PARTICIPATING ADDENDUM

[hereinafter "Addendum" or "Agreement"]

For

WSCA/NASPO PC Contracts 2009-2014

COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

MASTER PRICE AGREEMENT NUMBER B27164

Between

Hewlett Packard Company

[hereinafter "Contractor"]

and

the State of Washington Department of Information Services

[hereinafter "Participating State" or "DIS"]

(Participating State Contract Number T10-MST-297)

1. Scope

This Addendum covers the WSCA/NASPO PC Contracts 2009-2014 (Computer Equipment, Peripherals and Related Services) lead by the State of Minnesota for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts.

Through execution of this Addendum, DIS adopts the Master Price Agreement #B27164 as a Master Contract for the State of Washington.

The Request for Proposals (RFP) that resulted in the award of this Agreement was posted on the web site of the Minnesota Department of Administration, with a notice and link posted on the Washington State TechMall under "Current Procurement Notices" and was advertised in the Seattle Daily Journal of Commerce on September 30, 2008 and on October 1, 2008.

2. Participation

Use of specific WSCA/NASPO cooperative contract by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

This Agreement may be used by any Washington State agency with properly delegated authority to purchase the Products and Services that are the subject of this Agreement, and any local government or political subdivision (including public schools, colleges and universities) of the state of Washington or eligible non-profit organizations with authority to purchase such Products and Services who have a properly executed Customer Service Agreement (Interlocal) with DIS. This Agreement is not for personal use.

3. Changes:

Contractor and DIS agree to the following modifications and additions to the Master Price Agreement for the State of Washington:

3.1 Limitations and Exclusions

a. Products offered as "Storage Solution/Auxiliary Storage" under Band 4 of the Master Price Agreement shall not exceed a per-unit, individual configuration price of $100,000 each.

b. Multifunction network print/fax/scan devices that print more than fifty pages per

minute (50 ppm) (under Band 3 – Printers of the RFP) shall be expressly excluded from sale by Contractor for purchase under this Addendum by State Agencies.

c. All "Personal Services," as defined in the Revised Code of Washington (RCW) at 39.29.006(7), shall be expressly excluded from sale by Contractor for purchase under this Addendum by State Agencies. "Personal services" include professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This exclusion does not apply to such Services as warranty, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a Product offered or supplied.

d. Disaster recovery planning and support services and pre-implementation planning and design services shall be expressly excluded from sale by Contractor for purchase under this Addendum by State Agencies.

3.2 Article 1 *Definitions*

a. The definition of "**State Procurement Official**" is modified to read as follows: "State Procurement Official" means the Director of the Washington State Department of Information Services

b. The definition of "**Travel**" is deleted as no travel expenses shall be reimbursed under this Addendum.

c. A definition for "**Confidential Information**" shall be added as follows: "**Confidential Information**" shall mean information that may be exempt from disclosure to the public or other unauthorized persons under either Chapter 42.56 of the Revised Code of Washington (RCW) or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchasing Entity source code or object code, or Purchasing Entity or Washington State security information or information identifiable to an individual that relates to any of these types of information.

d. A definition for "**Proprietary Information**" shall be added as follows:

"**Proprietary Information**" shall mean information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark or trade secret laws.

e. A definition for "**State Agency**" shall be added for the purposes of this Addendum as follows: "**State Agency**" shall mean any Washington State office or activity of the executive and judicial branches of Washington State government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

3.3 Article 6 *Payment Provisions*

a. **Article 6.B *Payment of Invoices*** is modified to add the following language:

No advance payment shall be made for the Products and Services furnished by Contractor pursuant to this Agreement, except that maintenance on Washington State owned equipment may be paid up to one year in advance.

b. **Article 6.C *Payment of Taxes*** is modified to add the following language:

Purchasing Entity will pay sales and use taxes, if any, imposed on the Products and Services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. Purchasing Entity, as an agency of Washington State government, is exempt from property tax.

Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

3.4 In **Article 12 *Patent, Copyright, Trademark and Trade Secret Indemnification***, the text of subparagraph A.2. shall be deleted and replaced with the following: "Use its best efforts to encourage the Office of the Attorney General of Washington to

grant Contractor sole control of the defense and all related settlement negotiations; and"

3.5 **Article 20 *Records and Audit*** is deleted and replaced with the following language:

Contractor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to protection and use of Purchasing Entity's Confidential Information, and accounting procedures and practices, for six (6) years after the expiration or termination of this Addendum. All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchasing Entity's Contract Administrator and/or the Office of the State Auditor for the State of Washington and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the State of Washington. Contractor shall be responsible for any audit exceptions or disallowed costs incurred by Contractor or any of its Subcontractors.

3.6 **Article 34 *Data Practices*** is hereby deleted and replaced in its entirety with the following language:

A. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Addendum or its performance may consist of Confidential Information. Confidential Information will be marked at the time of disclosure to show its confidential nature, or if unmarked and disclosed orally or visually but treated as confidential at the time of disclosure it will be described in detail and designated to show its confidential nature in writing to recipient within thirty (30) days after disclosure. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this PA, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Agreement, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchasing Entity's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have agreed to maintain the confidentiality of Confidential Information as provided for in this section 3.6.A. of the Addendum.. Contractor agrees to implement physical, electronic, and

managerial safeguards to prevent unauthorized access to Confidential Information.

B. Immediately upon expiration or termination of this Addendum or the pertinent transaction with Purchasing Entity, Contractor shall, at Purchasing Entity's option: (i) certify to Purchasing Entity that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchasing Entity; or (iii) take whatever other steps Purchasing Entity requires of Contractor to protect Purchasing Entity's Confidential Information.

C. Violation of this section by Contractor or its Subcontractors may result in termination of this Addendum and demand for return of all Confidential Information, monetary damages, or penalties.

D. Contractor acknowledges that DIS and Purchasing Entities are subject to chapter 42.56 RCW and that this Agreement shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information, must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, DIS and Purchasing Entities shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, DIS or Purchasing Entity will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS or Purchasing Entity will release the requested information on the date specified.

3.7 **Article 44.B *Participating Entity Reports and Fees*** is hereby modified to add the following language:

Contractor agrees to provide monthly reports to the Participating State contact listed in Section 6 below for the State of Washington. The monthly report shall include the gross Washington sales for the month just ended, excluding sales tax, subtotaled by Purchasing Entity name within Washington and shall include the Contractor's customer number for each Purchasing Entity. The report shall be accompanied with a check payable to the Department of Information Services for an amount equal to one and one-half percent (1.5% or .015) of the gross Washington sales, excluding sales tax, for the month. The monthly report and fee shall be submitted by the last

business day of the month following the month in which Contractor invoiced the Purchasing Entity. Monthly reports are required even if no activity occurred.

3.8 **Article 46 *Audits*** is hereby modified to add the following language:

As a part of its Participating State function, DIS will from time to time perform audits of Purchasing Entity invoices to ensure that the invoices and that the Products and Services listed and the prices charged for the Products and Services are accurate and in accordance with the Agreement. DIS will perform these audits by selecting Purchasing Entities from an Activity Report and asking Contractor to send the invoices for those Purchasing Entities for that report period. The DIS request will be in writing, and will list the Contractor's customer numbers for the Purchasing Entities. Such requests will not exceed twelve (12) per year. Contractor shall ensure that DIS receives the requested invoices within thirty (30) days of Contractor's receipt of DIS' request. Contractor will be responsible for any audit exceptions or disallowed costs.

Dis will also conduct periodic spot check audits of the Prices, Products and Services listed on the website that Contractor maintains for state of Washington Purchasing Entities. DIS will communicate any discrepancies to Contractor and Contractor agrees to correct any deficiencies within three (3) Business Days, or as otherwise agreed.

3.9 **Article 52 *Right to Publish*** is hereby modified to add the following language:

Contractor agrees to submit to DIS all advertising, sales promotion, and other publicity materials relating to this Agreement or any Product furnished by Contractor wherein DIS' or Purchasing Entity's name is mentioned, language is used, or Internet links are provided from which the connection of DIS' or Purchasing Entity's name with Contractor's Products or Services may, in DIS' or Purchasing Entity's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS or Purchasing Entity prior to such use.

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(Participating State Contract Number T10-MST-297)

4. Continuation of Authorization for Participation from WSCA/NASPO PC Contracts 2004-2009:

The authorization to participate in the WSCA/NASPO PC Contracts 2004-2009 is sufficient to permit participation in the WSCA/NASPO PC Contracts 2009-2014, unless specifically denied by the appropriate chief state procurements official.

5. Lease Agreements

Leasing by the Contractor to State Agencies is **NOT** authorized under this Addendum. Eligible non-state agency Purchasing Entities that have the legal authority to enter into a lease to finance their purchase(s), may elect to establish a separate lease agreement in the form of lease purchase agreement made available by Contractor through its Affiliate, HP Financial Services (HPFS).

6. Primary Contacts

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

Lead State

Name: Bernadette Kopischke
Address: 112 Admin Bldg, St Paul, MN 55155
Telephone: (651) 201-2450
Fax: (651) 297-3996
E-mail: bernie.kopischke@state.mn.us

Contractor

Name: Debra Lee
Address: 442 Swan Blvd., Deerfield, IL 60015
Telephone: 847.537.0344
Fax: ~~281.927.5213~~ 847-572-1336
E-mail: debra.lee@hp.com

Participating State

Name: Master Contract Administrator
Address: *If by US Postal Service*
PO Box 42445, Olympia, WA 98504-2445

If by Overnight Courier
1110 Jefferson Street SE, Olympia, WA 98504
Telephone: (360) 902-3551
Fax: (360) 586-1414
E-mail: MCAdmin@dis.wa.gov

7. Servicing Subcontractors:

HP-authorized subcontractors are eligible to fulfill orders under the Master Price Agreement and this Addendum. HP-authorized subcontractors include distributors and the resellers and service providers listed on the HP/State website at www.hp.com/buy/wscaiii. HP-authorized subcontractors are included in HP's Partner One Reseller and/or Reseller Agent Program.

Orders and invoicing for products in Band 1 (Servers), Band 4 (Storage) and "Other Software" may be processed by either HP or an HP-authorized subcontractor.

Orders and invoicing for products in Band 2 (PCs), Band 3 (Printers), Band 5 (PDAs), Band 6 (Instructional Bundles) and Band 7 (Monitors) must be handled by HP directly.

All purchase orders issued by purchasing entities under this Addendum must include the Participating State contract number(T10-MST-297) and the Master Price Agreement Number (B27164).

8. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009" ("ARRA"): If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements that are legally required of providers of goods and related services. Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide any required report to the ordering entity as required by law. The Contractor, as it relates to purchases under this contract, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

This Addendum and the Master Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Master Price Agreement, together with its

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(Participating State Contract Number T10-MST-297)

exhibits, shall not be added to or incorporated into this Addendum or the Master Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Master Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms. This Addendum applies only in the jurisdiction of the Participating State or Participating Entity which has executed this Addendum.

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

Approved
State of Washington
Department of Information Services

Signature

Roland Rivera
Print or Type Name

Assistant Director 8/28/09
Title Date

Approved
Hewlett Packard Company

Signature

Chris Backs
Print or Type Name

CONTRACT NEGOTIATOR August 25, 2009
Title Date

Approved as to Form
State of Washington
Office of the Attorney General

Signature

Print or Type Name

Title Date

exhibits, shall not be added to or incorporated into this Addendum or the Master Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Master Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms. This Addendum applies only in the jurisdiction of the Participating State or Participating Entity which has executed this Addendum.

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

Approved
State of Washington
Department of Information Services

Signature

Roland Rivera
Print or Type Name

Assistant Director
Title *Date*

Approved
Hewlett Packard Company

Signature

Print or Type Name

Title *Date*

Approved as to Form
State of Washington
Office of the Attorney General

Signature

SUZANNE SHAW
Print or Type Name

AAG 8/26/09
Title *Date*

PARTICIPATING ADDENDUM (PA) AMENDMENT 10-01

[hereinafter "Amendment"]

For

WSCA/NASPO PC Contracts 2009-2014

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(Participating State Contract Number T10-MST-297)

To clarify the PA, the above referenced contract is hereby amended as follows:
Section 7, Servicing Subcontractors, paragraph 2 is replaced in its entirety with the following:

> Orders and invoicing for Products in Band 1 (Servers), Band 4 (Storage), and "Other Software" must be processed by HP. Only HP-authorized resellers listed in this PA by subsequent amendment hereto, added on the basis that they have expressly agreed to the terms and conditions of the State of Washington PA, are authorized to accept orders and invoice for Products in these Bands.

All other terms and conditions remain unchanged.

This Amendment Approved and Agreed to by the signatures of the parties to the contract as shown:

State of Washington Dept. of Information Services	**Hewlett-Packard Company**
Scott Smith Signature	Chris Backs Signature
Scott Smith Print or Type Name	Chris Backs Print or Type Name
Planning and Design Manager 11/17/09 Title Date	Contract Negotiator 11/4/09 Title Date

WESTERN STATES CONTRACTING ALLIANCE
MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

Number B27164

This Agreement is made and entered into by Hewlett Packard Company, Hewlett-Packard Company, 11445 Compaq Center Drive W, Houston, TX 77070 ("Contractor" or "HP") and the State of Minnesota, Department of Administration ("State") on behalf of the State of Minnesota, participating members of the National Association of State Procurement officials (NASPO), members of the Western States Contracting Alliance (WSCA) and other authorized Purchasing Entities.

RECITALS

WHEREAS, the State has the need to purchase and the Contractor desire to sell; and,

WHEREAS, the State has the authority to offer contracts to CPV members of the State of Minnesota and to other states.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

INTENT AND PURPOSE

The intent and purpose of this Agreement is to establish a contractual relationship with equipment manufacturers to provide, warrant, and offer maintenance services on **ALL** Products proposed in their response to the RFP issued by the State of Minnesota. Delivery, support, warranty, and maintenance may be provided by the Contractor using subcontractors. The Contractor agrees to take legal responsibility for the warranty and maintenance of all Products furnished under this Agreement. The Contractor is responsible for the timeliness and quality of all Services provided by individual subcontractors. Subcontractor participation will be governed by individual Participating Entities, who have the sole discretion to determine if they will accept Services from a subcontractor.

Individual Purchasing Entities may enter in to lease agreements for the Products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process, and if the Contractor submitted copies of its lease agreements with its response to the RFP. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. The agreements are located in Exhibit C, Value-Added Services.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage (SANs, etc.) should not exceed $300,000 each. Desktop per unit/configuration costs should not exceed $100,000. Printers of all types and monitors per unit/configuration costs should not exceed $50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed $25,000 each, or $50,000. Contractors must be willing to comply with these restrictions by agreeing to supply Products in those price ranges only. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum above these limits, with the prior approval of the WSCA Directors; or may set specific limits in a participating addendum below these limits.

Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the Agreement.

1. Definitions

"Announced Promotional Price" are prices offered nationally to specific categories of customers (Consumer, Business or government) for defined time periods under predefined terms and conditions.

"Consumables" those items that are required for the operation of the Equipment offered or supplied which are consumed over time with the purchaser's use of the equipment are included – printer cartridges, batteries, projector bulbs, etc. *Consumables such as magnetic media, paper and generally available office supplies are excluded.*

"Configuration" in most instances in this document means a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work.

"Contract" means a binding agreement for the procurement of items of tangible personal property or Services. Contract and Master Price Agreement are used interchangeably in this document.

"Contractor" means the successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the Products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the manufacture of the equipment and warranty thereof. For the purposes of this Contract, the term Contractor and Contract Vendor are synonymous.

"CPV Member" is any governmental unit having independent policy making and appropriating authority, that is a member of Minnesota's Cooperative Purchasing Venture (CPV) program.

"CPV Program." The Cooperative Purchasing Venture (CPV) program, as established by Minn. Stat. § 16C.03, subd. 10, authorizes the commissioner of

Administration to "enter into a cooperative purchasing agreement for the provision of goods, services, and utilities with [governmental entities] ..., as described in section 471.59, subdivision 1." Based on this authority, the commissioner of Administration, through the Materials Management Division (MMD), enters into a joint powers agreement that designates MMD as the authorized purchasing agent for the governmental entity. It is not legal for governmental entities that are not members of the CPV program to purchase from a State contract. Vendors are free to respond to other solicitations with the same prices they offer under a contract, but that is not considered use of the "State contract price."

"Cumulative Volume Discount" refers to the increased discounts by Product group or Band under the HP Product and Service Schedule (PSS) which may be offered by HP based on HP's evaluation of its pricing policies and structures on a periodic six month basis. If Cumulative Volume Discounts are recommended by HP, HP's written request for the increased discount is submitted to the WSCA/NASPO Contract Administrator for approval. The increased Cumulative Volume Discount is effective for orders after the later date of receipt of approval from the WSCA/NASPO Contract Administrator or the effective date spefified in the HP written request for approval.

"Documentation" refers to manuals, handbooks, and other publications listed in the PSS, or supplied with Products listed in the PSS, or supplied in connection with Services. Documentation may be provided on magnetic media or may be downloaded from the Contractor's web site.

"E-Rate" is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.

"Educational Discount Price" means the price offered in a nationally announced promotion, which is limited to educational customers only.

"Equipment" " means workstations, desktop, laptop (includes Tablet PC's), handheld (PDA) devices, projectors, servers, printers, monitors, computing hardware, including upgrade components such as memory, storage drives, and spare parts. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item.

"FCC" means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.

"General Price Reduction Price" means the manufacturer's suggested retail price (MSRP) offered to consumer, business or governmental purchasers at prices lower than PSS pricing. General price reduction prices will be reflected in the PSS as soon as practical.

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this Master

Price Agreement, the Lead State is Minnesota.

"Mandatory" The terms "must" and "shall" identify a mandatory item or factor.

"Manufacturer" means a company that, as its primary business function, designs, assembles, owns the trademark/patent and markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC's) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer must provide direct un-infringed unlimited OEM warranties on the Products. The manufacturer's name(s) shall appear on the computer equipment. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

"Master Price Agreement" means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of the Contractor's Products and/or Services by Purchasing Entities. The "Master Price Agreement" is a permissive price agreement. In order for a Purchase Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.

"Materials Management Division" or "MMD" means the procurement official for the State of Minnesota or a designated representative.

"NASPO" means the National Association of State Procurement Officials

"Participating Addendum" or "Participating Addenda" means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the master price agreement. Additional terms and conditions, including but not limited to payment terms, may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One digitally formatted, executed copy of the Participating Addendum must be submitted to the WSCA/NASPO Contract Administrator PRIOR to any orders being processed.

"Participating State" or "Participating Entity" means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate, where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement.

"PDA" means a Personal Digital Assistant and refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA's usually can store phone numbers, appointments, and to-do lists. PDA's can have a small keyboard, and/or have only a special pen that is used for input and output. The

PDA can also have a wireless fax modem. Files can be created on a PDA which is later entered into a larger computer. NOTE: For this procurement, all Tablet PC's are NOT considered PDA's. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

"Peripherals" means any Product that can be attached to, added within, or networked with personal computers or servers, including but not limited to storage, printers (including multifunction network printers), scanners, monitors, keyboards, projectors, uninterruptible power supplies and accessories. Software, as defined in the RFP, is not considered a peripheral. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the WSCA/NASPO Contract Administrator. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in the contract. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

"Permissive Price Agreement" means that placement of orders through the Price Agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the Price Agreement without using statutory or regulatory procedures (e.g., invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the Price Agreement as long as applicable procurement statutes and rules are followed.

"Per Transaction Multiple Unit Discount" means Purchasing Entity-specific, transaction(s)-specific, large volume negotiated price based on firm quantity and configuration buys during a set timeframe (also referred to as "Big Deal" pricing).

"Political Subdivision" means local pubic governmental subdivisions of a state, as defined by that state's statutes, including instrumentalities and institutions thereof. Political subdivisions include cities, counties, courts, public schools and institutions of higher education.

"Price Agreement/Master Price Agreement" means an indefinite quantity contract that requires the Contractor to furnish Products or Services to a Purchasing Entity that issues a valid Purchase Order.

"Procurement Manager" means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.

"Product(s)" means personal computer equipment, peripherals, LAN hardware, pre-loaded Software, and Network Storage devices, but not unrelated services. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

"Products and Services Schedule Prices" or **"PSS"** refers to a complete list, grouped by major Product and/or Service categories, of the Products and

Services provided by the contractor that consists of an item number, item description and the Purchasing Entity's price for each Product or Service. All such Products and Services shall be approved by the WSCA/NASPO Contract Administrator prior to being listed on a Contractor-supplied web site accessed via a URL. The Contractor(s) shall provide the warranty service and maintenance for all Equipment listed on the PSS on a Master Price Agreement as well as a Takeback Program.

