (AS APPLICABLE WITH PURCHASING ENTITY)**STATE OF COLORADO
THIRD PARTY ENTITY / ORGANIZATION CERTIFICATION FOR ACCESS TO
PII THROUGH A DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of entity / organization) (the "Organization"), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

Signature: _____
Printed Name: _____
Title: _____
Date: _____

EXHIBIT G - SAFEGUARDING REQUIREMENTS FOR FEDERAL TAX INFORMATION (AS APPLICABLE WITH PURCHASING ENTITY)

When identified as applicable expressly in an Order (which is then accepted by Contractor) because the Purchasing Entity has determined that under the Order Contractor accesses, receives, or processes Federal Tax Information on behalf of State, this Addendum shall apply. This Addendum regarding Safeguarding Requirements for Federal Tax Information (“Addendum”)¹ is an essential part of the agreement between the State and Contractor as described in the Contract to which this Addendum is attached for Orders for which it is expressly noted as applicable. Unless the context clearly requires a distinction between the Contract and this Addendum, all references to “Contract” shall include this Addendum.

1. PERFORMANCE

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by Contractor’s employees with the following requirements:

- A.** All work will be done under the supervision of the Contractor or the Contractor’s employees.
- B.** The Contractor and the Contractor’s employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075 and Colorado Revised Statutes 24-50-1002.
- C.** Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
- D.** All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- E.** The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of Contractor’s computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any FTI remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- F.** Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the State or the State’s designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or

¹ The language of this Addendum is derived from IRS Publication 1075, *Tax Information Security Guidelines For Federal, State and Local Agencies*, Exhibit 7 – Safeguarding Contract Language, “Contract Language for Technology Services.” This Addendum is not exhaustive of all requirements contained in Publication 1075. By agreeing to this Addendum, Contractor agrees to comply with all applicable requirements in Publication 1075 or described on the website of the IRS Safeguards Program, located at www.irs.gov/privacy-disclosure/safeguards-program.

the State's designee with a statement containing the date of destruction, description of material destroyed, and the method used.

- G.** All computer systems receiving, processing, storing or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.
- H.** No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the State, by and through the contracting agency and the Office of Information Technology, and the IRS.²
- I.** The Contractor will maintain a list of employees' authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
- J.** The Contractor will not use live FTI in a test environment or utilize a cloud computing model that receives processes, stores, or transmits FTI without express written authorization from the State.³
- K.** The Contractor will maintain the confidentiality of all taxpayer information provided by the State or learned in the course of Contractor's duties under this Contract in accordance with safeguards set forth under Colorado Revised Statutes § 39-21-113(4), as amended.
- L.** The Contractor agrees to comply with the following additional requirements in performance of this Contract:

None

- M.** The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

2. CRIMINAL/CIVIL SANCTIONS

- A.** Each officer or employee of any person⁴ to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- B.** Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any

² see IRS Publication 1075, Exhibit 6 – Contractor 45-Day Notification Procedures.

³ see IRS Publication 1075, Section 9 and <https://www.irs.gov/privacy-disclosure/use-of-live-fti-in-system-testing>.

⁴ The term "person" is used in this Section 2 as it is used in Title 26 of the United States Code and related regulations. The term "person" means a person or entity, including "an individual, a trust, estate, partnership, association, company or corporation." 26 U.S.C. § 7701(a)(1).

format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- C. Additionally, Contractor shall inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to Contractor by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position, has possession of or access to State records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- D. Granting a Contractor access to FTI must be preceded by certifying that each individual understands the State's security policy and procedures for safeguarding FTI. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification and at least annually afterwards, Contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches.⁵ For both the initial certification and the annual certification, the Contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

3. INSPECTION

The IRS and the State, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the Contractor to inspect facilities and operations performing any work with FTI under this Contract for compliance with requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process, or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

⁵ see IRS Publication 1075, Section 10 or www.irs.gov/privacy-disclosure/reporting-improper-inspections-or-disclosures.

EXHIBIT H – SAMPLE D&A CERTIFICATE

Certificate of Acceptance

Re: Account Schedule Number (“Contract”)
Financial Services Provider: Toshiba America Business Solutions, Inc. (“FS Provider”)
Lessee/ Customer: (“Customer”)

This Certificate of Acceptance to the lease, loan or other form of financial services contract described above (“**Contract**”) is by and between the FS Provider identified above and the Customer identified above.

Customer, through its authorized representative, hereby certifies to FS Provider and any assignee of FS Provider with respect to the Contract that:

1. All of the Equipment has been inspected and is (a) complete, (b) properly installed, (c) fully functioning, and (d) in good working order.
2. Customer is not in default under the Contract and all of Customer's statements and promises set forth in the Contract are true and correct.

IN WITNESS WHEREOF, Customer’s duly authorized representatives has executed this Acceptance Certificate as of the Acceptance Date.

Customer:

By: _____

Title:

Acceptance Date:

ATTACHMENT 1 – TOSHIBA LEASE AGREEMENT TERMS AND CONDITIONS

AGREEMENT FOR LEASE OF EQUIPMENT a Contract Between

“Lessee”
(NAME, ADDRESS, PHONE OF LESSEE)

and

Toshiba America Business Solutions, Inc. (known herein as “Toshiba”)

WHEREAS, Lessee is authorized to lease under the NASPO-ValuePoint Master Agreement (“Master Agreement”) and the State of Colorado Participating Addendum thereto; 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 delivery and acceptance of Leased Equipment for the term set forth on the (i) Attachment 5, Toshiba Lease Order Form and if applicable Attachment 6, Toshiba Lease Order Form Schedule B (collectively an “Order Form”); or (ii) the Lessee’s Purchase Order (PO) to which this Agreement is attached, unless sooner terminated by either party as set forth in Section 6 of this Agreement.

2. **DEFINITIONS.** “**Lease Term**” means the term of this Agreement as set forth in Section 1. “**Leased Equipment**” means the (i) equipment described in the Order Form, attached to this Agreement, and which is incorporated herein; (ii) any replacement equipment provided by Lessor; and (iii) any additional equipment described under subsequent Order Forms agreed to during the term of this Agreement. “**Lessor**” means Toshiba America Business Solutions, Inc. or, if applicable, its permitted assignee.

3. **CONSIDERATION (RENT).** The parties agree that for the Lease Term, Lessor leases to Lessee the equipment described in, and for the lease payments set forth in, the Order Form, excluding meter charges, late fees and applicable taxes. Except as provided in section 6(c), lessee’s payment obligations are absolute and unconditional and are not subject to cancellation, reduction or setoff for any reason whatsoever. Lessee does not agree to reimburse Lessor for expenses, unless otherwise specified in the incorporated documents.

4. **POSSESSION, TITLE AND RETURN.**

(a) Lessee shall have possession of the Leased Equipment for the Lease Term, unless this Agreement is earlier terminated in accordance with Section 6 below and shall keep such Leased Equipment at the location specified in the Order 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. If the Order Form indicates that this lease is a Capital (i.e. \$1 Buyout) Lease and if this Agreement is deemed to be a secured transaction, Lessee grants Lessor a first priority security interest in the Leased Equipment to secure all of Lessee’s obligations under this Agreement, agrees not to permit any other liens on the Leased Equipment, and shall own such Leased Equipment as of the acceptance date and Lessee authorizes Lessor to record a UCC-1 to reflect such interest. At the end of the Lease Term, if Lessee is not in default, Lessor will release any security interest it may have in the Leased Equipment subject to such Capital Lease, which will be retained by Lessee.

(c) At the expiration of the term of this Agreement and provided that the Order Form does not indicate this lease is a Capital Lease, upon Lessee’s written request, Lessor shall remove the hard drive from the applicable Device and provide the Lessee with custody of the hard drive before the Device is removed from the Lessee’s location. Lessor may charge the Purchasing Entity a fee if the Purchasing Entity elects to keep the hard drive in their possession. The Lessee shall then be responsible for securely erasing or destroying the hard drive. If Lessee is not in breach of this Agreement, all

costs of removing and transporting the Leased Equipment at the expiration of the Lease Term shall be the responsibility of Lessor.

(d) Risk of loss of the Leased Equipment rests with Lessee until the Leased Equipment is picked up from Lessee's designated location, at which time risk of loss passes to Lessor.

(e) If the Order Form indicates this lease is a Fair Market Value Lease, at the end of the Lease Term and upon 30 days' prior written notice to Lessor, Lessee may purchase all, but not less than all, of the Leased Equipment AS-IS and WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE, for the Fair Market Value, plus applicable sales and other taxes, if any.

5. **TAXES.** Lessee agrees to pay all applicable fees, assessments, taxes and charges governmentally imposed upon Lessor's purchase, ownership, possession, leasing, renting, operation, control or use of the Leased Equipment.

6. **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.

(b) **Termination by Lessee without Cause.** This lease may be bought out and all Leased Equipment returned to Lessor, although fair market value leases, straight leases and capital leases are subject to a termination charge. The termination charge is equal to the balance of unpaid lease payments and other amounts due hereunder (including any current or past due amounts) for leases and with regard to service or maintenance obligations, may not exceed more than four (4) month service and supply base or 25% of the remaining term, whichever is less.

(c) **Termination for Nonappropriation.** The continuation of this Agreement beyond the current State Fiscal Year (or relevant fiscal period observed by a non-State Purchasing Entity) 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, effective as of the end of the fiscal period in which written notice of such non-appropriation, withdrawal, limitation or impairment is provided by Lessee to Lessor.

(d) **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. Notice of termination for breach or default is effective 30 days following service of notice, or upon any subsequent date specified in the notice of termination. 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 and may not exceed more than four (4) month service and supply base or 25% of the remaining term, whichever is less, for service and maintenance charges.

7. **INSURANCE.** At Lessor's request, Lessee shall provide to Lessor proof that the Leased Equipment is covered for the value thereof against property loss or damage while in Lessee's possession by Lessee's program of self-insurance (if approved by Lessor and Lessor's assignee, if any) or a policy of property insurance from a qualified insurer.

