

Participating Addendum Number 2024-BUS-0112
for
COMPUTER EQUIPMENT, PERIPHERALS & RELATED SERVICES
between
State of Iowa Department of Management
and
HP, Inc.

This Participating Addendum is entered into by State of Iowa Department of Management ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number 23011, executed by Contractor and the State of Minnesota ("Lead State") for Computer Equipment, Peripherals & Related Services ("Master Agreement"):

HP, Inc. ("Contractor")
10300 Energy Drive
Spring, TX 77389

I. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

Debra Lee
Public Sector Contract Management Director
debra.lee@hp.com

Participating Entity's contact for this Participating Addendum is:

Bryan Dreiling
IT Vendor Manager
ocioprocurement@iowa.gov

- II. TERM.** This Participating Addendum is effective as of the date of the last signature below or February 1, 2024, whichever is later, and will terminate, renew, or extend upon termination, renewal, or extension of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- III. PARTICIPATION AND USAGE.** This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Participating Entity has sole authority to determine which entities are eligible to use this Participating Addendum. If Contractor becomes aware that an entity's use of this Participating Addendum is not authorized, Contractor will notify NASPO ValuePoint to initiate outreach to the appropriate parties.
- IV. GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Participating Entity's laws excluding rules as to choice and conflict of law.
- V. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to the Contractor and Participating Entity and Purchasing Entities.
- a. Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
 - b. Configuration Dollar Limits.** The threshold for peripherals will be \$30,000 under Band 1 and 2 as outlined in the Master.
 - c. Leasing.** Leasing and Managed Device agreements are allowed if the eligible agencies have the authority to finance a purchase. The State Master leasing agreement is hereby attached as Attachment B by and between the Third-Party Leasing Company and the State.

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- d. **Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum. Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto. **Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum** in the following order of precedence:

- a. Participating Entity's Participating Addendum; Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with Contractor under the terms of the Master Agreement;
- b. The Master Agreement;
- c. The Solicitation including all Addenda; and
- d. Contractor's response to the Solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Except for the terms included in the Attachment and Exhibits hereto, no other terms and conditions shall apply, including terms listed or referenced on the Contractor's website, in the Contractor's quotations or in similar documents subsequently provided by the Contractor, unless otherwise agreed by the Parties.

- VI. **ORDERS.** Purchasing Entities may place orders under this Participating Addendum by referencing the Participating Addendum Number on an Order. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to NASPO ValuePoint and Participating Entity, if applicable.
- VII. **PARTICIPATING ENTITY REPORTING REQUIREMENTS AND ADMINISTRATIVE FEE.** Contractor shall provide a 1.00% administrative fee on all sales made through this Participating Addendum without affecting authorized prices/rates. This 1.00% administrative fee shall be paid quarterly to the Department of Management, 200 E. Grand Ave, Des Moines, IA 50309, Attn: Business Services Division Administrator. Payment shall be made in accordance with the following schedule:

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

In addition, Contractor shall submit a report that includes the quarterly administrative fee amount also identifying the particular agency making the purchase, the Purchasing Instrument number, and the agency to which it is attributable.

- VIII. **FEDERAL FUNDING REQUIREMENTS.** Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. By accepting the Order, Contractor agrees to comply with the requirements set forth therein.

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IX. INFORMATION TECHNOLOGY SECURITY STANDARDS.

HP agrees to the applicable State of Iowa standards related to the Contractor for purchase of PCs to the extent that the policies and standards (a) align with industry standard security frameworks (e.g. NIST 800-53, ISO 27001), (b) do not materially increase the cost of providing services or products under this Agreement, (c) do not endanger Supplier security, and (d) do not require the violation of confidentiality obligations.

X. ATTACHMENTS. This Participating Addendum includes the following attachments:

- a. Attachment A: State of Iowa General Terms and Conditions for Goods Contracts
- b. Attachment B: State of Iowa Master Lease Agreement

XI. NOTICE. Any notice required herein shall be sent to the following:

For Contractor:
Debra Lee
Public Sector Contract Management Director
debra.lee@hp.com

For Participating Entity:
Iowa Department of Management
Division of Information Technology
200 E. Grand Avenue
Des Moines, Iowa 50309
ocioprocurement@iowa.gov

With a copy of legal notices to:
Chief Legal Officer
1501 Page Mill Road
Palo Alto, CA 94304

XII. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT. Upon execution, Contractor shall email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. While Participating Entity will maintain the official record of this Participating Addendum, the Parties agree that this Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

XIII. REMEDIES. The Master Agreement and this Participating Addendum states all remedies for warranty claims. To the extent permitted by law, Contractor disclaims all other warranties.