"Purchase Order" means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

"Purchasing Entity" means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or Services described in this solicitation.

"**Refurbished Products**" are Products that may have been powered on or used by another customer that have been fully retested, defective parts replaced, and repackaged to meet original factory specifications.

"Services" are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of Products offered or supplied under the Master Price Agreement. These types of Services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a Product offered or supplied. *General consulting and all forms of application development and programming services are excluded.*

"Servicing Subcontractor/Subcontractor/Reseller Agent" means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided for in a Participating Addendum. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor's providing Products and Services, as well as warranty service and maintenance for equipment the subcontractor has provided on a Master Price Agreement as well as the Takeback Program**.

"Standard Configurations" or **"Premium Savings Configurations"** means discounted standard configurations that are available to Purchasing Entities

using the Master Price Agreement only. Any entity, at any time, that commits to purchasing these Configurations adopted by their State or other Purchasing Entities shall receive the same price from the contract awardees. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals.

"State Procurement Official" means the director of the central purchasing authority of a state.

"Storage Solution/Auxiliary Storage" means the technology and Equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS) and Storage Area Networks (SAN). **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program**,

"Takeback Program" means the Contractor's process for accepting the return of the Equipment or other Products at the end of life—as determined by the State utilizing the Master Price Agreement, subject to section 17 of this Agreement. Software licenses, excluding software media; stand-alone scanners; and stand-alone fax machines are not subject to the Takeback Program.

"Trade In" refers to the exchange of used Equipment for new Equipment at a price reduced by the value of the used Equipment.

"Travel" means expenses incurred by authorized personnel directly related to the performance of a Service. All such expenses shall be documented in a firm quotation for the Purchasing Entity prior to the issuance and acceptance of a Purchase Order. Travel expenses will be reimbursed in accordance with the purchasing entities allowances, if any, as outlined in the PA.

"Universal Resource Locator" or **"URL"** means a standardized addressing scheme for accessing hypertext documents and other services using the WWW browser.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

"WSCA/NASPO Contract Administrator" means the person or designee authorized by MMD to manage all actions related to the Master Price Agreements on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

2. Scope of Work

The Contractor, or its approved subcontractor, shall deliver computing system Products and Services to Purchasing Entities in accordance with the terms of this agreement. This Agreement is a "Master Price Agreement". Accordingly, the Contractor shall provide Products or Services only upon the issuance and acceptance by Contractor of

valid "Purchase Orders". Purchase Orders may be issued to purchase the license for software or to purchase Products listed on the Contractor's PSS. A Purchasing Entity may purchase any quantity of Product or Service listed in the Contractor's PSS at the prices in accordance the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State procurement official.

The Contractor is required to provide and/or agree to take legal responsibility for the warranty and maintenance of all proposed equipment, including peripherals. Taking legal responsibility means the Contractor must provide warranty and maintenance call numbers, accept, process and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities The Contractor shall offer a Takeback Program for all Products covered by this Agreement, unless otherwise noted herein.

3. Title Passage

The Contractor must pass unencumbered title to any and all Products purchased under this Contract upon receipt of Product by the Purchasing Entity. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensor, or to unmodified commercial software that is available to the State on the open market. Ownership rights to such materials shall not be affected in any manner by this Agreement

4. Permissive Price Agreement and Quantity Guarantee

This Agreement is not an exclusive agreement. Purchasing Entities may obtain computing system Products and Services from other sources during the agreement term. The State of Minnesota, NASPO and WSCA make no express or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of Products or Services will be procured.

5. Order of Precedence

Each Purchase Order that is accepted by the Contractor shall become a part of the Agreement as to the Products and Services listed on the Purchase Order only; no additional terms or conditions will be added to this Agreement as the result of acceptance of a Purchase Order. The Contractor agrees to accept all valid Purchase Orders. In the event of any conflict among these documents, the following order of precedence shall apply:

A. Executed Participating Addendum(s);

B. Terms and conditions of this Agreement, including Amendments;

C. Exhibits to this Agreement;

D. The list of Products and Services contained in the purchase order;

E. The request for proposals document; and

F. Contractor's proposal including best and final offer.

6. Payment Provisions

All payments under this Agreement are subject to the following provisions:

A. Acceptance

A Purchasing Entity shall determine whether all Products and Services delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery non-acceptance of a Product or Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion f Services, except for Software which is not pre-loaded on equipment which is accepted upon delivery.

B. Payment of Invoice

1. Payments shall be submitted to the Contractor at the address shown on the invoice, as long as the Contractor has exercised due diligence in notifying the State of Minnesota and/or the Purchasing Entity of any changes to that address. Payments shall be made in accordance with the applicable laws of the Purchasing Entity.

2. For Minnesota, per Minnesota Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. The ordering entity is not required to pay the Contractor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. After the thirtieth day, interest may be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent per month. The Purchasing Entity shall make a good faith effort to pay within thirty (30) days on all undisputed invoices.

3. Payments may be made via a Purchasing Entity's "Purchasing Card".

In the event an order is shipped incomplete (partial), the Purchasing Entity shall pay for each shipment as invoiced by the Contractor unless the Purchasing Entity has clearly specified "No Partial Shipments" on each Purchase Order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's federal and state tax identification numbers. If a Purchasing Entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the Contractor shall be reimbursed by the Purchasing Entity to the extent of any tax liability assessed.

The State of Minnesota State agencies are subject to paying Minnesota sales and use taxes. Taxes for State agencies will be paid directly to the Department of Revenue using Direct Pay Permit #1114.

D. Invoices

Invoices shall be submitted to the Purchasing Entity at the address shown on the Purchase Order. Invoices shall match the line items on the Purchase Order.

7. Agreement Term

Pursuant to Minnesota law, the term of this Agreement shall be effective upon the date of final execution by the State of Minnesota, through August 31, 2012. The Agreement may be mutually renewed for two (2) additional one-year terms, or one additional two-year term, unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the State may terminate this agreement, in whole or in part, by giving the Contractor (30) days written notice; provided, however, neither the State nor a Purchasing Entity has the right to terminate a specific purchase order for convenience after it has been issued if the Product is ultimately accepted. At any time, the Contractor may terminate this Agreement, in whole or in part, by giving the WSCA/NASPO Contract Administrator sixty (60) days written notice. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. In the event of a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or Services satisfactorily performed and accepted.

B. Termination for Cause

Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

C. A Purchasing Entity's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall retain its rights in all Products and Services accepted prior to the effective termination date.

D. The Contractor's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall pay the Contractor all amounts due for Products and Services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. Non-Appropriation

The terms of this Agreement and any purchase order issued for multiple years under this Agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Agreement or in any purchase order or other document, a Purchasing Entity may terminate its obligations under this Agreement, if sufficient appropriations are not made by the governing entity at a level sufficient to allow for payment of the goods or Services due for multiple year agreements, or if operations of the paying entity are being discontinued. The Purchasing Entity's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

A Purchasing Entity shall provide prior written notice, sixty (60) days if possible, of its intent to terminate for reason cited above. Such termination shall relieve the Purchasing Entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant Purchase Order for undelivered Products and Services.

10. Shipment and Risk of Loss

A. All deliveries shall be F.O.B. destination, prepaid and allowed, with all transportation and handling charges included in the price of the Product and paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until delivery to the identified ship to address when responsibility and liability for loss shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.

B. Whenever a Purchasing Entity does not accept Products and returns them to the Contractor, all related documentation furnished by the Contractor shall be returned also. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the pick-up of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence or wrongful intentional act or omission of the Purchasing Entity.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, all Products shall be shipped within 3 to 5 days after receipt of a valid purchase order, by a reliable and insured shipping company.

11. Warranties

A. The Contractor agrees to warrant and assume responsibility for each Product that it licenses, or sells, to the Purchasing Entity under this Agreement in accordance with the Contractor's standard warranties. The Contractor agrees to take legal responsibility for the warranty and maintenance (under warranty) of all Products furnished through this Agreement. Taking legal responsibility means the Contractor, either directly or indirectly, must provide warranty and maintenance call numbers, accept, process, and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities as it applies to the standard warranty that comes with the Product. The Contractor acknowledges that the Uniform Commercial Code applies to this Agreement covering warranty. In general, the Contractor warrants that:

1. The Product conforms to the specific technical information about the Contractor's Products which is published in the Contractor's Product manuals or data sheets.

2. The Product will meet mandatory specifications provided in writing to the Contractor prior to reliance by the Participating Entity on the Contractor's skill or judgment when it advised the Purchasing Entity about the Product's ability to meet those mandatory specifications unless otherwise noted in Contractor's proposed quote to the Participating Entity.

3. The Product will be suitable for the ordinary purposes for which such Product is used,

4. The Product has been properly designed and manufactured for its intended use, and

5. The Product is free of significant defects in material and workmanship.

6. The Product is in the legal possession of the Purchasing Entity, as defined in Article 10 Shipment and Risk of Loss, before any warranty period begins.

7. Exhibit A contains warranties in effect as of the date of this Agreement. The warranties will be limited in duration to the time period(s) provided in Exhibit A. The warranties will not apply to use of a Product other than as anticipated and intended by the Contractor, to a problem arising after changes or modifications to the Products or operating system by any party other than the Contractor (unless expressly authorized in writing by the Contractor), or the use of a Product in conjunction or combination with other Products or software not authorized by the Contractor. The following is a list of the warranties attached as **Exhibit A**:

   a) Product warranty

   b) Software warranty

   c) Procurve warranty

B. Contractor may modify the warranties described in Exhibit A from time to time with the prior approval of the WSCA/NASPO Contract Administrator.

C. Warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products, as provided by the Manufacturer.

D. The Contractor will provide the basic warranty coverage as listed in its PSS. The HP-branded Products available in Bands 1 through 7 have a manufacturer standard warranty period that ranges from one year to three years. The Contractor offers the Purchasing Entities an ability to upgrade warranties, for an additional fee, at the time of purchase of Products in the aforementioend Bands. Contractor's Website lists the environmental certifications; and any self-registration claims of EPEAT (bronze minimum) and Energy Star compliance, applicable to the respective Product.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

A. The Contractor shall defend, at its own expense, the State of Minnesota, Participating and Purchasing Entities and their agencies against any claim that any HP-Branded Product or Service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a Purchasing Entity based upon the Contractor's trade secret infringement relating to any Product or Service provided under this Agreement, the Contractor agrees to reimburse the Lead State or Purchasing Entity for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Lead State or Participating or Purchasing Entity shall:

1. Give the Contractor prompt written notice of any claim;
2. Allow the Contractor to control the defense or settlement of the claim; and
3. Cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any Products or Service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

1. Provide a Purchasing Entity the right to continue using the Products or Services;
2. Replace or modify the Products or Services so that it becomes non-infringing; or
3. Accept the return of the Products or Service and refund an amount equal to the depreciated value of the returned Products or Service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any Products or Services modified by the Purchasing Entity to the extent such modification is the cause of the claim.