8. **LOSS OR DAMAGE.** If any item of Leased Equipment is lost, stolen or damaged after delivery and acceptance by Lessee of the Leased Equipment, Lessee will, at Lessee's option and cost, either: (a) repair the item or replace the item with a comparable item reasonably acceptable to Lessor; or (b) pay Lessor the sum of: (i) all past due and current lease payments and other amounts due under this Agreement; (ii) the present value of all remaining lease payments for the affected item(s) of Leased Equipment, discounted at the rate of 6% per annum; and (iii) if this lease is not a Capital Lease, the Fair Market Value of the affected item(s) of Leased Equipment. Upon Lessee's payment to Lessor under clause (b) above, Lessor will then transfer to Lessee all of Lessor's right, title and interest in the affected item(s) of Leased Product AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE. "Fair Market Value" means the item's fair market value at the end of the Lease Term, assuming good order and condition (except for ordinary wear and tear from normal use), as reasonably estimated by Lessor. No such loss or damage shall relieve Lessee of payment obligations hereunder.

9. **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 six months' warranty. Lessor shall be responsible for ongoing service and maintenance of the Leased Equipment for the duration of the Lease Term. EXCEPT AS OTHERWISE STATED HEREIN, LESSOR MAKES NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE LEASED EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE LEASED EQUIPMENT

IS MERCHANTABLE. Lessee acknowledges that neither Lessor nor any of its representatives are agents of any assignee and none of them are authorized to modify the terms of this lease or any Schedule. No representation or warranty of Lessor with respect to the Leased Equipment will bind any assignee, nor will any breach thereof relieve Lessee of any of its obligations hereunder. THIS LEASE AGREEMENT AND EACH SCHEDULE CONSTITUTES A "FINANCE LEASE" AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE (the "UCC"). Lessee agrees that any manufacturer or Lessor warranty or service agreement is a separate and independent obligation of Lessor to Lessee, that no assignee of the Lessor shall have any obligation to Lessee with respect to such warranty or service agreement and that Lessee's obligations, except as provided under Section 6(c) above, under this Agreement are not subject to setoff, withholding, or reduction, counterclaim or defense for any reason whatsoever including, without limitation, any claim Lessee may have against Supplier.

10. LESSOR REMEDIES. If Lessee defaults, Lessor may do one or more of the following: (a) recover from Lessee the sum of: (i) all past due and current lease payments and other amounts due under this Agreement; and (ii) the present value of all remaining lease payments, discounted at the rate of 6% per annum; and (iii) require Lessee to make the Leased Equipment available to Lessor for pickup at Lessee's premises (and Toshiba shall be responsible for removing all data as provided in Section 4) and to pay all costs of removing and transporting the Leased Equipment. If Lessor picks up the Leased Equipment, Lessor may sell, release or otherwise dispose of the Leased Equipment and apply the proceeds to the amounts due by Lessee. These remedies are cumulative, in addition to any other remedies provided by law, and may be exercised concurrently or separately. Any failure or delay by Lessor to exercise any right shall not operate as a waiver of any right. LESSOR SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES.

11. 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.

12. 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 reasonable 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.

13. ASSIGNMENT. Lessee may not assign or dispose of any rights or obligations under this Agreement or sublease the Leased Equipment without Lessor's prior written consent. Notwithstanding anything in the NASPO ValuePoint Master Agreement and/or the Participating Addendum to the contrary, 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 must conform to the terms of the NASPO ValuePoint Master Agreement and the State of Colorado Participating Addendum. Lessor's assignee shall have Lessor's rights under this Agreement, but none of Lessor's obligations. Lessee agrees not to assert any claims, defenses or offsets it may have against Lessor against such assignee.

14. AGREEMENT AND MODIFICATION. This Agreement is made pursuant to the NASPO ValuePoint Master Agreement identified above, and the State of Colorado Participating Addendum to that Master Agreement, the terms of which are incorporated herein by reference. In the event of conflict between the Master Agreement or the State of Colorado Participating Addendum and this Agreement, the Master Agreement and the Participating Addendum shall govern and control. 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.

15. TIME PRICE. If the Toshiba Lease Order Form and Schedule indicates the lease is a Capital Lease, Lessee understands that the Leased Equipment may be purchased for cash (the "Product Cost") or purchased pursuant to this Agreement for an amount of each Lease Payment times the number of Lease Payments, less maintenance, as set forth on the NASPO Lease Order Form and Schedule and this Agreement, plus the \$1 Purchase Option amount stated on the NASPO Lease Order Form

and Schedule, and by signing this Agreement, Lessee has chosen to purchase the Leased Equipment for that price. The Product Cost may be determined by dividing the Lease Payment by the lease rate factor set forth on the NASPO Lease Order Form and Schedule. Each Lease Payment under a Capital Lease includes a part of Lessor's investment in the Product Cost and a return on Lessor's investment in the Capital Lease. The total return on Lessor's investment (the total finance charge) is determined by deducting the Product Cost (as determined above) from the Time Price. The difference so determined is the return to Lessor on its investment (the total finance charge). The rate of return (finance rate) may be determined by applying to the Product Cost, the rate that will amortize the Product Cost down to the Purchase Option amount by applying as payments, the Lease Payments. For purposes of that amortization, each Lease Payment will be considered received on the date it is required to be paid under this Agreement.

16. GOVERNING LAW, JURY TRIAL WAIVER. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Colorado, without giving effect to any principle of conflict of laws that would require the application of the law of any other jurisdiction.

17. 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 17. 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.

18. RESERVED.

19. 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:

Name:
Title:
Date:

By: _____
Name:
Title:
Date:

ATTACHMENT 2 – TOSHIBA SERVICE LEVEL AGREEMENT

1. Customer Level SLA

1.1. Purpose

The purpose of this Attachment is to outline service levels; as well as provide Customer with a defined process for equipment replacement or loan as set forth herein.

1.2. Customer Service Level Agreement

Contractor agrees to maintain the following service levels defined below as targets:

Performance Criteria	Target Level
Average Uptime	96% or Better
Average On-Site Response Time	4 Hours or Less

1.3. Total Quality Commitment (TQC)

1.3.1. Free Replacement - If Buyer's Toshiba MFD, Facsimile or its accessories, do not operate within Toshiba's product specifications during the term of its lease or if purchased its maintenance service term, and if the equipment cannot be repaired to perform within product specifications, Contractor will replace the MFD, facsimile or accessory at no charge with a model of equal or better features and specifications.

1.3.2. Free Loaner:

1.3.2.1. If Customer's Toshiba MFD is out-of-service more than two (2) consecutive business days after notifying a Contractor's Authorized Servicing Provider or requires off-site service, a loaner MFD will be provided by the Contractor Authorized Servicing Provider at no additional charge.

1.3.2.2. All loaned equipment is the property of Contractor or the Contractor's Authorized Servicing Provider and must be returned to Contractor or the Contractor's Authorized Servicing Provider at the time the repaired or replaced equipment is tendered.

1.3.3. Term of Program.

The term of this program is (i) for purchased equipment, three years from equipment installation date or maximum number of copies as stated in the product specifications, whichever occurs first; or, (ii) for leased or rented equipment, the length of the original lease or rental term starting from the equipment installation date or the maximum number of copies as stated in the product specifications, whichever occurs first.

1.3.4. Terms & Conditions Of TQC

This program applies only to new Toshiba MFD and/or accessories acquired by customers from Toshiba or an Contractor Authorized Servicing Provider on or after April 1, 1996, on condition that the equipment: (i) was continuously maintained under a full service maintenance agreement provided by an Authorized Toshiba Servicing Provider, and (ii) only genuine Toshiba parts and consumable supplies are used in the maintenance and operation of the equipment. This program is non-transferable. Product damaged or destroyed because of Buyer's negligence, misuse or abuse, improper electrical power, or an act of God are not covered under this program.

If a Contractor Authorized Servicing Provider is not available to fulfill the terms of this program, Toshiba will resolve any program issues within a reasonable period of time. No modification or extension of this program is effective unless it is in writing and signed by the Vice President, General Manager of Toshiba-Electronic Imaging Division.

1.3.5. How To Exercise This Guarantee

First, notify your Authorized Toshiba Servicing Provider of the problem. If you do not obtain resolution to your satisfaction via your Authorized Toshiba Servicing Provider, send a certified letter documenting your problem and a copy of the dated sales receipt to:

Toshiba America Business Solutions, Inc.
Director of Field Service
25530 Commercentre Boulevard
Lake Forest, California 92630

ATTACHMENT 3 – TOSHIBA MAINTENANCE AGREEMENT

These maintenance terms are pursuant to a Participating Addendum under NASPO ValuePoint Master Agreement # 188037 (the "Master Agreement"). By accepting this Attachment, Customer agrees to purchase the services as set forth in Attachment 7 (Toshiba M&S Activation for Purchased Equipment). Contractor agrees to provide parts, labor, ink, toner, and toner collection containers (the "Maintenance Services") for the equipment listed in Attachment 6, Toshiba Lease Order Form Schedule 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 ("Renewal Date"). 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.
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) days' written notice prior to the Renewal Date. Customer shall be responsible for any current and past due payments if equipment is withdrawn.
4. **INVOICING CHARGES.** Customer will pay the charges set forth in Attachment 5, Toshiba Lease Order Form. The first Minimum Payment (i.e. equipment portion of payment) is due within 30 days of invoice. Thereafter, Minimum Payments will be due on the same date each month during the Term of this Maintenance Agreement. Excess click charges or Overage Charges, as applicable; will be invoiced monthly for the period selected on the Maintenance Order Form.
5. If any part of a payment is not made by the Customer when due, Customer agrees to pay Contractor a Late Charge pursuant to the terms in the Participating Addendum.
6. If Customer does not supply an actual and accurate meter reading, then Contractor may calculate an estimated meter reading from the prior three months of actual meter reads. At no time, however, will the estimated meter read exceed the highest actual usage of any prior month. Appropriate adjustments will be made by Contractor in a subsequent billing cycle following Customer providing actual and accurate meter readings. . Notwithstanding any adjustment, the Customer will never pay less than the Minimum Payment.
7. **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. 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.
8. **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 any applicable taxes resulting from this Maintenance Agreement.
9. **INSTALLATION AND ACCESS TO EQUIPMENT.** Customer agrees to provide adequate space, environment and appropriate 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. Upon request, Contractor shall have full and free access to the equipment to provide service thereon.