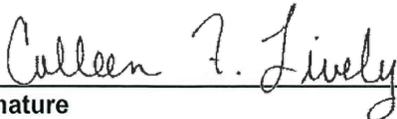
SIGNATURE

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

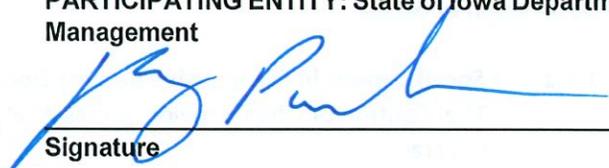
IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

CONTRACTOR: HP, Inc.

PARTICIPATING ENTITY: State of Iowa Department of Management



Signature



Signature

Colleen F Lively

Printed Name

Kraig Paulsen

Printed Name

Contracts Specialist

Title

Director

Title

1/29/2024

Date

1-29-24

Date

1/29/2024

Date

1/29/2024

Date

Date

Date

ATTACHMENT A: State of Iowa General Terms and Conditions for Goods Contracts

1.1 Definitions

The following words shall be defined as set forth below:

“Contract” means the collective documentation memorializing the terms of the Participating Agreement between the State and the Contractor and includes these General Terms for Goods Contracts and the Master Agreement.

“Contractor” means the provider of the goods under the Contract.

“Product” refers to any other products, goods, materials or items that are ordered, developed, produced, delivered, installed, licensed, performed, provided, or otherwise made available, under or through this Contract or Order. The term **“Product”** includes all related, provided, or supplied Documentation, updates, source code, upgrades, and enhancements.

“Purchasing Instrument” means the documentation issued by the State to the Contractor for a purchase of goods in accordance with the terms and conditions of the Contract. It may include an identification of the items to be purchased, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by the State. Any pre-printed contract terms and conditions included on Contractor’s forms or invoices shall be null and void.

“State” means the State of Iowa and all state agencies, boards, and commissions, and any political subdivisions making purchases off of this Contract as permitted.

1.2 Availability of Contract to Other Entities

All other agencies of the State of Iowa and all political subdivisions of the State of Iowa may make purchases pursuant to the Contract.

1.3 Duration of Contract

The term of the Contract shall begin and end on the dates specified herein, unless extended or terminated earlier in accordance with the applicable terms and conditions. The State may exercise any applicable extension by giving the Contractor written notice of the extension decision at least thirty (30) days prior to the expiration of the initial term or renewal term.

1.4 Description of Goods

1.4.1 Specifications in Competitive Bidding Documents

The Contractor shall provide goods that comply with the specifications contained in the Contract.

1.4.2 Product Shipment and Delivery

All products shall be shipped F.O.B. Destination. Destination shall be the location(s) specified in the Purchase Instrument. Contractor bears all risk of loss during shipment of goods until delivered. The Contractor shall properly package goods. The State will not accept noticeably damaged goods. The State reserves the right to inspect the goods at a reasonable time subsequent to delivery in the event the State is unable to perform an adequate inspection of the goods at the time of delivery. If the State discovers damaged or defective goods not readily

apparent at the time of delivery, the State shall have the right to return goods at no cost to the State, regardless of when the damage or defect is discovered.

1.4.3 Non-Exclusive Rights

The Contract is not exclusive. The State reserves the right to select other contractors to provide goods similar or identical to goods described in the Contract during the term of the Contract.

1.4.4 No Minimums Guaranteed

The Contract does not guarantee any minimum level of purchases.

1.5 Compensation

1.5.1 Pricing

The Contractor will be compensated in accordance with the payment terms outlined in the Master Agreement.

The Contractor shall submit, on the frequency established in the Contract an invoice for Deliverables rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The Agency shall verify the Contractor's furnished material or performance of the Deliverables outlined in the invoice before making payment. The Agency shall pay all approved invoices in arrears and in conformance with [Iowa Code 8A.514](#). The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code § 8A.514.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

1.5.2 Billings

The Contractor shall submit, on a regular basis an invoice for goods supplied to the State under the Contract at the billing address specified in the Purchase Instrument. The invoice shall comply with all applicable rules concerning payment of such claims. The State shall verify the receipt of furnished materials or Contractor's performance of the services outlined in the invoice before making payment. The State shall pay all approved invoices in accordance with the Master Agreement, the applicable Purchasing Instrument, and applicable provisions of Iowa law.

1.5.3 Delay of Payment Due to Contractor's Failure

If the State determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contracts until such service or product is performed or delivered. In this event, the State may withhold that portion of the Contractor's compensation which represents payment for goods that were not delivered.

1.5.4 Setoff Against Sums Owed by the Contractor

In the event that the Contractor owes the State any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the State may set off the sum owed to the

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State against any sum owed by the State to the Contractor in the State's sole discretion, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under the law of setoff.