C. The Contractor has no obligation for any claim of infringement arising from:

1. The Contractor's compliance with the Purchasing Entity's or by a third party on the Purchasing Entity's behalf designs, specifications, or instructions;
2. The Contractor's use of technical information or technology provided by the Purchasing Entity;
3. Product modifications by the Purchasing Entity or a third party;
4. Product use prohibited by Specifications or related application notes; or
5. Product use with Products that are not the Contractor branded.

13. Price Guarantees

The Purchasing Entities shall pay the lower of the prices contained in the PSS or an Announced Promotion Price, Educational Discount Price, General Price Reduction price, Trade-In price, or if applicable to Purchasing Entity its available Standard Configuration price or Per Transaction Multiple Unit Discount. Only General Price Reduction price decreases will apply to all subsequent Purchase Orders accepted by Contractor after the date of the issuance of the General Price Reduction prices.

The initial base-line and Cumulative Volume Discounts will be submitted to the Lead State by the Contractor in a format agreeable to both parties. The increased price discount represented in the Cumulative Volume Discount will apply to all future orders, until the next level of cumulative volume is in effect.

14. Product and Service Schedule

The Contractor agrees to maintain the PSS in accordance with the following provisions:

A. The PSS prices for Products and Services will conform to the guaranteed prices discount levels on file with WSCA/NASPO Contract Administrator for the following Products:

Band 1 – Servers
Band 2 – Workstations
Band 3 – Printers
Band 4 – Storage Solutions
Band 5 – PDAs
Band 6 – Instructional Packages (Bundles)
Band 7 – Monitors
Operating Systems
Local Area Networks
Digital Projectors

B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the WSCA/NASPO Contract Administrator. The Contractor agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.

C. The Contractor may make model changes; add new Products, and Product upgrades or Services to the PSS in accordance with Item 15. Product Substitutions, below. The pricing for these changes shall incorporate, to the extent possible, comparable price discount levels approved by the WSCA/NASPO Contract Administrator for similar Products or Services.

D. The Contractor agrees to delete obsolete and discontinued Products from the PSS on a timely basis.

E. The Contractor shall maintain the PSS on a Contractor supplied Internet web site.

15. Product Substitutions

A. Substitution of units/configurations

MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting contracts. Substitution of different units and configurations will be permitted with the prior written approval of the WSCA/NASPO Contract Administrator. This substitution is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA/NASPO Contract Administrator.

B. Addition of units/configurations

MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units may be permitted, with the prior approval of the WSCA/NASPO Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA Directors.

16. Technical Support

The Contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to Purchasing Entity personnel who wish to obtain competent technical assistance regarding the hardware and software installation or operation of Products supplied by the Contractor during the Product warranty period or during a support agreement.

17. Takeback and Other Environmental Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in their response to the RFP, including but not limited to the following paragraphs.

A. Takeback/Recycling of CPUs, servers, monitors, flat panel displays, notebook computers, and printers. Costs are list on the web site.

B. Environment: Compliance with the following standards: Blue Angel, EcoLogo, Energy Star, EPEAT (by level), Green Guard, Nordic Swan, and TCO.

C. Product labeling of compliance with Items B above, as well as a identification of such information on the web site.

18. Product Delivery

Contractor agrees to make a reasonable effort to deliver Products to Purchasing Entities within twenty (20) business days or less after receipt of a valid Purchase Order, or in accordance with the schedule in the Purchasing Entity's Purchase Order, where the timeframe for required delivery is greater than twenty (20) business days or as otherwise mutually agreed by the Purchasing Entity and Contractor.

19. Force Majeure

Neither party hereto shall be considered in default in the performance of its

obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other causes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

20. Records and Audit

Per Minn. Stat. § 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees, agents, or subcontractors relevant to the Minnesota transactions must be made available and subject to examination by the contracting agency or its agents, the Legislative Audit and/or the State Auditor for a minimum of six years after the end of the Contract or transaction.

Unless otherwise required by other than Minnesota Purchasing Entity governing law, such records relevant to other Purchasing Entity transactions shall be subject to examination by appropriate government authorities for a period of three years from the date of acceptance of the Purchase Order.

21. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not employees of the State of Minnesota or of any Participating Entity. The Contractor has no authorization, express or implied to bind the Lead State, NASPO, WSCA or participating entity to any agreements, settlements, liability or understanding with other third parties whatsoever, and agrees not to perform any acts as agent for the Lead State, NASPO, WSCA, or Participating Entity, except as expressly set forth herein. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lead State or Participating Entity as a result of this Agreement.

22. Use of Servicing Subcontractors

The Contractor may subcontract Services and purchase order fulfillment and/or support in accordance with the following paragraphs. However, the Contractor shall remain solely responsible for the performance of this Agreement.

A. Reseller Agent, Service Provider or Servicing Subcontractors shall be identified individually or by class in the applicable Participating Addendum, or as noted in the Participating Addendum on the Purchasing Entities extranet site. The ordering and payment process for Products or Services shall be defined in the Participating Addendum.

23. Payments to Subcontractors

In the event the Contractor hires subcontractors to perform all or some of the duties of this Contract, for state agency Purchase Entities in the Lead State, the Contractor understands that in accordance with Minn. Stat. § 16A.1245 the Contractor shall, within ten (10) days of the Contractor's receipt of payment from the Lead State Purchasing Entity, pay all subcontractors having an interest in the

applicable Purchase Order their share of the payment for undisputed Services provided by the subcontractors. The Contractor is required to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of $100 or more will be $10. For an unpaid balance of less than $100, the amount will be the actual penalty due. A subcontract that takes civil action against the Contractor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Contract. Notwithstanding, for the purposes of this Section 23, this section shall not apply to Contractor's obligations to its business development partners, including its authorized resellers and service providers, where Contractor's obligations to its partners are bound by the terms of a separate business development partner agreement between the partner and the Contractor. In the event the Contractor fails to make timely payments to a subcontractor, the State may, at its sole option and discretion, pay a subcontractor or supplier any amounts due from the Contractor and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor or supplier, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor. If there are not remaining outstanding payments to the Contractor, the State shall have no obligation to pay or to see to the payment of money to a subcontractor except as may otherwise be required by law.

The Contractor shall ensure that the subcontractor transfers all intellectual or industrial property rights, including but not limited to any copyright it may have in the work performed under this Contract, consistent with the intellectual property rights and ownership sections of this Contract. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Contract, the State may acquire such rights directly from the subcontractor. Any and all costs associated with such a direct transfer may be deducted from any amount due the Contractor.

24. Indemnification, Hold Harmless and Limitation of Liability

The Contractor shall indemnify, protect, save and hold harmless the Lead State, Participating Entities, and its agencies and employees, from any and all claims or causes of action, including attorney's fees for personal injury or damage to real or tangible personal property arising from the negligent or willful acts or omissions of performance of the Contract by the Contractor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contractor may have with the State's or Participating Entities' failure to fulfill its obligations pursuant to the Contract.

Contractor, its principals, members and employees shall not be liable to the State or any Purchasing Entity, unless otherwise stated in the applicable Participating Addendum, for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to this Contract or the goods provided or Services performed hereunder for any amount in excess of the greater of two-million dollars ($2,000,000) or the value of the Purchase Entity's purchase order

used to acquire the Products and Services that are the subject of the Purchasing Entity's claim. Contractor's liability for damage to real or tangible property incurred on a per order basis shall not exceed two-million dollars. This limitation of liability does not apply to damages for bodily injury or death caused by the Contractor's negligence, or to Contractor's obligation to indemnify, defend and hold the State harmless against intellectual property infringement or copyright claims under paragraph 12 of this Agreement. This indemnification does not include liabilities caused by the State's or Purchasing Entity's negligence, or intentional wrong doing. In no event shall the Contractor be liable for any indirect, special, punitive, or consequential damages arising out of this Contract or the use of the Products or Services purchased by the Purchasing Entity hereunder.

25. Amendments

Contract amendments shall be negotiated by the State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. This Agreement shall be amended only by written instrument executed by the parties. An approved Contract amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

This Agreement incorporates all of the agreements of the parties concerning the subject matter of this Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. Severability

If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, by a court of competent jurisdiction then both the State and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

28. Enforcement of Agreement/Waivers

A. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written consent of the parties. Forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party. Until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the forebearing/indulging party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

B. Waiver of any breach of any provision of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition

of this Contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

C. Neither party's failure to exercise any of its rights under this Contract will constitute or be deemed a waiver or forfeiture of those rights.

29. Web Site Maintenance

A. The Contractor agrees to maintain and support an Internet website linked to the State's administration website for access to the PSS, service selection assistance, problem resolution assistance, billing concerns, configuration assistance, Product descriptions, Product specifications and other aids described in the RFP, and/or in accordance with instructions provided by the WSCA/NASPO Contract Administrator. The Contractor agrees that the approved PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.

B. The Contractor agrees to maintain and support Participating State and Entity Internet websites for access to the specific Participating Entity PSS, as well as all other items listed in Item 29A. above. The website shall have the ability to hold quotes for 45 days, as well as the ability to change the quote.

C. The Contractor may provide electronic commerce assistance for the electronic submission of Purchase Orders, purchase order tracking and reports.

D. The Contractor may not make changes to the website format as defined in Contractor's RFP Section 4, Electronic Commerce response without notifying the WSCA/NASPO Contract Administrator and receiving written approval of the changes.

30. Equal Opportunity Compliance

The Contractor agrees to abide by all applicable federal laws, and the laws, regulations, and executive orders pertaining to equal employment opportunity, of the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

The Contractor certifies that it will remain in compliance with Minn. Stat. § 363A.36 during the life of the Contract.

31. Governing Law

This Agreement shall be governed and construed in accordance with the laws of

the Lead State. The construction and effect of any Participating Addendum or order against this Agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's state. Venue for any claim, dispute or action concerning the construction and effect of the Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against this Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's state.