10. 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.
11. **KEY OPERATOR - END-USER TRAINING.** Customer agrees to designate a Key Operator for training on the use, applications 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-users. 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.
12. **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;
 - b. Service of equipment if moved outside of Contractor's designated service area;
 - c. Repair of damage or increase in service time caused by Customer 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 Customer's failure to continually provide a suitable installation environment as defined by the manufacturer, with all the facilities prescribed by Contractor including, adequate space, electrical power, air conditioning or humidity control;
 - k. Repair of equipment that has been designated as obsolete by the manufacturer and for which 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.
13. This Maintenance Agreement is not assignable; its rights, 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. Contractor is not responsible for failure to render service due to causes beyond its control.

ATTACHMENT 4 – TOSHIBA \$1 BUYOUT LEASE ADDENDUM

OPTIONS OF LESSEE
\$1.00 PURCHASE OPTION

Addendum to Agreement number [redacted] between [redacted], as Lessor and [redacted], as Lessee

Provided the lease has not terminated early, Lessee shall have the following option at the end of the original term.

Buy: Purchase the equipment for \$1.00.

OR

Return: Return the equipment per the lease agreement.

[redacted]	[redacted]
LESSOR	LESSEE
[redacted]	[redacted]
Signature	Signature
[redacted]	[redacted]
Title	Title
[redacted]	[redacted]
Date	Date

NOTE: SIGNATURE MUST BE SAME AS ON LEASE

ATTACHMENT 5 – TOSHIBA LEASE ORDER FORM

Agreement #

LESSEE - BILLING CONTACT INFORMATION

(Separate Order Form must be completed for each billing locations.)

Lessee Legal Name:		Department Name:		FEIN #
Street Address I P.O. Box:			Bldg/Room/Suite:	
City:	State:	Zip	Billing Contact Name:	
Bill-To Phone Number:	Email:		Fax Number:	

LESSEE INSTALLATION LOCATION

Lessee Legal Name:		Department Name:	
Street Address I P.O. Box:		Bldg/Room/Suite:	
City:	State:	Zip:	Contact Name:
Phone Number:	Email:	Fax Number:	

EQUIPMENT LEASE WITH SEPARATE MAINTENANCE PLAN

EQUIPMENT LEASE TYPE		LEASE TERM	
☐ Fair Market Value ☐ Capital Lease ☐ Straight Lease		☐ 24 Mo ☐ 36 Mo ☐ 48 Mo ☐ 60 Mo	

ITEM DESCRIPTION (If insufficient space, use Schedule A to this Lease Order form and enter below "See Order Form Schedule")	EQUIPMENT LEASE		MAINTENANCE & SERVICES (M&S) PLAN						☐ Include Staples	
	EQUIPMENT LEASE % or RATE- FOR SOUT LEASES ONLY	EQUIPMENT LEASE PAYMENT	ZERO BASE B&W CPC	ZERO BASE COLOR CPC	MAINT. OPTION NUMBER 1, 2, 3	MONTHLY VOLUME (BW)	MONTHLY BASE CHARGE (BW)	BW OVERAGE RATE	COLOR OVERAGE RATE	
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			
		\$					\$			

Sum of Monthly Equipment Lease Payments:	\$	Sum of Monthly Base Charges:	\$
--	----	------------------------------	----

TOTAL MONTHLY PAYMENT: Equipment Lease Payment + Monthly Base Charge (If Applicable) \$		Personal Property Tax Required ☐
--	--	--

NASPO ADMIN FEE RATE: 0.25%	STATE ADMIN FEE RATE (If Applicable):
-----------------------------	---------------------------------------

Special Instructions/Additional Information (e.g. equipment models upgraded; Buyout details; etc.):

TERM & PAYMENT SCHEDULE (All Payments are exclusive of sales and use tax)

Sales/Use Tax Exempt ☐ Yes ☐ No	Tax-Exempt No. [Attach Tax Exemption]	PO Issued ☐ yes ☐ No
		PO #
Payment Cycle: Monthly Billing		Document Fee: \$75.00 included in the 1 st invoice

THIS ORDER FORM INCORPORATES ALL OF THE TERMS AND CONDITIONS OF THE LEASE AGREEMENT

LESSOR: Toshiba America Business Solutions, Inc.	Title:	Date:
SIGNATURE:		
LESSEE:	Title:	Date:
SIGNATURE		

LESSEE _____

v011119

☐ **INCLUDE STAPLES:**

This Schedule to the NASPO Lease for Equipment and Maintenance Order Form incorporates all of the Terms and Conditions of the Lease Agreement. Capitalized terms not defined herein shall have the same meaning as defined in the PA and/or the Agreement for Lease of Equipment.

LESSOR: Toshiba America Business Solutions, Inc.

By: _____
Name: _____
(Please Print)
Title: _____
Date: _____
(date of signature)

ATTACHMENT 7 – TOSHIBA M&S ACTIVATION FOR PURCHASED EQUIPMENT

NASPO MAINTENANCE & SERVICES ACTIVATION SCHEDULE

CUSTOMER INFORMATION

Customer Purchase Order Number	Date	FSM Number (Internal)	NASPO Customer No.
Maintenance Agreement Term 2 year ☐ 3 year ☐ 4 year ☐ 5 year ☐		Agreement Term Start Date _____ End Date _____	

BILL TO INFORMATION

EQUIPMENT LOCATION

Customer Name _____ Department _____		Customer Name _____ Department _____	
Street _____		Street _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
Contact Name _____	Fax Number _____	Contact _____	Fax Number _____
Telephone Number _____	Fax Number _____	Telephone Number _____	Fax Number _____

SELLING SERVICE PROVIDER

INSTALLING SERVICE PROVIDER

Dealership Name _____		Dealership Name _____	
Street _____		Street _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
Contact Name _____	Fax Number _____	Contact Name _____	Contact Title _____
Telephone Number _____	Fax Number _____	Telephone Number _____	Fax Number _____

BILLING INFORMATION

Billing Cycle ☐ Monthly ☐ Other		Billing Performed by ☐ Toshiba bills the customer; ☐ Other	
Billing Format ☐ Per Machine ☐ Consolidated Bill (Grouped by _____) ☐ De-Centralized Billing (Each billing entity must sign separate Maintenance			
Additions will be: ☐ Cotermious ☐ Other		Tax Exempt (if multiple locations, indicate on P.O. for each state) ☐ No ☐ Yes If YES, Certificate Number: _____	
Meter Read Submitted By Customer: E:bridge ☐ FMAudit ☐ E:meters online (Web) ☐		Customer P.O. Required? (If Yes, Attach Purchase Order) No ☐ Yes ☐ PO Number _____	
Special Instructions: _____			

CUSTOMER SIGNATURE

<i>Signature on this page indicates acceptance of the Maintenance Plan set forth on Page 2 of this Order and all terms and conditions as stated in the NASPO Master Contract and State Participating Addendum.</i>			
Name		Title	
Signature		Date	

**ZERO BASE PLAN or
OPTIONAL MONTHLY BASE CHARGE WITH OVERAGES PLAN**

☐ **Yes** ☐ **No**[illegible]

Name		Title	
Signature		Date	

ATTACHMENT 8 – TOSHIBA SAMPLE MPS STATEMENT OF WORK

Toshiba will provide to Customer throughout the United States, the Services outlined in this Statement of Work during the Initial Term and Renewal Terms. This SOW sets forth the scope of managed print services, requirements and obligations of the parties and is subject to the terms and conditions of a Managed Print Services Agreement (“Agreement”) by and between Customer and Toshiba America Business Solutions, Inc. (“Toshiba”), and will be incorporated therein by reference.

1. Assessment Phase

1.1. Initial Assessment and Design

1.1.1. Toshiba’s responsibilities are to:

- 1.1.1.1. Work with Customer to determine the scope and discovery to include sites and device types
- 1.1.1.2. Develop a schedule for discovery and design
- 1.1.1.3. Work with Customer to ascertain any security and safety requirements
- 1.1.1.4. Work with Customer to obtain necessary badging requirements
- 1.1.1.5. Use Toshiba meter collection software, a network discovery tool, when necessary to facilitate and augment the discovery process
- 1.1.1.6. Identify and confirm equipment

1.1.2. Customers responsibilities are to:

- 1.1.2.1. Provide a local onsite customer liaison to work with Toshiba at each site to assist with prioritization, coordination and communication of discovery
- 1.1.2.2. Provide the computer hardware necessary to operate the software
- 1.1.2.3. Provide the IP address, queue names, and any other network address required to perform Services
- 1.1.2.4. SNMP enable the networked equipment
- 1.1.2.5. Provide a specific list and location (name, address, building, floor, city, state, zip code, serial number, model number) for all meterable equipment
- 1.1.2.6. Provide any necessary access to floorplans and business areas
- 1.1.2.7. Provide and be responsible for all such telephone and modem lines, telephones, computers and peripheral devices, computer connections, and network access, as may be necessary for Toshiba to provide Services and to interconnect with Toshiba’s network discovery and meter submission tool;
- 1.1.2.8. Provide Toshiba with current-state print device information to include: print queue names, device configuration, custom form, and IP addresses or host names for devices accepting print jobs from host or mainframe applications. Customer shall have the flexibility to direct output.