1.6 Termination

1.6.1 Immediate Termination by the State

The State may terminate this Contract for any of the following reasons effective immediately without advance notice:

1.6.1.1 In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

1.6.1.2 The State determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a person's life, health or safety to be jeopardized;

1.6.1.3 The Contractor fails to comply with the confidentiality provisions of this Contract in providing the Products to the State;

1.6.1.4 The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

1.6.2 Termination for Cause

The occurrence of any one or more of the following events shall constitute cause for the State to declare the Contractor in default of its obligations under its Contract.

1.6.2.1 The Contractor fails to deliver or has delivered nonconforming goods or fails to perform, to the State's satisfaction, any material requirement of its Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;

1.6.2.2 The Contractor becomes subject to any bankruptcy or insolvency proceeding under bankruptcy laws; the Contractor terminates or suspends its business; or the State reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

1.6.2.3 The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;

1.6.2.4 The Contractor has engaged in criminal or egregious conduct that has or may expose the State or the State to liability, as determined in the State's sole discretion; or

1.6.2.5 The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the State, or a third party.

1.6.3 Notice of Default

If there is a default event caused by the Contractor, the State shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the State's written notice (which shall be at least thirty (30) days) to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the State may:

1.6.3.1 Immediately terminate its Contract without additional written notice; and/or,

1.6.3.2 Procure substitute goods from another source and charge the difference between the current contract as a one-time remedy for termination and the substitute contract to the defaulting Contractor; and/or,

1.6.3.3 Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

1.6.4 Termination Upon Notice

Following 30 days' written notice, the State may terminate its Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Any such termination shall not affect any existing Purchasing Instruments under the Contract, which will continue in accordance with their terms, unless such existing Purchasing Instruments are included in the notice or subsequent notices. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for goods provided under the Contract to the State up to and including the date of termination.

1.6.5 Termination Due to Lack of Funds or Change in Law

The State shall have the right to terminate its Contract without penalty by giving 30 days' written notice to the Contractor as a result of any of the following:

1.6.5.1 Adequate funds are not appropriated or granted to allow the State to operate as required and to fulfill its obligations under the Contract;

1.6.5.2 Funds are de-appropriated or not allocated or if funds needed by the State, at the State's sole discretion, are insufficient for any reason;

1.6.5.3 The State's authorization to operate is withdrawn or there is a material alteration in the programs administered by the State;

1.6.5.4 The State's duties are substantially modified.

1.6.6 Remedies of the Contractor in Event of Termination by the State In the event of termination of the Contract for any reason by the State, the State shall pay only those amounts, if any, due and owing to the Contractor for goods actually rendered up to and including the date of termination of the Contract and for which the State is obligated to pay pursuant to its Contract or Purchase Instrument. Payment will be made only upon submission of invoices and federal or state law to the extent allowed by applicable federal or state law including proper proof of the Contractor's claim. This provision in no way limits the remedies available to the State under the Contract in the event of termination. The State shall not be liable for any of the following costs:

1.6.6.1 The payment of unemployment compensation to the Contractor's employees;

1.6.6.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

1.6.6.3 Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;

1.6.6.4 Any taxes that may be owed by the Contractor in connection with the performance of the Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

1.6.7 The Contractor's Termination Duties

Upon receipt of notice of termination or upon request of the State, the Contractor shall, to the extent applicable:

1.6.7.1 Cease work under the applicable Purchasing Instrument and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the State may require.

1.6.7.2 Immediately cease using and return to the State, any personal property or materials, whether tangible or intangible, provided by the State to the Contractor.

1.6.7.3 Comply with the State's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract.

1.6.7.4 Cooperate in good faith with the State, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement Contractor.

1.6.7.5 Immediately return to the State any payments made by the State for goods that were not delivered or rendered by the Contractor.

1.7 Confidential Information

1.7.1 Access to Confidential Data

Access to Confidential Data shall be in accordance with the terms of the Master Agreement.

1.7.2 Ownership

The private or confidential data shall remain the property of the State at all times.

1.7.3 No Dissemination of Confidential Data

Dissemination of Confidential Data shall be in accordance with the Master Agreement.

1.7.4 Subpoena

In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the State and cooperate with the State or the State in any lawful effort to protect the confidential information.

1.7.5 Reporting of Unauthorized Disclosure

The Contractor shall immediately report to the State any unauthorized disclosure of confidential information.

If Contractor requests confidential treatment with respect to any information or material and if a judicial or administrative proceeding is initiated to compel the release of such material, Contractor shall, at its sole expense, appear in the proceeding or otherwise obtain an order restraining the release of such material from a court of competent jurisdiction. Agency may release the information or material with or without advance notice to Contractor if no judicial or administrative proceeding is initiated and Agency determines the information or material is not confidential under Iowa or other applicable law, or if Contractor failed to properly request confidential treatment under the RFP, or if Contractor rescinds its request for confidential treatment.