32. Change in Contractor Representatives

Contractor shall appoint a primary representative, Contractor WSCA Program Manager, to work with the WSCA/NASPO Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the WSCA/NASPO Contract Administrator of changes in the Contractor primary representative, Contractor WSCA Program Manager, in writing, and in advance if possible. The State reserves the right to require a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the State, adequately serving the needs of the Lead State and the Participating Entities.

33. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the Lead State and Participating Entities, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the Lead State or any Participating Entity to any obligation, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

34. Data Practices

A. The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (and where applicable, if the state contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained or disseminated by the Contractor in accordance with this Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

B. In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

C. Sections 34.A through B above apply to transactions between Contractor

and applicable Lead State Purchasing Entities. Contractor agrees to be bound by the statutorily required data practices requirements as outlined in the Participating Addendum of a Participating State or Participating Entity.

E. Notwithstanding the above, the parties agree that any confidential information required to be exchanged will be done so under the terms of a mutually agreed upon, signed confidentiality agreement.

35. Organizational Conflicts of Interest

A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are not relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- the Contractor has an unfair competitive advantage.

B. The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the WSCA/NASPO Contract Administrator, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "WSCA/NASPO Contract Administrator" modified appropriately to preserve the State's rights.

36. Replacement Parts

Unless otherwise restricted in a Participating Addendum or maintenance service agreement, replacement parts may be manufacturer-certified refurbished parts carrying OEM warranties.

37. FCC Certification

The Contractor agrees that Equipment supplied by the Contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination of this Agreement for cause.

38. Site Preparation

A Purchasing Entity shall prepare and maintain its site in accordance with written instructions furnished by the Contractor prior to the scheduled delivery date of

any Products and shall bear the costs associated with the site preparation.

39. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. Such consent shall not be unreasonably withheld. The Contractor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of this Contract. Failure to do so may result in the Contractor being held in default. This consent requirement includes reassignment of this Contract due to a change in ownership, merger, or acquisition of the Contractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contractor's right to assign this Contract to corporations to provide some of the Services hereunder. Notwithstanding the foregoing acknowledgment, the Contractor shall remain solely liable for all performance required and provided under the terms and conditions of this Contract. The Contractor may assign payments in accordance with specific provisions stated in a Participating Addendum.

40. WSCA/NASPO Contract Administrator

The State shall appoint an WSCA/NASPO Contract Administrator whose duties shall include but not be limited to the following:

A. The WSCA/NASPO Contract Administrator may provide instructions concerning the contents of the Contractor's website.

B. The WSCA/NASPO Contract Administrator will facilitate dispute resolution between the Contractor and Purchasing Entities. Unresolved disputes shall be presented to the State for facilitation of resolution.

C. The WSCA/NASPO Contract Administrator shall promote and support the use of this Agreement by NASPO members and other Participating Entities.

D. The WSCA/NASPO Contract Administrator shall advise the State regarding the Contractor's performance under the terms and conditions of this Agreement.

E. The WSCA/NASPO Contract Administrator shall receive and approve quarterly price agreement utilization reports and the administration fee payments.

F. The WSCA/NASPO Contract Administrator shall periodically verify the Product and Service prices in the PSS conform to the Contractor's volume price and other guarantees. The WSCA/NASPO Contract Administrator may require the Contractor to perform web site audits to accomplish this task.

G. The WSCA/NASPO Contract Administrator shall conduct annual Contractor performance reviews.

H. The WSCA/NASPO Contract Administrator shall maintain an Agreement administration website containing timely and accurate information.

41. Survival

The following rights and duties of the State and Contractor will survive the expiration or cancellation of the resulting Contract. These rights and duties include, but are not limited to Paragraph 12. Patent, Copyright, Trademark and Trade Secret Indemnification; Paragraph 20. Records and Audit; Paragraph 24. Indemnification, Hold Harmless, and Limitation of Liability; Paragraph 31, Governing Law; Paragraph 34. Data Practices; and Paragraph 52. Right to Publish. Software licenses, warranty, and service agreements that were entered in to under the terms and conditions of the Agreement shall survive this Agreement.

42. Succession

This Agreement shall be entered into and be binding upon the successors and assigns of the parties.

43. Notification

A. If one party is required to give notice to the other under the Contract, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices shall be addressed as follows:

To MMD:

Department of Administration
Materials Management Division
Bernadette Kopischke, CPPB
Acquisitions Supervisor
50 Sherburne Avenue
112 State Administration Building
St. Paul, MN 55155
Fax: 651.297.3996
Email: bernie.kopischke@state.mn.us

To Contractor:

Debra Lee
HP Contract Program Manager
442 Swan Blvd.
Deerfield, IL 60015
Fax: 281-927-5213
Email: debra.lee@hp.com

44. Reporting and Fees

A. Administration Reporting and Fees

1. The Contractor agrees to provide monthly utilization reports to the

WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract Administrator by the 15th of the month following the end of the previous month. (Ex. Purchases during January are reported by the 15th of February; purchases made during February are reported by the 15th of March; etc.). Reports submitted within five (5) days of the report due date shall not be deemed as a default by Contractor. The report shall be in the format developed by the Lead State and supplied to the Contractor for its review and mutual written consent to implement. Contractor shall be released from reporting on the Lead State requested Fields of LIST PRICE/MSRP/CATALOG PRICE and ORDER TYPE (debits/credits) until such time as Contractor automated reporting tools have the capability to include the Field in its reports. Contractor will have the automated reporting capabilities to include the aforementioned Fields within nine (9) to twelve (12) months of the commencement of this Contract. Notwithstanding the foregoing, Contractor will commence reporting on the requested Fields once Contractor's automated reporting tools are capable.

2. The Contractor agrees to provide quarterly Administrative Fee check payable to WSCA/NASPO for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period. The form to be submitted with the check, as well as the mailing address, has been supplied to the Contractor. Payment shall be made in accordance with the following schedule:

Period End	**Admin Fee Due**
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

3. The Contractor agrees to include all Reseller Agent sales in the monthly utilization reports described above. In addition, the Contractor agrees to provide a supplemental Reseller Agent utilization report of the net sales for the period subtotaled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.

4. Subject to Contractor's automated reporting tools capabilities, the Contractor will use reasonable commercial efforts to provide the EPEAT and Energy Start environmental information shown in a mutually agreed upon report format; as well as a supplemental report of the number and type of units taken back in a format to be mutually agreed to. Reporting on this information will occur no more than once quarterly, and will commence once Contractor has the capability to generate automated reports to include this information for its US based customers.

5. The utilization reports shall be submitted to the WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract

Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.

6. If requested by the WSCA/NASPO Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on mutually agreed magnetic media in a mutually agreed format. Such request shall not exceed twelve per year.

7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.

8. The WSCA/NASPO Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in to the Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no affect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.

2. Purchasing Entities will be encouraged to use the reporting format developed by the lead State for their reporting needs. However, the Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery methods of the report. Methods of delivery may include direct access to Internet or other databases.

3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

45. Default and Remedies

A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:

1. Consistent Nonperformance of contractual requirements; or

2. A material breach of any term or condition of this Agreement.

B. A written notice of default, and an opportunity to cure, within 30-days notification of the written notice, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the participating addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

1. Exercise any remedy provided by law or equity;
2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
3. Impose liquidated damages, as mutually agreed to by the parties, as specified in an amendment to the Participating Addendum;
4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations from within the Participating Entities jurisdiction.
5. Charge the defaulting Contractor the full increase in cost and administrative handling to purchase the product or service from another Contractor. The Purchasing Entity shall take reasonable actions to mitigate the cost to re-procure.

D. The MMD reserves the right, upon approval of the WSCA Directors, to develop and implement a step-by-step process to deal with Contractor failure to perform issues.

46. Audits

A. Website Pricing Audit

The Contractor agrees to assist the WSCA/NASPO Contract Administrator or designee with web site Product and pricing audits based on the requirements described in Exhibit E – Website Price audit requirements. Pricing is audited on a quarterly basis.

1. The product audit will closely monitor the Products and Services listed on the website to insure they comply with the approved Products and Services. The addition of Products or Services not approved by the WSCA/NASPO Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.

B. Sales Audit

The Contractor further agrees to provide sales audit reports based on the formulas described in Exhibit E – Sales audit report format.

C. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

47. Extensions

If specifically authorized by provision in a Participating Addendum, Contractor may, at the sole discretion of Contractor and in compliance with the laws of the Participating State, offer Products and Services to non-profit organizations,

private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the State has no liability whatsoever concerning payment for Products or Services.

48. Sovereign Immunity

The State does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

49. Ownership

A. Nothing in this Contract shall be construed as transferring any right, title, or interest in either Party's, any Purchasing Entity's, or their third party's confidential information, pre-existing intellectual property, trademarks, copyrights, intellectual property or other proprietary interest.

50. Prohibition Against Gratuities

A. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Contract if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Contract, or securing favorable treatment with respect to the award or amendment of this Contract, or the making of any determinations with respect to the performance of this Contract.

B. The Contractor certifies that no elected or appointed official or employee of the State has benefited or will benefit financially or materially from this Contract. This Contract may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

51. Antitrust

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or Services provided in connection with this Contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

52. Right to Publish

A. Any publicity given to the program, publications or Services provided resulting from the Contract, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the WSCA/NASPO Contract Administrator.

B. The Contractor shall not make any representations of the State's opinion

or position as to the quality or effectiveness of the Products and/or Services that are the subject of this Contract without the prior written consent of the WSCA/NASPO Contract Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

53. Performance While Dispute is Pending

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Contract that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Contract, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

54. Hazardous Substances

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity, upon request, with Material Safety Data Sheets regarding those substances (including mercury).

55. Customer Satisfaction/Complaint Resolution

A. The Contractor's process for resolving complaints concerning Products, support, and billing problems is attached as **Exhibit B.**

B. The Contractor will survey its customers in each Participating State approximately two (2) months prior to the annual meeting with the Contract Administrator using, at a minimum, the survey questions provided by the State.

56. Value Added Services

The Contractor is expected to provide such Services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**.

57. E-Rate Program

The Contractor's E-Rate identification number and list of E-Rate qualifying Products is as follows:
HP E-Rate Spin Number: 143007617
HP FCC Registration Number: 0012062535

Qualifying Products:
HP ProLiant Servers
HP ProCurve Network Electronics
HP Services for eligible Products (Installation, Maintenance, Training, Infrastructure design

The Contractor shall make every effort to continue its involvement in this program and to add Products as applicable.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by the State of Minnesota Commissioner of Administration, below.