1.1.3. Following discovery and design, Toshiba and Customer will mutually agree by location upon

- 1.1.3.1. The number and models of devices within the scope of Services
- 1.1.3.2. Fleet configuration, optimal mix, and future-state design including the placement of new Product and retention of Existing Equipment

2. Implementation Phase

2.1. Toshiba and Customer shall:

2.1.1. Toshiba’s responsibilities consist of:

- 2.1.1.1. Maintain an Asset List of all Meterable equipment
- 2.1.1.2. Coordinate with Customer any network and phone installations needed to support new devices
- 2.1.1.3. Create and distribute Toshiba asset tags for all equipment having the following necessary information to facilitate a Help Desk calls for networked equipment and supply provisioning for equipment:
 - Toshiba’s Supplies Ordering Web Portal URL
 - Serial Number or Asset Tag
 - Toll Free Phone Number or Web URL for Service Dispatch

2.2 Customer’s responsibilities consist of:

- Affix asset tags to all equipment and remove any previous service provider asset tags
- Provide and be responsible for all such telephone and modem lines, telephones, computers and peripheral devices, computer connections, and network access, as may be necessary for Toshiba to provide Services and to interconnect with Toshiba’s network discovery and meter submission tool

3. Training

- 3.1. Customer may engage Toshiba to provide a customized training program by working with Toshiba to develop a training plan and order.

4. Fleet Management

Within ninety (90) calendar days following the Effective Date, Toshiba shall develop and thereafter maintain a comprehensive inventory of all Equipment that is discovered through Toshiba's electronic discovery tool:

- (a) equipment and network connections and infrastructure used by Toshiba to provide the services;
 - (b) equipment, software and network connections and infrastructure used by Customer in connection with the Services.
- Toshiba shall provide an electronic copy of such inventory to Customer upon request.

5. Services & Help Desk

5.1. In general, Toshiba is responsible for providing Services for Customer's networked Equipment identified through Toshiba's remote electronic discovery tool.

5.2. Toshiba's responsibilities include:

- To troubleshoot for the repair of the equipment and to attempt a phone resolution if one is available
- To provide on-site break fix services for technical hardware issues that cannot be resolved remotely
- Toshiba will provide all the support and materials necessary to maintain covered Existing Equipment in operating condition
- To bear financial responsibility for all time, material, and travel associated with break / fix activities
- Next business day break-fix service: Toshiba shall provide response times for new Toshiba Product within 4-8 hours, and shall average an on-site response to a service call within four (4) business hours. For other non-Toshiba new Product, Toshiba shall provide a next business day response time. Customer shall assure that Toshiba's Servicing Providers have reasonable access to Product. If Product cannot be repaired within two (2) business days, a loaner machine with a model of equal or better features and specifications will be provided.
- To restore malfunctioning equipment to good working order during the Service Hours of 8:00 am to 5:00 pm, Monday through Friday - Holidays Excluded
- To provide toner required for the normal operation of equipment
- To meet reasonable security requirements identified by Customer
- To provide a status upon call completion to the on-site service requestor (End-User or representative of End User) prior to leaving the Customer's site

5.3. Toshiba is not responsible for:

- Adjustments, repairs or replacements made necessary resulting from non-Toshiba Third Parties performing any maintenance, repair or replacement
- Failures or damage caused by Customer resulting from accident, neglect, misuse, failure or inadequacy of electrical power or air conditioning or humidity control, or any causes other than ordinary use of the equipment
- Customer damage to equipment that is placed in an area that does not conform to manufacturer's electrical and environmental requirements
- Failure due to improper telephone or electrical power Acts of God, lightning or other incidents of excess voltage or power surges
- Repairs necessary when Customer modifies, relocates, damages (including without limitation, unavoidable accidents) abuses or misuses the equipment (including without limitation, the spilling of toner or other substance in the machine) and the breakage of lids, hinges, cassettes, etc.
- Repairs necessary when equipment is altered, tampered, or interconnected with non-compatible Equipment
- Repairs relative to network connectivity of the device
- Providing cabling required to connect the printer to the network
- Installing any customer-replaceable consumables including but not limited to paper and toner

5.4. Customer's responsibilities are:

- To provide reasonable access to the equipment
- To provide reasonable notice prior to Toshiba if a service request is cancelled
- To notify Toshiba of any required security requirements as required by Customer
- Support the diagnosis of malfunctioning devices by engaging by phone and/or in person with Toshiba technical support personnel as needed

6. Help Desk

6.1. Help Desk Services are those services required to coordinate and respond to problems and service requests made by Customer in the United States. Toshiba shall be responsible for providing, direct or indirect Help Desk access with begin-to-end logging, tracking, resolution and reporting of service calls.

6.2. Toshiba's will perform the following:

- Toshiba will provide Help Desk support for equipment
- To provide on-line and toll-free dispatch services to Customer
- To provide access to Toshiba's portal for the purpose of placing service calls
- To provide an estimated time of arrival for all service calls

6.3. Customers' Responsibilities are:

- To make all service calls through Toshiba's Global Service Portal or toll-free phone number
- To convey the end user name and location
- To convey the model type and serial number
- To convey the nature of the service call whether it is a problem or failure

7. Vendor Managed Supplies

7.1. Toshiba responsibilities are to:

- Fulfill all orders for supply replenishment - F.O.B. destination
- Fulfill supply orders within three-days of order
- Provide access to the Toshiba GSP, with a single sign-on, for the purpose of ordering all supplies

7.2. Customer responsibilities consist of:

- Provide secure and environmentally appropriate storage for all supplies
- Customer will order supplies as required through Toshiba's GSP and will instruct Customer employees to order such supplies through Toshiba's GSP
- Installation of toner and other customer installable consumables

8. Parts

Part(s) used in the repair of equipment will be new or refurbished, equivalent or better-than-new in functionality and will be authorized and approved by Toshiba. Replaced parts become the property of Toshiba.

9. Additional Activities

9.1. Toshiba is not obligated, but may at its discretion and Customer's approval, perform the following services and charge the Customer a time and material rate, based on Toshiba's then current prices for services associated with the following:

- Adjustments, repairs or replacements made necessary resulting from non-Toshiba Third Parties performing any maintenance, repair or replacement;
- Failures or damage resulting from accident, neglect, misuse, failure or inadequacy of electrical power or air conditioning or humidity control, or any causes other than ordinary use of the equipment;
- Damage to equipment that is moved to an area by the Customer that does not conform to manufacturer's electrical and environmental requirements;
- Failure due to improper telephone or electrical power Acts of God, lightning or other incidents of excess voltage or power surges;
- Repairs necessary when Customer modifies, relocates, damages (including without limitation, unavoidable accidents), abuses or misuses the Equipment (including without limitation, the spilling of toner or other substance in the machine), and the breakage of lids, hinges, cassettes, etc.,
- Repairs necessary when Equipment is altered, tampered, or interconnected with non-compatible Equipment.

9.2. Outside of the Service Hours. After-hour services, weekend and Holidays are considered out-of-scope activities that do not fall within the Service Hours. Toshiba, at its discretion with Customer's consent and direction, may provide the out-of-scope services, provided that proper authorization is received from Customer. These services will be billed separately to Customer and the amounts so billed will be payable to Toshiba according to the then current NASPO ValuePoint Master Agreement pricing.

9.3. Network/Software/Other/Supply Replacement. Requests for the following types of services are out-of-scope and may be performed at Toshiba's discretion with Customer's consent, direction and proper authorization. In the event Toshiba is willing to perform the tasks, Customer shall be billed in addition to time spent and distance traveled fees for: (a) Driver support for single or individual user software applications (Toshiba will provide installation support for two workstations upon new equipment delivery), (b) Service requested to replace consumable items such as but not limited to printer supplies (paper, ink cartridges and toner), power strips, and batteries.

10. Asset Management.

Within ninety (90) calendar days following the Effective Date, Toshiba shall develop and thereafter maintain a comprehensive inventory of all Equipment that is discovered through Toshiba's electronic discovery tool: (a) equipment and network connections and infrastructure used by Toshiba to provide the services; (b) equipment, software and network connections and infrastructure used by Customer in connection with the Services. Toshiba shall provide an electronic copy of such inventory to Customer upon request.

ATTACHMENT 9 – TOSHIBA ASSET RELOCATION REQUEST

DATE OF REQUEST: [REDACTED]
CUSTOMER INFORMATION

Purchase Order Number (if required)	Date of Installation	Contract Number	Member #
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Request for: [REDACTED]

Relocation - One (1) free relocation move per asset per year. If move requires trained personnel, move must be supervised. Note for the 2nd move, charges will be billed according to the rates outlined in the NASPO ValuePoint Master Agreement Price List(s).

Return of Leased Asset (no cost)

Please allow 15-30 days for return processing

CUSTOMER INFORMATION

Customer Name [REDACTED]			
Street [REDACTED]			
City [REDACTED]		State [REDACTED]	Zip Code [REDACTED]
Contact Name [REDACTED]		Contact Title [REDACTED]	
Telephone Number [REDACTED]		Fax Number [REDACTED]	

CURRENT EQUIPMENT LOCATION

NEW EQUIPMENT LOCATION

Customer Name	Department	Floor/Room/Suite	Customer Name	Department	Floor/Room/Suite
Street [REDACTED]			Street [REDACTED]		
City [REDACTED]	State [REDACTED]	Zip Code [REDACTED]	City [REDACTED]	State [REDACTED]	Zip Code [REDACTED]
Contact Name [REDACTED]	Contact Title [REDACTED]		Contact Name [REDACTED]	Contact Title [REDACTED]	
Telephone Number [REDACTED]	Fax Number [REDACTED]		Telephone Number [REDACTED]	Fax Number [REDACTED]	
Model Number: [REDACTED]	Serial Number: [REDACTED]		Model Number: [REDACTED]	Serial Number: [REDACTED]	
Meter Read [REDACTED]	Pickup Date: [REDACTED]		Meter Read [REDACTED]	Delivery Date: [REDACTED]	
Name: [REDACTED]		Title: [REDACTED]	Date: [REDACTED]		
Signature: [REDACTED]					
Special Instructions/Removal Instructions [REDACTED] [REDACTED]					

Customer must sign this form indicating consent to move or remove equipment. Send this form to Operations via

REQUESTOR AUTHORIZATION

FAX or EMAIL:

Operations Fax: 800.999.0057
 Operations Email: naspo.orders@tabs.toshiba.com

ATTACHMENT 10 – TOSHIBA FLEET MONITORING TOOL SITE SURVEY

Toshiba FMAudit

Site Survey



The information in this survey allows Toshiba to provide the highest level of quality service. By filling out this survey, you authorize Toshiba FMAudit Support to contact the individuals for implementation and account management purposes.

Part I: Dealer Contact Information

1. Primary Contact Information	
Contact Name:	
Job Title:	
Job Function:	
Tel:	
Email:	

Part II: End-User Organizational Information

1. Company Information	
*Company Name:	
Company Address:	
2. Primary Contact Information	
Contact Name:	
Job Title:	
Job Function:	
Tel:	
Email:	
3. IT Administration	
Same as Primary:	
Contact Name:	
Job Title:	
Job Function:	
Tel:	
Email:	

Part III: Hosting System

a.	What operating system will FMAudit Onsite be run on?
b.	Is this operating system installed using 32 or 64 bit?
c.	Does the server/workstation meet the following minimum hardware requirements? • 2.4 GHz processor • 1 GB memory • 1 GB free disk space
d.	Does the server/workstation meet the following minimum software requirements? • One of the following Microsoft operating systems: - Windows XP - Microsoft Windows 2003 - Microsoft Vista/7/8 • Internet Explorer 7.0 • Windows .NET 2.0 Framework with SP2

Part IV: Network Infrastructure

a.	Is SNMP traffic (port 161) blocked or restricted on the network?
b.	What SNMP community name is used for communication with printer related devices? (i.e. <i>PUBLIC</i>)
c.	Are all printers on the WAN accessible from the server/workstation where Onsite will be installed?

Part V: Proxy / Firewall Restrictions

Answer the following questions if a proxy and/or firewall are present.	
a.	Is there a domain authenticated proxy?
b.	Is there an IE passport authenticated proxy?
c.	Will port 80 (HTTP) allow outgoing printer related data to be transferred from the Onsite application back to the Central application located within another facility?
d.	Will port 443 (SSL / HTTPS) allow license related data to be exchanged between the Onsite application and the FMAudit license server?
e.	Is there a firewall or router that will block outgoing XML (SOAP) traffic? <i>(Note: some older Cisco products detect the XML data exchange format as invalid HTTP traffic)</i>

Part VI: Network Connected Printer Infrastructure

a.	Approximately how many network connected printers will be monitored?
b.	Are any printers connected via Jet Direct or compatible devices?
c.	Is there a workstation firewall installed; if so what product and version? <i>(i.e. Windows XP sp2 firewall)</i>
d.	Is the Windows SNMP Provider service installed?

Part VII: Items to Prepare

a.	Please attach a list of subnets where printer related products will be discovered. <i>(i.e. 10.0.1.1-254, 10.0.1-254.1-254)</i>
b.	Please attach a list of networked printer names that will be monitored. These will be cross referenced with known supported device lists to flag any potential issues. <i>(i.e. HP LaserJet 2300)</i>

ATTACHMENT 11 – TOSHIBA STATEMENT OF SERVICES**Client - <enter Client Legal Name>****Services - <enter Solution Name>****Client****Contractor**

<enter Client Principal Contact Name>

Printed Name

<enter Authorized Contractor name>

Printed Name

<enter Client Principal Title>

Printed Title

<enter Authorized Contractor Title >

Printed Title**Signature (Authorized Client)****Signature (Authorized Contractor)**

<enter Client SOS Signing Date>

Date

<enter Authorized Contractor SOS Signing Date>

Date

This Statement of Services ("SOS") is made by and between Toshiba America Business Solutions, Inc. ("TABS"), including its division Toshiba Business Solutions ("TBS"), with its headquarters located at 25530 Commercentre Drive, Lake Forest, CA 92630 (collectively or individually TABS and TBS shall be referred to as the "Contractor"), and <enter Client Legal Name> located at <enter Client Location> (the "Client").

This SOS describes the project and details the services and deliverables (hereinafter collectively known as "Project Services") associated with the <enter Solution Name> project (the "Project").

Project Services shall be provided pursuant to the "Project Contract" which consists of (i) this SOS together with (ii) the Master Software and Services Agreement ("MSSA") <enter Specific MSSA Name> between Contractor and its Client (the "Services Agreement"). This SOS is subject and subordinate to the MSSA. To the extent the terms and conditions of the Services Agreement and SOS conflict, the SOS shall prevail.

Project Contacts

Contractor Office Details	
Contractor Region	
Address Line1	
Address Line 2	
City, State, ZIP City, State. ZIP	
Phone Number	
Fax Number	
Contractor Sales Rep. Name	
Contractor Consultant Name	
Contractor Analyst Name	
Client Number	
Contract Number	

Client Details			
Client Name			
Client Contact Person			
Client Address Line-1			
Client Address Line-2			
City, State, ZIP			
Telephone #:		Ext:	
Fax Number:			
Email Address:			
Client Number:			
Contract Number:			

1. Introduction

Client's acceptance of this SOS shall be authorization for Contractor's performance of the Project Services set forth in this SOS. Contractor reserves the right to utilize NASPO ValuePoint Master Agreement ("Master Agreement") Authorized Dealers (also known as "Sub-Contractors") in performance of the Project Services. Contractor represents that all its Sub-Contractors (i) will be competent to perform the Project Services; (ii) will exercise commercially reasonable standards in performing these Project Services; and (iii) will comply with all terms and conditions applicable to Contractor in the performance of the Project Services.

The purposes of the SOS are to (i) specify the work to be completed by the Contractor during phases of the Project; (ii) detail the obligations of the Contractor and the Client; and (iii) set forth the Project schedule and fees.

Contractor has prepared this SOS to detail the scope of Project Services and costs for the Project Services. The costs stated were derived by drawing from Contractor's experience with similar engagements and using preliminary information received from Client. Costs shall not exceed Master Agreement pricing.

2. Project Objective

Based on the agreed upon business requirements, Contractor will provide design, implementation, training, and support services to the following locations:

<enter "SaaS" if Cloud Hosted or enter the Client's physical Address Location for On-Premises hosted solutions>

3. SOS Addendums

The SOS Addenda are supplementary documents that detail the specific deliverables and responsibilities by party. The relevant addendum is predicated upon whether your solution is a cloud solution, non-cloud solution, or mix of both. The SOS Addenda describe the Project Deliverables, Client and Contractor Responsibilities, Professional Services and Licensing Fees, Project Plan, Support Escalation Process, Pricing Schedule, Business Requirements, Functional Design, Change Order Authorization, and Solution Delivery and Acceptance.

A checkmark incorporates the referenced document into this agreement.

- ☐ Statement of Services Addendum A - Cloud Solution.
- ☐ Statement of Services Addendum B - On-Premises Solution.
- ☐ Statement of Services Addendum C - Hybrid Solution.
- ☐ Statement of Services Addendum D – Project Plan.
- ☐ Statement of Services Addendum E – Pricing Schedule.
- ☐ Statement of Services Addendum F – Support Escalation Process.
- ☐ Statement of Services Addendum G – Solutions Delivery and Acceptance.
- ☐ Statement of Services Addendum H – Change Order Authorization.
- ☐ Statement of Services Addendum I – Business Requirements Document.
- ☐ Statement of Services Addendum J – Functional Design Document.

4. Project Deliverable(s)

Based on the agreed upon business requirements, Contractor will provide the following:

- Statement of Service (SOS).
- Master Software and Services Agreement (MSSA).
- Professional Services as defined in the SOS.
- Software documentation is provided with the Contractor provided Software.
- User and Administration manual.
- User Acceptance Testing Recommendations.

NOTE: For the on-premises components of the deployed solution, it is the responsibility of the Client to meet the minimum installation pre-requisites provided to them prior to the installation of the software.

5. Services

Contractor will provide the following services:

- Consult with Client personnel to implement the solution.
- Inform the Client IT personnel on the features of the solution.
- Deployment, configuration, and integration of solution.
- Training:
 - Administrative training.
 - End user to use the solution.

Provide Details of the Services being rendered for the specific solution implemented. Remove these highlighted notes prior to submission of this SOS to Client.

<Replace this line with details of the services being provided for this solution>

6. Project Milestones

Notes: The milestones table below is intended as a sample. Update as needed. Remove the highlighted notes prior to submission of this SOS to Client.

Milestone Description	Milestone Date
<enter Solution Name>	
1. Initiating and Planning complete	Mutually established between Client and Contractor
2. Executing complete	Mutually established between Client and Contractor
3. Monitoring and Controlling complete	Mutually established between Client and Contractor
4. Solution Delivery and Acceptance complete	Mutually established between Client and Contractor
5. Project Complete	Mutually established between Client and Contractor

7. Completion Criteria

When the services detailed in this SOS have been completed and demonstrated, the project will be considered complete, and Contractor will request Client signoff of the Solutions Delivery and Acceptance document referenced in this SOS within 15 days of Project Plan completion.

8. Change Management

This SOS is intended to provide, as much as possible, a clear understanding of the responsibilities of the parties concerning these Project Services. Changes to the scope, assumptions, personnel, environment, dependencies, timeline, Software or Deliverables post execution of this SOS will be communicated in writing and agreed to by both Contractor and Client via Contractor's Project Management personnel. A Change Order Authorization ("COA") form will be added to this agreement to amend and set forth the effective date, purpose, description, and price, if applicable.

The work required to address these changes will be scoped and presented to Client as a COA with any additional time, materials, or cost. The following list provides a detailed process to follow if changes to the scope of this SOS are required.

- A COA will be the vehicle for communicating change and will be prepared by the Contractor lead Solutions Analyst assigned to this project. The COA must describe the change, the reason for the change, and the effect the change will have on the project.
- Both Client and Contractor will review the proposed change and approve. The review will determine the effect the COA will have on price, schedule, and other terms and conditions of this SOS.
- Both parties must sign a written COA to authorize the implementation of any changes.

9. Support

Contractor will provide implementation support for this project through to its completion. This includes but is not limited to ensuring installed applications are performing to manufacturer's specifications.

Upon completion of the project, and provided client is up to date with their maintenance and support payments, Client will have access to a Contractor support engineer for technical issues. Support will continue to be available throughout the term of the contract and upon renewal of the contract.

10. SOS - Assumptions

The following are the general assumptions on which this SOS and Professional Services Fee, per the Master Agreement pricing, are based. If any of these assumptions either change or are incorrect a COA may be required, which may result in additional Professional Services fees.