1. HEWLETT-PACKARD COMPANY
The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions,

By: Thomas J Iannotti
Title: Sr. Vice President
Date: 6/29/09

2. MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke
Title: Acquisitions Supervisor
Date: 7/2/09

3. COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By: Brenda Willard
Date:

Original signed

JUL 0 2 2009

By Brenda Willard

EXHIBIT A – ADDITIONAL WARRANTIES and SUPPORT SERVICES

A. Warranty Information

1. Warranty information is available at the following URLs:

- Product warranty URL link:
  http://h20000.www2.hp.com/bizsupport/TechSupport/Document.jsp?objectID=c00383139&lang=en&cc=us&taskId=&prodSeriesId=316617&prodTypeId=12454.

- Software warranty URL link:

  http://docs.hp.com/en/5991-6026/ch01s06.html?jumpid=reg_R1002_USEN

- Procurve warranty URL link:
  http://www.procurve.com/warranty

2. GENERAL WARRANTY PROVISIONS:

a. Warranty Statements. HP limited warranty statements for Hardware, Software, Support, and Professional Services, as applicable, are available with Products, on quotations, or upon request. The limited warranties are subject to the terms, limitations, and exclusions contained in the limited warranty statement provided for the Product in the country where that Product is located when the warranty claim is made. A different limited warranty statement may apply and be quoted if the Product is purchased as part of a system.

b. Transfer. Warranties are transferable to another party for the remainder of the warranty period subject to HP license transfer policies and any assignment restrictions.

c. Delivery Date. Warranties begin on the date of delivery, or for Hardware on the date of installation if installed by HP. If Customer schedules or delays such installation by HP more than thirty (30) days after delivery, Customer's warranty period will begin on the 31st day after delivery.

d. HP warrants that it will perform Professional Services using generally recognized commercial practices and standards. HP will re-perform any Professional Services not performed in accordance with the foregoing warranty provided that HP receives written notice from Customer within thirty (30) days after such Professional Services were performed. This will be Customer's sole and exclusive remedy for a breach of the foregoing warranty.

e. Warranty Exclusions. HP is not obligated to provide warranty services or Support for any claims resulting from:

   1. improper site preparation, or site or environmental conditions that do not conform to HP's site specifications;
   2. Customer's non-compliance with Specifications or Transaction Documents;
   3. improper or inadequate maintenance or calibration;
   4. Customer or third-party media, software, interfacing, supplies, or other products;
   5. modifications not performed or authorized by HP;
   6. virus, infection, worm or similar malicious code not introduced by HP; or
   7. abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond HP's control.

f. Non-HP Branded Products and Services. HP provides third-party Products, software, and Services that are not HP Branded "AS IS" without warranties of any kind, although the original manufacturers or third party suppliers of such Products, software and Services may provide their own warranties.

Disclaimer. THE WARRANTIES AND ANY ASSOCIATED REMEDIES EXPRESSED OR REFERENCED IN THIS AGREEMENT ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY HP OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT ALLOWED BY LOCAL LAW HP DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

B. Support Services

1. SUPPORT SERVICES

   a. Description of Support. HP will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Customer responsibilities described in the relevant Transaction Documents.

   b. Ordering Support. Customer may order Support:

      1. at the time of Product purchase, or prior to installation of Products for which Support is being purchased, for a fixed term (may be referred to as "HP Care Pack");
      2. after the time of Product purchase, for either a fixed term or an initial term that may be renewed (may be referred to as "HP Contractual Services");
      3. on a per-event basis; or
      4. at any time, when agreed non-standard Support has been offered by HP for the Customer according to a Statement of Work (also known as "Custom Support") or as otherwise offered by HP.

   c. Cancellation. Customer may cancel Support orders or delete Products from Support upon thirty (30) days written notice, unless otherwise stated in a Transaction Document. HP may discontinue Support for Products and specific Support services no longer included in HP's Support offering upon sixty (60) days written notice, unless otherwise agreed. If Customer cancels prepaid Support, HP will refund Customer a pro-rata amount for the unused prepaid Support, less any early termination fees or subject to any restrictions set forth in a Transaction Document.

   d. Return to Support. If Customer allows Support to lapse, HP may charge Customer additional fees to resume Support or require Customer to perform certain hardware or software upgrades. HP will review and assess whether such fees are required, and explain these to Customer at the time of the request to return to Support.

   e. Local Availability. Customer may order Support from HP's current Support offerings. Some offerings, features, and coverage (and related Products) may not be available in all countries or areas.

   f. Support Warranty. HP warrants that it will perform Support using generally recognized commercial practices and standards.

   g. Exclusive Remedies. HP will re-perform Support not performed in accordance with the warranty herein. This sub-section 1.g states HP's entire liability for Support warranty claims.

2. PRICING, SERVICES, AVAILABILITY, AND INVOICING

   a. Pricing. Except for prepaid Support or as otherwise stated in a Transaction Document, HP may change Support prices upon sixty (60) days written notice.

   b. Additional Services. Additional services performed by HP at Customer's request that are not included in Customer's purchased Support will be chargeable at the applicable published service rates for the country where the service is performed. Such additional services include but are not limited to:

      1. Customer requests for Support after HP's local standard business hours (unless Customer has specifically purchased after-hours coverage for the requested Support);
      2. Customer requests for repair for damage or failure attributable to the causes specified in Exhibit A, subsection 2.e ("Warranty Exclusions"); and
      3. Customer requests for Support where Customer does not, in HP's reasonable determination, meet the applicable prerequisites and eligibility requirements for Support.

   c. Local Availability. Support outside of the applicable HP coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.

   d. Invoicing. Invoices for Support will be issued in advance of the Support period. HP Support invoices and related documentation will be produced in accordance with HP system standards. Additional levels of detail requested by Customer may be chargeable.

3. SITE AND PRODUCT ACCESS

Customer shall provide HP access to the Products covered under Support; adequate working space and facilities within a reasonable distance of the Products; access to and use of information, customer resources, and facilities as reasonably determined necessary by HP to service the Products; and other access requirements described in the relevant Transaction Document. If Customer fails to provide such access, resulting in HP's inability to provide Support, HP shall be entitled to charge Customer for the Support call at HP's published service rates. Customer is responsible for removing any Products ineligible for Support to allow HP to perform Support. If delivery of Support is made more difficult because of ineligible Products, HP will charge Customer for the extra work at HP's published service rates.

4. STANDARD SUPPORT PRODUCT ELIGIBILITY

a. Minimum Configuration for Support. Customer must purchase the same level of Support and for the same coverage period for: all Products within a minimum supportable system unit (i.e. all components within a server, storage, or network device) to allow for proper execution of standalone and operating system diagnostics for the configuration.

b. Eligibility. For initial and on-going Support eligibility Customer must maintain all Products and associated hardware and software at the latest HP-specified configuration and revision levels and in HP's reasonable opinion, in good operating condition.

c. Modifications. Customer will allow HP, at HP's request and at no additional charge, to modify Products to improve operation, supportability, and reliability, or to meet legal requirements.

d. Loaner Units. HP maintains title and Customer shall have risk of loss or damage for loaner units if provided at HP's discretion as part of Support or warranty services and such units will be returned to HP without lien or encumbrance at the end of the loaner period.

e. Relocation. Customer is responsible for moving Products. If Customer moves the Products to a new location, HP may charge additional Support fees and modify the response times, and Customer may be required to execute amended or new Transaction Documents. If Customer moves Products to another country, Support shall be subject to availability in the destination country. Reasonable advanced notice to HP may be required to begin Support for some Products after relocation.

f. Maximum Use Limitations. Certain Products have a maximum usage limit, which is set forth in the manufacturer's operating manual or the technical data sheet. Customer must operate such Products within the maximum usage limit.

g. Multi-Vendor Support. HP provides Support for certain non-HP Branded Products. The relevant Transaction Document will specify availability and coverage levels, and govern delivery of multi-vendor Support, whether or not the non-HP Branded Products are under warranty. HP may discontinue Support of non-HP Branded Products if the manufacturer or licensor ceases to provide support for such Products.

5. PROPRIETARY SERVICE TOOLS

HP will require Customer's use of certain hardware and/or software system and network diagnostic and maintenance programs ("Proprietary Service Tools"), as well as certain diagnostic tools that may be included as part of the Customer's system, for delivery of Support under certain coverage levels. Proprietary Service Tools are and remain the sole and exclusive property of HP, are provided "as is," and include, but are not limited to: remote fault management software, network Support tools, Insight Manager, Instant Support, and Instant Support Enterprise Edition (known as "ISEE"). Proprietary Service Tools may reside on the Customer's systems or sites. Customer may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HP. Customer may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, Customer will return the Proprietary Service Tools or allow HP to remove these Proprietary Service Tools. Customer will also be required to:

a. allow HP to keep the Proprietary Service Tools resident on Customer's systems or sites, and assist HP in running them;

b. install Proprietary Service Tools, including installation of any required updates and patches;

c. use the electronic data transfer capability to inform HP of events identified by the software;

d. if required, purchase HP-specified remote connection hardware for systems with remote diagnosis

service; and

e. provide remote connectivity through an HP approved communications line.

6. CUSTOMER RESPONSIBILITIES

a. Data Backup. To reconstruct lost or altered Customer files, data, or programs, Customer must maintain a separate backup system or procedure that is not dependent on the Products under Support.

b. Temporary Workarounds. Customer will implement temporary procedures or workarounds provided by HP while HP works on permanent solutions.

c. Hazardous Environment. Customer will notify HP if Customer uses Products in an environment that poses a potential health or safety hazard to HP employees or subcontractors. HP may require Customer to maintain such Products under HP supervision and may postpone service until Customer remedies such hazards.

d. Authorized Representative. Customer will have a representative present when HP provides Support at Customer's site.

e. Product List. Customer will create and maintain a list of all Products under Support including: the location of the Products, serial numbers, the HP-designated system identifiers, and coverage levels. Customer shall keep the list updated during the applicable Support period.

f. Documentation. If Customer purchases a Support offering that includes documentation updates, Customer may copy such updates only for systems under such coverage. Copies must include appropriate HP trademark and copyright notices.

7. SUPPORTED SOFTWARE

Customer may purchase available Support for HP Branded Software only if Customer can provide evidence it has rightfully acquired an appropriate HP license for such Software. HP will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HP or for Software for which Customer cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HP, HP only provides Support for the current Version and the immediately preceding Version of HP Branded Software, and then only when HP Branded Software is used with Hardware or Software included in HP-specified configurations at the specified Version level.