- Building environmental conditions that are within equipment specifications for airflow, temperature, humidity, and electrical quality.
- Project work will be performed during normal business hours Monday through Friday 8 a.m. to 5 p.m. local time, excluding holidays. Client will provide unimpeded access to equipment and facilities. If access delays occur, work performed outside of normal business hours may incur an overtime premium, upon approval from Client.
- Contractor:
 - Is not responsible for any conflicts with existing hardware or software that is no longer supported by the manufacturer.
 - Is only responsible for integration tasks outlined in this proposed SOS.
 - At Contractor's discretion project work may be provided remotely in whole, or in part.
- All systems will be installed in US English.

• Exhibit A: Referenced Documents Table

A checkmark incorporates the document into this agreement.

Applicable	Document Title	Document Description
☐	Addendum A - Cloud Solution	Supplemental project details providing guidance for all parties on project fees summary for cloud or SaaS-based solutions.
☐	Addendum B - On-Premises Solution	Supplemental project details providing guidance for all parties on project fees summary for on-premise solutions.
☐	Addendum C - Hybrid Solution	Supplemental project details providing guidance for all parties on project fees summary for hybrid cloud/on-premise) solutions.
☐	Addendum D - Project Plan	Project Plan describes the execution, management, and control of the project
☐	Addendum E - Pricing Schedule	Provides pricing and line-item details as necessary.
☐	Addendum F - Support Escalation Process	Describes steady state user-support escalation process.
☐	Addendum G - Solutions Delivery and Acceptance	Acknowledgement form: client acknowledges and confirms that the deliverable, milestone and/or project referenced has been completed, and all testing and acceptance criteria have been satisfied.
☐	Addendum H - Change Order Authorization	Document to be executed when the original project scope has changed post SOS authorization by client.
☐	Addendum I - Business Requirements Document	The BRD outlines the details for a project including the documentation of Client needs and expectations. The BRD is intended to highlight the project Scope, Requirements, Assumptions, Constraints, and Risks.
☐	Addendum J - Functional Design Document	The FDD provides an overview of the business issue to be addressed, a mock-up of the User Interface (UI) design, and a plain English synopsis of the logic anticipated. This document provides the Client with the opportunity to approve the high-level design before the effort is made to develop a detailed or technical design.

Statement of Service Addendum A - Cloud Solution

This addendum is hereby incorporated by reference as Addendum A to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Project SOS Name Here>

Associated Project MSSA Name: <Enter Associated Project MSSA Name Here>

• Client Responsibilities

The following activities are the responsibility of Client.

The “Client Responsibilities – Details” is the Solution specific activities that are defined as the responsibility of Client. If any of these responsibilities either change or are incorrect a (COA) Change Order Authorization may be required, which may result in additional Professional Services fees.

- Ensure that all applications and data are successfully backed up prior to Contractor beginning project services detailed in the SOS.
- Provide technical and application support for configuration and testing of Client specific information. Contractor does not warrant Client applications.
- Provide systems personnel for the project familiar with all aspects of Client’s enterprise configuration – security, remote access, domain structure, WAN/LAN connectivity, applications used for this project – to work in conjunction with the Contractor team on this implementation. Additionally, a desktop technician may be required to perform Client -side duties.
- Make available all the appropriate resources, systems, network access, reports and any/all other data elements required for Contractor to complete the deliverables and other research necessary to complete this project as contained herein.
- Provide a dedicated project manager or coordinator to provide management, reporting, day to day project tracking, move/add/change requirements, and cross-coordination of requirements.
- Network connectivity between all solution components.
- Deploy Solution to Client end-user desktops (if required).
- Identify a Project Sponsor with sign-off authority and ability to facilitate Client stakeholder participation.
- Report on any Client technical or resource issues that would delay, hinder, or adversely affect the deployment of the solution or its performance in the Client environment.
- Allow for the distribution of Solution upgrades to Client PC's as needed.
- Accept title and/or license upon delivery/installation for product and/or Solution purchased if applicable.
- Sign appropriate Contractor finance document for leased or financed transactions.

• Contractor Responsibilities

The following activities are the responsibility of Contractor.

The “Contractor Responsibilities – Details” is the Solution specific activities that are defined as the responsibility of Client. If any of these responsibilities either change or are incorrect a COA may be required, which may result in additional Professional Services fees.

- Solution license key.

- Technical specifications for implementation.
- Email and phone support for the duration of the contract.
- Technical Services included in the scope herein.
- Configuration of the Solution components.
- Solution training.
- Solution revisions, updates, and patches during the term of the agreement.
- Support for the Solution updates for any of the on-premises components of the solutions defined in this SOS is included in this Agreement.

• Support

Contractor will provide implementation support for this project through to its completion. This includes but is not limited to ensuring installed applications are performing to manufacturer's specifications.

Upon completion of the project, Client will have access to a Contractor support Engineer for technical issues. Support will continue to be available throughout the term of the contract and upon renewal of the contract.

• Professional Services and License Fees

A checkmark incorporates the referenced table into this agreement.

☐ TABLE 1: SaaS FEES:

This is a fixed fee engagement. If applicable the Professional Services fees for this project are included in the terms of the lease agreement signed by Client. Any changes to this SOS will require a Change Order executed and agreed upon by both parties. Contractor cannot perform work outside of the scope of this SOS without an authorized Change Order signed by Client.

Services Fees

Initial Investment \$<Enter Initial Client's Payment Here>

License Fees \$<Enter Licensing Fee Here> (renewable annually)

(includes M&S)

Taxes, if applicable, are not included and will be invoiced separately.

This document is valid for a period of 30 days from the cover date; after this date it may be revised upon consent by Contractor.

Statement of Service Addendum B - On-Premises Solution

This addendum is hereby incorporated by reference as Addendum B to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Project SOS Name Here>

Associated Project MSSA Name: <Enter Associated Project MSSA Name Here>

• Client Responsibilities

The following activities are the responsibility of Client.

The “Client Responsibilities – Details” is the Solution specific activities that are defined as the responsibility of Client. If any of these responsibilities either change or are incorrect a COA may be required, which may result in additional Professional Services fees. Please review this section to make sure these responsibilities are correct.

- Ensure that all applications and data are successfully backed up prior to Contractor beginning work. Contractor is not responsible for any lost information.
- Provide original manufacturer documentation for all existing hardware and Solution.
- Provide Backup equipment and media.
- Provide UPS equipment and media.
- Provide technical and application support for configuration and testing of Client specific information. Contractor does not warrant Client applications.
- Provide systems personnel for the project familiar with all aspects of Client’s enterprise configuration – security, remote access, domain structure, WAN/LAN connectivity, applications used for this project – to work in conjunction with the Contractor team on this implementation. Additionally, a desktop technician may be required to perform Client - side duties.
- Make available all the appropriate resources, systems, network access, reports and any/all other data elements required for Contractor to complete the deliverables and other research necessary to complete this project as contained herein.
- Provide a dedicated project manager or coordinator to provide management, reporting, day to day project tracking, move/add/change requirements, and cross-coordination of requirements.
- Network configuration information to assist in solution design.
- Deploy Solution to Client end-user desktops (if required).
- Suitable hardware to host the Solution application components.
- Suitable Operating Systems Solution and licenses for the above.
- Identify a Project Sponsor with sign-off authority and ability to facilitate Client stakeholder participation.
- Report on any Client technical or resource issues that would delay, hinder or adversely affect the deployment of the solution or its performance in the Client environment.
- Provide the appropriate physical and network access to onsite resources, including IT area and all necessary fees, licenses, and release forms, related to photos, logos, and imagery that are to be provided to Contractor.
- Provide a workspace for Contractor staff to use if on-site work is required.
- Allow for the distribution of Solution upgrades to Client PCs as needed.
- Hardware and Solution maintenance for all servers.
- System Maintenance Tasks:
 - Resolution of Solution system alerts as listed in the solution application.
 - Daily monitoring of Server Health.
 - Backup of all Solution data and system settings.

- Distribution of Solution upgrades to Client PCs as needed.
 - Installation and deployment of Solution updates.
 - Inclusion of Solution servers in routine maintenance activities (anti-virus, backup, etc.).
- Accept title and/or license upon delivery/installation for product and/or Solution purchased if applicable.
- Sign appropriate Contractor finance document for leased or financed transactions.

• Contractor Responsibilities

The following activities are the responsibility of Contractor.

The “Contractor Responsibilities – Details” is the Solution specific activities that are defined as the responsibility of Contractor. If any of these responsibilities either change or are incorrect a COA may be required, which may result in additional Professional Services fees.

- Solution License Key.
- Technical specification for implementation.
- Installation of the Solution components.
- Email and phone support for the duration of the contract.
- Technical Services included in the scope herein.
- Configuration of the Solution components.
- Solution training.
- Solution revisions, updates, and patches during the term of the agreement.
- Support for the download of Solution updates for the solutions defined in this SOS is included in this Agreement.
- Services associated with this installation and deployment of updates, patches, bug fixes and updates for the components of the solutions defined in this SOS are outside of this agreement and will require a separate project plan and SOS.

• Support

Contractor will provide implementation support for this project through to its completion. This includes but is not limited to ensuring installed applications are performing to manufacturer’s specifications.

Upon completion of the project, Client will have access to a Contractor support Engineer for technical issues. Support will continue to be available throughout the term of the contract and upon renewal of the contract.

Note: If applicable, refer to the **Statement of Services Support Escalation Process - Addendum F** document referenced in this SOS for support details.

• Professional Services and License Fees

A checkmark incorporates the referenced document into this agreement.

☐ TABLE 1: FIXED FEE ENGAGEMENT:

This is a fixed fee engagement. If applicable the Professional Services fees for this project are included in the terms of the lease agreement signed by Client. Any changes to this SOS will

require a Change Order executed and agreed upon by both parties. Contractor cannot perform work outside of the scope of this SOS without an authorized Change Order signed by Client.

Professional Service Fees \$XXXXXX.XX

Taxes, if applicable, are not included and will be invoiced separately.

This document is valid for a period of 30 days from the cover date; after this date it may be revised upon consent by Contractor.

Expenses associated with travel, overnight stays, etc. ("Administrative Expenses"), for the hours estimated in this SOS shall be itemized in the estimate of this project. Further, Client must agree to all Administrative Expenses prior to project implementation, and Contractor shall provide additional documentation regarding such expenses, upon request from Client.

☐ **TABLE 2: TIME AND MATERIALS ENGAGEMENT:**

This is a time and materials engagement. The Professional Services fees for this project are inclusive for up to XX hours. The hours are an estimate based upon our current understanding of the project. Any changes to this Statement of Service will require a Change Order executed and agreed upon by both parties. Contractor cannot perform work outside of the scope of this SOS without an authorized Change Order signed by Client.

Professional Service Fees \$XXXXXX.XX

Taxes, if applicable, are not included and will be invoiced separately.

This document is valid for a period of 30 days from the cover date; after this date it may be revised.

Expenses associated with travel, overnight stays, etc. ("Administrative Expenses"), for the hours estimated in this SOS shall be itemized in the estimate of this project. Further, Client must agree to all Administrative Expenses prior to project implementation, and Contractor shall provide additional documentation regarding such expenses, upon request from Client.

☐ **TABLE 3: BLOCK OF HOURS ENGAGEMENT:**

This is a Block of Hours engagement. The Professional Services fees for this project are limited to XX hours. If additional hours are required, additional Block of Hours must be purchased using a Change Order executed and agreed upon by both parties. Contractor cannot perform work outside of the scope of this SOS without an authorized Change Order signed by Client.

Professional Service Fees \$XXXXXX.XX

Taxes, if applicable, are not included and will be invoiced separately.

This document is valid for a period of 30 days from the cover date; after this date it may be revised.

Expenses associated with travel, overnight stays, etc. ("Administrative Expenses"), for the hours estimated in this SOS shall be itemized in the estimate of this project. Further, Client must agree to all Administrative Expenses prior to project implementation, and Contractor shall provide additional documentation regarding such expenses, upon request from Client.

Statement of Service Addendum C - Hybrid Solution

This addendum is hereby incorporated by reference as Addendum C to the Statement Of Service ("SOS") by and between Toshiba America Business Solutions, Inc. ("Contractor") and ("Client").

Associated Project SOS Name: <Enter Associated Project SOS Name Here>

Associated Project MSSA Name: <Enter Associated Project MSSA Name Here>

• Client Responsibilities

The following activities are the responsibility of Client.

The "Client Responsibilities – Details" is the Solution specific activities that are defined as the responsibility of Client. If any of these responsibilities either change or are incorrect a (COA) Change Order Authorization may be required, which may result in additional Professional Services fees.

- Ensure that all applications and data are successfully backed up prior to Contractor beginning project services detailed in the SOS.
- Provide technical and application support for configuration and testing of Client specific information. Contractor does not warrant Client applications.
- Provide systems personnel for the project familiar with all aspects of Client's enterprise configuration – security, remote access, domain structure, WAN/LAN connectivity, applications used for this project – to work in conjunction with the Contractor team on this implementation. Additionally, a desktop technician may be required to perform Client -side duties.
- Make available all the appropriate resources, systems, network access, reports and any/all other data elements required for Contractor to complete the deliverables and other research necessary to complete this project as contained herein.
- Provide a dedicated project manager or coordinator to provide management, reporting, day to day project tracking, move/add/change requirements, and cross-coordination of requirements.
- Network connectivity between all solution components.
- Deploy Solution to Client end-user desktops (if required).
- Identify a Project Sponsor with sign-off authority and ability to facilitate Client stakeholder participation.
- Report on any Client technical or resource issues that would delay, hinder, or adversely affect the deployment of the solution or its performance in the Client environment.
- Allow for the distribution of Solution upgrades to Client PC's as needed.
- Accept title and/or license upon delivery/installation for product and/or Solution purchased if applicable.
- Sign appropriate Contractor finance document for leased or financed transactions.

1.

2. Specific to on-premises components - Client responsibilities:

- Suitable hardware to host the Solution application components.
- Suitable Operating System Solution and licenses for the hardware provided.
- Network configuration information to assist in solution design.
- Deploy Solution with the assistance of Client IT Personnel to Client desktops (if required).
- Provide a workspace for Contractor staff to use if on-site work is required.
- Provide Backup equipment and media.
- Provide uninterrupted power supply equipment and media.
- Hardware and Solution maintenance for all servers.

- System Maintenance Tasks:
 - Resolution of Solution system alerts as listed in the solution application.
 - Daily monitoring of Server Health.
 - Backup of all Solution data and system settings.
 - Distribution of Solution upgrades to Client PC's as needed.
 - Installation and deployment of Solution updates.
 - Inclusion of Solution servers in routine maintenance activities (anti-virus, backup, etc.).

• Contractor Responsibilities

The following activities are the responsibility of Contractor.

The “Contractor Responsibilities – Details” is the Solution specific activities that are defined as the responsibility of Contractor. If any of these responsibilities either change or are incorrect a COA may be required, which may result in additional Professional Services fees.

- Solution license key.
- Technical specifications for implementation.
- Email and phone support for the duration of the contract.
- Technical Services included in the scope herein.
- Configuration of the Solution components.
- Solution training.
- Solution revisions, updates, and patches during the term of the agreement.
- Support for the Solution updates for any of the on-premises components of the solutions defined in this SOS is included in this Agreement.

• Support

Contractor will provide implementation support for this project through to its completion. This includes but is not limited to ensuring installed applications are performing to manufacturer's specifications.

Upon completion of the project, Client will have access to a Contractor support Engineer for technical issues. Support will continue to be available throughout the term of the contract and upon renewal of the contract.

• Professional Services and License Fees

A checkmark incorporates the referenced table into this agreement.

☐ TABLE 1: SaaS FEES:

This is a fixed fee engagement. If applicable the Professional Services fees for this project are included in the terms of the lease agreement signed by Client. Any changes to this SOS will require a Change Order executed and agreed upon by both parties. Contractor cannot perform work outside of the scope of this SOS without an authorized Change Order signed by Client.

Services Fees

Initial Investment\$<Enter Initial Client's Payment Here>

License Fees \$<Enter Licensing Fee Here> (renewable annually)

(includes M&S)

Taxes, if applicable, are not included and will be invoiced separately.

This document is valid for a period of 30 days from the cover date; after this date it may be revised upon consent by Contractor.

Expenses associated with travel, overnight stays, etc. ("Administrative Expenses"), for the hours estimated in this SOS shall be itemized in the estimate of this project. Further, Client must agree to all Administrative Expenses prior to project implementation, and Contractor shall provide additional documentation regarding such expenses, upon request from Client.

Statement of Services Addendum D – Project Plan

This addendum is hereby incorporated by reference as Addendum D to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Project SOS Name Here>

Associated Project MSSA Name: <Enter Associated Project MSSA Name Here>

Note: Project duration is estimated based on current project scope. The actual project start and end dates and duration details will be determined during project kickoff between Contractor and Client.

SAMPLE

Task Name	Duration	Projected Start Date	Projected End Date
<enter Client Name> - <Enter Project Name> Implementation Project Plan	40d	TBD	TBD
Initiating and Planning	20d	TBD	TBD
Initiating	10d		
Develop Project Documents	3d	TBD	TBD
Internal Contract-Signed Kick-Off Call	2d	TBD	TBD
Client Kickoff Call and Other Requirements	5d	TBD	TBD
Planning	10d		
Environment Settings Confirmation	2d	TBD	TBD
Training Preparation	2d	TBD	TBD
Milestone - Initiation and Planning Complete	0d	TBD	TBD
Executing	15d	TBD	TBD
Site Readiness Confirmed	1d	TBD	TBD
Software Deployment and Configuration	5d	TBD	TBD
Install Software or Activate SaaS	2d	TBD	TBD
Configure Software or SaaS components	2d	TBD	TBD
Install Software License (For on-prem)	2d	TBD	TBD
User Training	1d	TBD	TBD
Milestone – Executing Complete	0d	TBD	TBD
Monitoring/Controlling	1d		
Action Items and Issues Log	1d	TBD	TBD
Communicate Support and Issue Escalation Process	1d	TBD	TBD
Milestone – Monitoring and Controlling Complete	0d	TBD	TBD
Closing	2d		
Partnership Review Deliver Final Documents	2d	TBD	TBD
Review and Approval Sign - Solutions Delivery and Acceptance	5d	TBD	TBD
Project Closure Meeting	1d	TBD	TBD
Milestone – Solution Delivery and Acceptance Complete	0d	TBD	TBD
Milestone – Project Complete	0d	TBD	TBD

Statement of Services Addendum E – Pricing Schedule

This addendum is hereby incorporated by reference as Addendum E to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Proejct SOS Name Here>

Associated Project MSSA Name: <Enter Associated Proejct MSSA Name Here>

- **Pricing Schedule**

If Applicable, Insert actual pricing schedule referenced in this SOS.

Remove these highlighted notes prior to submission of this SOS to Client.