8. ACCESSORIES AND PARTS AND MISCELLANEOUS

a. Compatible Cables and Connectors. Customer will connect Products covered under Support with cables or connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.

b. Support for Accessories. HP may provide Support for cables, connectors, interfaces, and other accessories if Customer purchases Support for such accessories at the same Hardware service level purchased for the Products with which they are used.

c. Consumables. Support does not include the delivery, return, replacement, or installation of supplies or other consumable items (including, but not limited to, operating supplies, magnetic media, print heads, ribbons, toner, and batteries) unless otherwise stated in a Transaction Document.

d. Replacement Parts. Parts provided under Support may be whole unit replacements or be new or functionally equivalent to new in performance and reliability and warranted as new. Replaced parts become the property of HP, unless HP agrees otherwise and Customer pays any applicable charges.

e. Service Providers. HP reserves the right and Customer agrees to HP's use of HP-authorized service providers to assist in the provision of Support.

9. ACCESS TO HP SOLUTION CENTER AND IT RESOURCE CENTER

a. Designated Callers. Customer will identify a reasonable number of callers, as determined by HP and Customer ("Designated Callers"), who may access HP's customer Support call centers ("Solution Centers").

b. Qualifications. Designated Callers must be generally knowledgeable and demonstrate technical aptitude in system administration, system management, and, if applicable, network administration and management and diagnostic testing. HP may review and discuss with Customer any Designated Caller's experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HP's reasonable opinion, may be a result of a Designated Caller's lack of

general experience and training, the Customer may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided in the Transaction Documents or by HP when Support is initiated. HP Solution Centers may provide support in English or local language(s), or both.

c. HP IT Resource Center. HP IT Resource Center is available via the worldwide web for certain types of Support. Customer may access specified areas of the HP IT Resource Center. File Transfer Protocol access is required for some electronic services. Customer employees who submit HP Solution Center service requests via the HP IT Resource Center must meet the qualifications set forth in sub-section 9.b above.

d. Telecommunication Charges. Customer will pay for all telecommunication charges associated with using HP IT Resource Center, installing and maintaining ISDN links and Internet connections (or HP-approved alternatives) to the HP Solution Center, or using the Proprietary Service.

Extended warranties

HP's standard new Product warranty, and upgraded warranty support Services, can be extended in one-year increments for a total of five years of coverage for most Products.

Post maintenance Services

HP has a wide range of onsite high-quality support Services for covered hardware, helping improve Product uptime and availability. Entities have the flexibility to choose between different service-level options featuring different response times and coverage windows, as well as between several coverage periods to address specific service needs. The Services are available throughout the United States and in most international locations. Please see *Attachment 5, HP Onsite Hardware Support Services*, for details.

See HP Website, referenced in A.1 above, for additional information on these warranties, support, service tools, etc.

EXHIBIT B – COMPLAINT RESOLUTION

HP will work with WSCA/NASPO and Participating States to customize the procedures to the states' specific escalation requirements. HP's formal order management, service escalation and customer feedback escalation procedures are described below and in detail in the RFP response, Corporate Overview, sub-section d.1.e. – Complaint Resolution.

Most problems are readily resolved before escalation is necessary. This section details activities for those instances in which problems cannot be so quickly resolved. In keeping with HP's understanding of the importance of system availability to the WSCA states, HP is receptive to discussions on how it may modify any escalation procedures to better meet specific customer needs. Each and every State Procurement office, as well as procuring entities, also has an assigned State Government HP Contract Program Manager point of contact to assist in the escalation process, eliminating the need to contact multiple people.

Customer Feedback Escalation

HP has developed a strong customer feedback system, including a clear escalation process for handling dissatisfaction. The feedback system provides a variety of mechanisms for customers to communicate their suggestions, recommendations, comments, and complaints to HP. Cataloging and analyzing the feedback provides HP entities with valuable insight into trends, information, and issues that can be applied to improve products and process performance.

Order Management Escalation Process

A Customer Service Representative (CSR) assigned to the WSCA account will oversee the order fulfillment activities from the point of order entry and acceptance, to invoicing and delivery. This includes customer satisfaction and any issues that WSCA may have during the deployment. The CSR is responsible with ensuring that any issues or potential issues are escalated to prevent deployment delays and will see problems through to resolution. Customer Services is required to adhere to the following standard service levels (in business hours):

Action	Standard Service Level (in business hours)
PO Receipt to CSR order entry	4.0 hrs
PO Receipt to clean (executable) order	8.0 hrs
Confirmation sent to customer/sales/mgmt that orders has been placed and provide order # and ETA if available.	4.0 hrs
Estimated Ship Date upon order entry (Provided to customer as requested or as part of regularly scheduled open order report)	Estimate based on best information available. With follow-up as new information becomes available.
Updates to estimated ship date (Provided to customer as requested or as part of regularly scheduled open order report)	As new information becomes available.
Call Back/Email Response to customer from CSR (from point customer leaves voicemail/email to point CSR calls customer back or responds to email request)	4 hrs
RMA Request (From time CSR receives to RMA being generated	12 hrs
Warehouse Receipt of RMA'd goods to completion of Credit	3 days

All billing disputes should be brought to the attention of your HP Direct Customer Services Team. Customer Services will then work with HP's internal Finance Department that can resolve the disputes. The Finance Department will research the dispute, including gathering purchase order information from your CSR.

While customers may request that bills be submitted in a batch, all records are individually maintained by order number. Complete order information follows the order throughout the fulfillment process, and can be traced to each separate process to determine the source of any errors and the necessary action for resolution.

The resolution will be communicated to the customer by the Finance Department. Any credit due will be processed by your CSR. In the event that HP has maintained an incorrect price, additional research will be performed to determine the extent of error. Billing adjustments will be made as necessary.

Escalation Process

The services global escalation process is a worldwide process that is initiated when it is determined that HP's standard service delivery processes have not delivered or will not deliver an acceptable solution to WSCA/NASPO and WSCA Participating State and/or procuring entities in an agreed-upon time frame.

The Escalation Process includes the following steps:

1. Formation of Escalation Team
2. Development of Technical Action Plan
3. Communication of Action Plan
4. Execution of Action Plan
5. Post-solution Review
6. Continual Improvement
7.

The Escalation Team

When it has been determined that a problem has arisen and needs to be resolved, an Escalation Team is formed to manage issue resolution. The Escalation Team is comprised of technical and management members from HP. This team is responsible for developing an action plan to be used in resolving the issue. Members of the Escalation Team often include:

- Escalation Management Owner—represents the customer to HP, leads the escalation effort and is the focal point for communication of the plan to the customer.
- Escalation Specialist—assists with the development and coordination of the technical aspects of the action plan.
- Complex Problem Manager—as required, the Complex Problem Manager coordinates engineering and partner resources for complex problems involving multiple product sets.
- Additional Resources—may be added to the Escalation Team to add specific Product expertise as required in any given escalation. These resources may include: Engineering, Delivery Partners, HP Management and Executives.

Escalation Categories

There are three categories of escalation:

- Local escalation
- Regional escalation
- Global escalation

Escalation categories are driven by a customers' view of the situation. If the impact on the customer is local (that is, within one area/country) the escalation category is local. If the impact is across a number of areas/countries within one region, the category is regional. If the impact is across a number of areas/countries in more than one region, the category is global. Once the escalation category has been determined, an Action Plan can be developed.

Issue Resolution

In the event of a customer satisfaction issue, the customer's first point of contact is the Primary Account Representative/Contract Program Manager or the Account Manager. This individual engages the necessary resources in the local service delivery unit, obtains the support of management in the local customer business district, and keeps the concerned sales organization updated on progress. Most issues are resolved readily at the local level. If needed, the situation is escalated to executive management at the territory or U.S. level.

EXHIBIT C – VALUE-ADDED SERVICES

Contact HP, or visit the HP website, for further details on these Services:

Installation

Training

Self-Maintainer Program

Asset Management

Imaging

Factory Services for Servers and Storage

HP Lease Financing Information

Individual Purchasing Entities may enter in to lease agreements for the Products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. HP sample lease documents can be found under the "Information Center" link available on HP's WSCA-approved website at www.hp.com/buy/wscaiii.

EXHIBIT D- HP SOFTWARE LICENSE TERMS

1. LICENSE GRANT

   HP grants Customer a non-exclusive, non-transferable license to "Use", in object code form, the Version or Release of the HP Branded Software delivered from an HP accepted order. For purposes of this Agreement, unless otherwise specified in the SLI, "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for Customer's internal business purposes. Customer's Use of such Software is subject to these license terms, the applicable Use restrictions and authorizations, and applicable licensed locations for the Software specified in SLI(the "Software License"). The usage terms specified in the SLI for HP Branded Software will not be materially more restrictive than the Use defined in this sub-section. For non-HP Branded Software, the third party supplier's license terms and use restrictions found in the SLI will solely govern its use.

2. OWNERSHIP

   This Software License confers no title or ownership and is not a sale of any rights in the Software. Third-party suppliers are intended beneficiaries under this Agreement and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to Customer are reserved solely to HP or its suppliers.

3. ACCEPTANCE

   Customer accepts Software upon delivery.

4. UPGRADES

   Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software Support. HP reserves the right to require additional licenses and fees for Software Versions or separately purchased maintenance updates or for Use of the Software in conjunction with upgraded Hardware or Software. When Customer obtains a license for a new Software Version through Software Support or purchases an upgrade license to a new Version, Customer's Software License for the earlier Version shall terminate. Software Versions are subject to the license terms in effect on the date that HP delivers or makes the Version available to Customer.

5. LICENSE RESTRICTIONS

   a. Use Restrictions. Customer may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Customer. Some Software may require license keys or contain other technical protection measures. Customer acknowledges that HP may monitor Customer's compliance with Use restrictions and authorizations remotely, or otherwise. If HP makes a license management program available which records and reports license usage information, Customer agrees to appropriately install, configure and execute such license management program beginning no later than one hundred and eighty (180) days from the date it is made available to Customer and continuing for the period that the software is used.

   b. Copy and Adaptation. Unless otherwise permitted by HP, Customer may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software. If Customer makes a copy for backup purposes and installs such copy on a backup device, unless otherwise provided in the SLI, Customer may not operate such backup installation of the Software without paying an additional license fee, except in cases where the original device becomes inoperable. If a copy is activated on a backup device in response to failure of the original device, the Use on the backup device must be discontinued when the original or replacement device becomes operable. Customer may not copy the Software onto or otherwise Use or make it available on, to, or through any public or external distributed network. Licenses that allow Use over Customer's intranet require restricted access by authorized users only.

   c. Copyright Notice. Customer must reproduce all copyright notices that appear in or on the Software (including documentation) on all permitted copies or adaptations. Copies of documentation are limited to internal use.

   d. Designated System. Notwithstanding anything to the contrary herein, the Software License for certain Software, as identified in SLI, is non-transferable and for Use only on a computer system owned, controlled, or operated by or solely on behalf of Customer and may be further identified by HP by the combination of a unique number and a specific system type ("Designated System") and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the Designated System ceases to be within the possession or control

of Customer.

e. OS Software. Operating system Software may only be used when operating the associated Hardware in configurations as approved, sold, or subsequently upgraded by HP or an HP Business Partner.

f. Changes. Customer will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where Customer has other rights mandated under statute, Customer will provide HP with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.

g. Use for Service Provision. Extending the Use of Software to any person or entity other than Customer as a function of providing services, (i.e.; making the Software available through a commercial timesharing or service bureau) must be authorized in writing by HP prior to such use and may require additional licenses and fees.

h. Consultant Use and Access. Subject to the terms and conditions of this Agreement, Customer may permit a consultant or subcontractor to Use Software at the licensed location for the sole purpose of providing services to Customer. Customer will be responsible and directly liable to HP for consultants' compliance with this Agreement.

6. LICENSE TERM AND TERMINATION

Unless a different time period for the license is specified in the applicable SLI or quotation, , the Software License granted to Customer will be perpetual, provided however that HP may terminate the Software License upon notice for failure to comply with this Agreement. Immediately upon termination of the Software License or upon expiration of any individual limited term license, Customer will destroy the Software and all copies of the Software subject to the termination or expiration or return them to HP. Customer shall remove and destroy or return to HP any copies of the Software that are merged into adaptations, except for individual pieces of data in Customer's database. Customer may retain one copy of the Software subsequent to termination solely for archival purposes only. At HP's request, Customer will certify in writing to HP that Customer has complied with these requirements.

7. LICENSE TRANSFER

Customer may not sublicense, assign, transfer, rent, or lease the Software or the Software License to any other party except as permitted in this section. Except as provided in sub-section 5.d above, HP Branded Software licenses are transferable subject to HP's prior written authorization and payment to HP of any applicable fees or compliance with applicable third party terms. Upon transfer of the Software License Customer's rights under the License will terminate and Customer will immediately deliver the Software and all copies to the transferee. The transferee must agree in writing to the terms of the Software License, and, upon such agreement, the transferee will be considered the "Customer" for purposes of the license terms. Customer may transfer firmware only upon transfer of the associated Hardware.

8. U.S. FEDERAL GOVERNMENT USE

If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer Software, computer Software documentation and technical data for commercial items are licensed under HP's standard commercial license.

9. COMPLIANCE

Customer agrees that HP may audit Customer's compliance with the Software License terms. Any such audit would be at HP's expense, require reasonable notice, and would be performed during normal business hours. If an audit reveals underpayments then Customer will immediately pay HP such underpayments together with the costs reasonably incurred by HP in connection with the audit and seeking compliance with this sub-section.

10. WARRANTY

HP Branded Software will materially conform to its Specifications. If a warranty period is not specified for HP Branded Software, the warranty period will be ninety (90) days from the delivery date.

11. VIRUS WARRANTY

HP warrants that any physical media containing HP Branded Software will be shipped free of viruses.

12. WARRANTY LIMITATION

HP does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Software will meet requirements specified by Customer.

13. EXCLUSIVE REMEDIES

If notified of a valid warranty claim during the warranty period, HP will, at its option, correct the warranty defect for HP Branded Software, or replace such Software. If HP is unable, within a reasonable time, to complete the correction, or replace such Software, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Software to HP. Customer will pay expenses for return of such Software to HP. HP will pay expenses for shipment of repaired or replacement Software to Customer. This sub-section 13 states HP's entire liability for warranty claims.

14. IMPLIED LICENSE

There are no implied licenses.

EXHIBIT E – AUDITS
MPA B27164

SALES AUDIT PLAN

The "HP" 2009-2014 WSCA/NASPO Personal Computer and Related Devices Contract, Sales Audit Plan" specifies the sales audit plan and sale audit report format, as it applies to Section 46.A of the Master Price Agreement B27164.

Audit Purpose: To confirm and ensure contract compliance. The audit will confirm if the agency paid the PSS discount price or a lower price in accordance with Section 13, Price Guarantee.

Audit Responsibility: HP WSCA Primary Account Representative/Contract Program Manager (HP Program Management)

Audit Conducted: Weekly

Audit Results Timeframe: Provided to WSCA/NASPO Administrator Quarterly as required by WSCA/NASPO.

Audit Process

Step 1 On a weekly basis the HP WSCA/NASPO Contract Program Manager will obtain two reports; 1) summary activity (total number of orders) and 2) weekly orders. These reports will be used to pull one tenth of one percent (.001) of orders weekly.

Step 2 The HP WSCA/NASPO Primary Account Representative/Contract Program Manager will pull at random one tenth of one percent of orders covering all Bands within the PSS, if procured

Step 3 The HP WSCA/NASPO Contract Program Manager will pull the online copies of Purchase Order and Invoices based on the random one tenth of one percent of orders selected

Step 4 The information on the Purchase Order and invoice will be documented in an excel file.

Step 5 The HP WSCA/NASPO Contract Program Manager will compare the pricing on the line item detail report in comparison with the Purchase Order/Invoice and HP WSCA/NASPO Contract PSS Discounts in an excel file and compile audit results.

Step 6 The HP WSCA/NASPO Contract Program Manager will provide the WSCA/NASPO Administrator in email, as noted in the Mandatory Meeting on 3/31, the following information covering a Quarter of the above audit detail/results:

1. Total Number of Purchase Orders during the timeframe
2. Total Number of Purchase Orders/Invoices audited based on the one tenth of a percent or no more then 100 purchase orders/invoices if there are more then 100,000 orders.
3. Results in a brief summary

Step 7 HP will request approval by the WSCA/NASPO administrator on the format of the first submission of the sales audit to ensure this meets with the guidelines of the WSCA/NASPO administrator.

Step 8 The HP WSCA/NASPO Contract Program Manager will provide the final documents and results to the HP Contract Operations team for our records.

WEBSITE PRICING AUDITS

Website Pricing Audits as it applies to Section 46.A, of the Master Price Agreement B27164, is specified below.

HP has different team members that audit the pricing and websites.
First, the WNPSP and other State standards pricing is monitored and updated by a set of team members daily and weekly and these are also monitored by the HP Contract Program Management team and inside sales teams on an ongoing basis, monthly and quarterly, see below schedule.

Next, the PSS catalog file that HP will create for the new WSCA contract is tied to the then current HP List price and category percentages for each Band as noted in the HP PSS discount structure, which automatically generates the pricing fed to the website to calculate the pricing. As you may know with emerging technology, the list price can change weekly so this automated feature ensures the pre-calculated pricing is flowing accurately to the website.

In addition to the sales audit plan attached to this response, the HP Program Management team is instituting an additional website audit that will be conducted bi-monthly on the PSS and monthly covering both the WNPSP and State Specific Standards website pricing as noted on the below schedule.

As a normal course of business, HP contract operations and compliance teams conduct spot checks and internal audits to ensure compliance through a variety of internal audits, which will also continue. HP takes contract compliance seriously and even has an entire team dedicated to Government contract management, operations and compliance.

WNPSP/State Specific Standards					
	Daily	Weekly	Monthly	Bi-Monthly	Quarterly
WSCA/NASPO main site	Initial setup	Initial Setup	X	X	X
WSCA Participating State Sites	Initial Setup	Initial Setup	X	X	X

PSS Website Audits				
	Weekly	Monthly	Bi-Monthly	Quarterly
WSCA/NASPO main site			X	
WSCA Participating State Sites			X	

Standard HP Internal Audits				
	Weekly	Monthly	Bi-Monthly	Quarterly
WSCA/NASPO main site				X
WSCA Participating State Sites				X

Washington State Department of
Enterprise Services

1500 Jefferson St SE, P.O. Box 41017 • Olympia, Washington 98501 • (360) 902-7400
http://www.des.wa.gov

PARTICIPATING ADDENDUM AMENDMENT

Participating Addendum Number:	Date Issued:
T10-MST-297	08/23/2012
Amendment Number:	**Date Effective:**
02	09/01/2012

This Amendment is by and between the State of Washington and Hewlett Packard Company. This Participating Addendum Amendment 02 is issued under the provisions of the Washington State Participating Addendum (PA) identified by number above.

Amendment

WHEREAS:
The Lead State has a Master Price Agreement (MPA) with Hewlett Packard Company (HP) identified as No. B27164, effective September 1, 2009; and

WHEREAS:
The MPA was amended by the Lead State to extend through August 31, 2014.

NOW, THEREFORE, it is agreed by the parties to amend the PA as follows:

1. The State of Washington hereby extends the PA through August 31, 2013 or unless superseded by a replacement contract. If a superseding contract is awarded or established, vendor will have at least 90 days written notice of a pending termination.
2. Except as herein amended, the provisions of the MPA and subsequent amendments thereto, as supplemented, changed or modified by the PA, shall remain in full force and effect until the contract is either cancelled or expires, whichever occurs first.

Authorizing Signatures

This contract amendment, consisting of one (1) pages and zero attachment is executed by the persons signing below who warrant that they have the authority to execute this contract amendment.

For Contractor:		For State:	
Nancy Lenkowski 8/28/2012		8-30-12	
(Contractor Authorized Representative Signature)	*(Date)*	*(Procurement Coordinator Signature)*	(Date)
PRINT NAME:	Nancy Lenkowski		Dale Colbert
Contractor:	Hewlett-Packard Company	**Agency:**	Department of Enterprise Services
Address:	2001 Butterfield Rd., Suite 700		1500 Jefferson St SE.
	Downers Grove, IL 60515		Olympia, WA 98501
Telephone No.	864-719-0281	**Telephone No.**	(360) 407-9425
Email:	Nancy.lenkowski@hp.com	**Email:**	Dale.Colbert@des.wa.gov

DES Approval

DES Authorizing Manager:	***Christine Warnock***	**Date:**	8/30/12
Signature:		**Email:**	Christine.warnock@des.wa.gov
		Phone:	(360) 407-9398