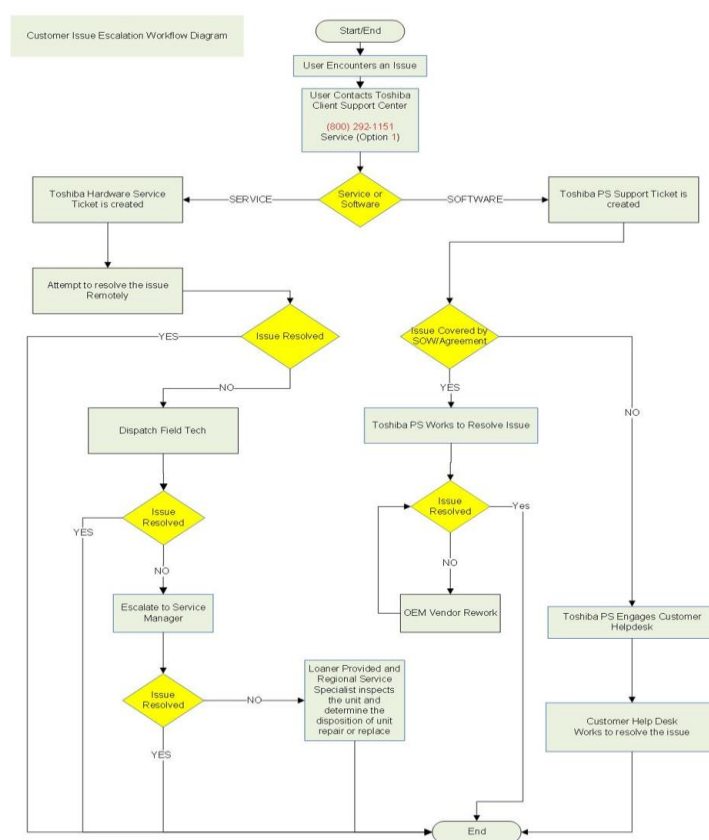
Statement of Services Addendum F - Support Escalation Process

This addendum is hereby incorporated by reference as Addendum F to the Statement Of Service ("SOS") by and between Toshiba America Business Solutions, Inc. ("Contractor") and ("Client").

Associated Project SOS Name: <Enter Associated Project SOS Name Here>

Associated Project MSSA Name: <Enter Associated Project MSSA Name Here>

Note: Replace the sample Support Escalation Diagram with specific project details. Remove these notes prior to submitting this addendum to the Client.



Statement of Services Addendum G – Solutions Delivery and Acceptance

This exhibit is hereby incorporated by reference to the Statement of Service (“SOS”) and by and between Toshiba America Business Solutions, Inc. (“Contractor” and (“Client”).

Associated Project SOS Name: <enter Associated Project SOS Name here>

Associated Project MSSA Name: <enter Associated Project MSSA Name here>

CLIENT NAME: <Enter Client Legal Name>

PROJECT NAME/Description	Project Location ADDRESS	
NAME AND TITLE OF AUTHORIZED PERSON	CITY, STATE, ZIP	
E-MAIL ADDRESS	PHONE	FAX

SERVICE AGREEMENT INFORMATION

Service Agreement Type: Statement of Services If other, specify: _____

DELIVERABLE / MILESTONE / PROJECT INFORMATION

<Enter Key Project Deliverables>

Acknowledgement. By signing below, Client acknowledges and confirms that the deliverable, milestone and/or project referenced above has been completed, and all testing and acceptance criteria have been satisfied in all respects as of the date of this Form. Accordingly, Contractor is authorized to invoice Client for all unpaid or outstanding fees and charges relating thereto, which shall be due and payable in accordance with the terms of the Service Agreement.

DATE

AUTHORIZED CLIENT REPRESENTATIVE SIGNATURE

TITLE

Statement of Services Addendum H – Change Order Authorization

This exhibit is hereby incorporated by reference to the Statement of Service (“SOS”) and by and between Toshiba America Business Solutions, Inc. (“Contractor” and (“Client”).

Associated Project SOS Name: <enter Associated Proejct SOS Name here>

Associated Project MSSA Name: <enter Associated Proejct MSSA Name here>

Change Order Number: [0001]

This Statement of Services Change Order Authorization (“COA”) is made and entered into by and between **Toshiba America Business Solutions, Inc. (“TABS”)**, including its division **Toshiba Business Solutions (“Contractor”)**, located at 25530 Commercentre Drive, Lake Forest, CA 92630, and <enter Client Legal Name here> [CLIENT], located at <enter Client Address here> (“CLIENT ADDRESS”), collectively “parties”. This COA is hereby incorporated by reference into the Statement of Services (“SOS”) between the Parties as of the Effective Date below. This COA shall continue in effect until the termination or expiration of the SOS, unless sooner terminated in accordance with the terms of the SOS or as indicated herein. Parties agree that this COA hereby amends and/or modifies the referenced SOS as follows:

Effective Date:		
Purpose of Change:		
Change Description (if attachments are necessary, please number sequentially as Appendices)		
Pricing:		
Facsimile and electronic signatures shall have the same effect as written signatures.		
The Parties have caused this COA to be executed and each individual whose signature appears below hereby warrants that they are duly authorized to execute this COA on behalf of the Party they represent:		
TOSHIBA		CLIENT
Printed Name:		Printed Name:
Signature:		Signature:
Title:		Title:
Date:		Date:

Statement of Services Addendum I – Business Requirements Document

This addendum is hereby incorporated by reference as Addendum I to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Proejct SOS Name Here>
Associated Project MSSA Name: <Enter Associated Proejct MSSA Name Here>



BUSINESS REQUIREMENTS DOCUMENT ("BRD")
for
Client - <enter Client Legal Name>

Client

Contractor

<Enter Client Principal Contact Name>
Printed Name

<Enter Contractor Rep Contact Name>
Printed Name

<Enter Client Principal Title>
Printed Title

<Enter Contractor Rep Title>
Printed Title

Signature

<enter Client SOS Signing Date>
Date

Signature

<enter Contractor SOS Signing Date>
Date

This Business Requirements Document (“BRD”) for <enter Client Legal Name> outlines the details of the business solution for a project including the documentation of Client needs and expectations.

This document has been approved as the official Business Requirements Document for <Enter Client Legal Name>, and accurately reflects the current understanding of the Business Requirements, Project Scope, Requirements, Assumptions, Constraints, and Risks.

Following approval of this document and execution of the Agreement, requirement changes will be governed by the project’s change management process, including impact analysis, appropriate reviews, and approvals.

Upon completion of the BRD process, the parties shall execute an Agreement that governs the execution of the BRD. The parties have no obligations until a final Agreement is executed by both parties.

Revision History			
Version	Date	Revised By	Notes
1.0	<enter Date>	<enter Name>	<enter Notes Here>

Document Approval			
Approver Name	Project Role	Signature or Electronic	Date
<Client Approver>	<Client Approver's Project Role>		<Approval Date>

1. Introduction

Contractor has prepared the following BRD to detail the requirements for the Solution Implementation Project for Client. Contractor has outlined the project scope for the project. Requirements outlined in this document are based on preliminary information received from Client.

The information in this BRD supersedes all previous verbal discussions on the project. The BRD shall remain confidential unless parties agree to distribute to a third party.

2. Location

The following location(s) is(are) included in the scope of this project.

Enter Project Location Here. Remove this note prior to submitting to Client

3. Project Summary

3.1. Project Objectives

Enter Project Objectives here.

See the Comments section for the Project Objectives definition and sample text.

Remove this note prior to submitting to Client

3.2. Business Drivers

Enter the Business Drivers here.

See the Comments section for the Business Drivers definition, and sample text.

Remove this note prior to submitting to Client

4. Project Scope

Enter the Project Scope here.

See the Comments section for the Project Scope definition, and sample text.

Remove this note prior to submitting to Client

5. Business Requirements

5.1. Current Business Process (As-Is)

Enter the Current Business Process here.

See the Comments section for the Project Business Requirements, and sample text.

Remove this note prior to submitting to Client

Include diagrams if available (Sample In Scope Functionality)

5.2. New Process Requirements (Future-State)

5.2.1. Mandatory proposed solutions functionality

Enter the mandatory Requirements here.

See the Comments section for sample text.

Remove this note prior to submitting to Client

5.2.2. Optional proposed solutions functionality

Enter the Optional Requirements here.

See the Comments section for the Mandatory Functionality definition, and sample text.

Remove this note prior to submitting to Client

Statement of Services Addendum J – Functional Design Document

This addendum is hereby incorporated by reference as Addendum J to the Statement Of Service (“SOS”) by and between Toshiba America Business Solutions, Inc. (“Contractor”) and (“Client”).

Associated Project SOS Name: <Enter Associated Proejct SOS Name Here>
Associated Project MSSA Name: <Enter Associated Proejct MSSA Name Here>

TOSHIBA
FUNCTIONAL DESIGN DOCUMENT ("FDD")
for
Client - <enter Client Legal Name>
Services - <Enter Solution Name>

Client

Contractor

<Enter Client Principal Contact Name>
Printed Name

<Enter Contractor Rep Contact Name>
Printed Name

<Enter Client Principal Title>
Printed Title

<Enter Contractor Rep Title>
Printed Title

Signature

Signature

<enter Client FDD Signing Date>
Date

<enter Contractor FDD Signing Date>
Date

This document has been approved as the official Functional Design Document for <Enter Client Legal Name>, and accurately reflects the current understanding of functional requirements. Following approval of this document and execution of the Agreement, requirement changes will be governed by the project’s change management process, including impact analysis, appropriate reviews, and approvals.

The Functional Design Document provides an overview of the business issue to be addressed, a mock-up of the User Interface (UI) design, and a plain English synopsis of the logic anticipated. This document provides the Client with the opportunity to approve the high-level design before the effort is made to develop a detailed or technical design.

Revision History			
Version	Date	Revised By	Notes
1.0	<enter Date>	<enter Name>	<enter Notes>

Document Approval

Approver Name	Project Role	Signature or Electronic approval	Date
<Client Approver Name>	<Client Approver's Project Role>		<Approval Date>

[Description: The Overview of Design Concepts section should provide the high-level design of the proposed solution. This design should include mock-up screen shots for the proposed user interface, and a plain English description of the programming logic proposed, as well as the anticipated process flow. The purpose of the solution design is to allow the customer to approve the concepts before committing resources to the technical design.]

Remove these highlighted notes prior to submitting this document to client.

1. Introduction

3. Subsection text

1.1. Paragraph Heading 7

4. Paragraph text

5.

1.2. Paragraph Heading 7

6. Paragraph text

7.

1. Solution Architecture

[Description: The Solution Architecture section should provide an overview of how the proposed design fits into the overall solution structure. This section should include any interactions or integrations with other solution processes or with other applications. This section should also include any solution configuration changes that will be required to develop and implement the proposed solution.]

Remove these highlighted notes prior to submitting this document to client.

2. Introduction

8. Subsection text

2.1. Paragraph Heading 7

9. Paragraph text

10.

2.2. Paragraph Heading 7

11. Paragraph text