1.7.6 Survives Termination

The Contractor's confidentiality obligation under the Contract shall survive termination of the Contracts.

1.8 Indemnification

Indemnification shall be in accordance with the terms of the Master Agreement. The indemnification obligation of the Contractor shall survive termination of the Contract.

1.9 Insurance

1.9.1 Insurance Requirements

Insurance requirements shall be in accordance with the terms of the Master Agreement.

1.9.2 Waiver of Subrogation Rights

The Contractor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the State.

1.10 Warranties

1.10.1 Warranties

All warranties shall be in accordance with the terms of the Master Agreement.

1.10.2 Warranty – Nonconforming Goods

All goods delivered by Contractor to the State shall be free from any defects in design, material, or workmanship. If any goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, the State shall have the option of

returning, repairing, or replacing the defective goods at Contractor's expense. Payment for goods shall not constitute acceptance. Acceptance by the State shall not relieve the Contractor of its warranty or any other obligation under the Contract.

1.10.3 Compliance with Federal Safety Acts

Contractor warrants to the State that to the extent applicable to the goods provided under the Contract by Contractor are in compliance with the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget 2 CFR part 200 and the Anti-Kickback Act of 1986.

1.10.4 Intellectual Property

Contractor represents and warrants that the Contractor goods provided to the State pursuant to the terms of the Contract shall not infringe upon the Intellectual Property rights of any person, firm or corporation, or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods contemplated by the Contract.

1.10.5 Conformity with Contractual Requirements

The Contractor represents and warrants that the goods provided in accordance with the Contract will appear and operate in conformance with the terms and conditions of the Contract.

1.10.6 Authority to Enter into Contract

The Contractor represents and warrants that it has full authority to enter into the Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the State.

1.10.7 Obligations Owed to Third Parties

The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that the State will not have any obligations with respect thereto.

1.10.8 Title to Property

The Contractor represents and warrants that title to any property assigned, conveyed or licensed to the State is good and that transfer of title or license to the State is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

1.10.9 Industry Standards

The Contractor represents and expressly warrants that all aspects of the goods provided or used by it shall at a minimum conform to the Manufacturer product standards and Manufacturer warranty in the Contractor's contract offering. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.

1.11 Product Recall

In the event that any of the goods are found by the Contractor, the State, or any governmental agency or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in

compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to the State and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude the State from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and the State shall agree to the performance of such repairs by the State upon mutually acceptable terms.

1.12 Contract Administration

1.12.1 Compliance with the Law; Nondiscrimination in Employment

The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal and, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers.

Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in section 1.12.6, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

1.12.2 Amendments

The Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to the Contract must be in writing and fully executed by the parties.

1.12.3 Third-Party Beneficiaries

There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit the State and the Contractor.

1.12.4 Choice of Law and Forum

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall solely be brought in the District Court for the State of Iowa in the county where venue is appropriate. Alternatively, if venue is proper in federal court, suit shall solely be brought in the United States District Court for the Northern or Southern District of Iowa, wherever jurisdiction is appropriate. Nothing contained in this provision shall be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity or Eleventh Amendment immunity, which may be available to the State.

1.12.5 Assignment and Delegation

The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party which consent shall not be unreasonably withheld. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.

1.12.6 Use of Third Parties

The State acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor obligations under the Contract. All subcontracts, shall be subject to prior approval by the State. The Contractor may enter into these contracts provided that the Contractor remains responsible for all goods delivered under the Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of the State. The State shall have the right to request the removal of a subcontractor from the Contract for good cause.

1.12.7 Integration

The Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.

1.12.8 Headings or Captions

The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

1.12.9 Not a Joint Venture

Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for goods and acting toward the mutual benefits expected to be derived herefrom. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

1.12.10 Joint and Several Liability

If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Contract, and for any default of activities and obligations.

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1.12.11 Supersedes Former Contracts or Agreements

Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the State and the Contractor for the goods provided in connection with the Contract.

1.12.12 Waiver

Except as specifically provided for in a waiver signed by duly authorized representatives of the State and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

1.12.13 Notice

Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by a reliable carrier which shall be addressed to the person in section XI of the Agreement at the address specified on the forms. Each such notice shall be deemed to have been provided:

1.12.13.1 At the time it is actually received; or,

1.12.13.2 Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

1.12.13.3 Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

1.12.14 Cumulative Rights

The various rights, powers, options, elections and remedies of any party provided in the Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

1.12.15 Severability

If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law.

1.12.16 Authorization

Contractor represents and warrants that:

1.12.16.1 It has the right, power and authority to enter into and perform its obligations under the Contract.

1.12.16.2 It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract, and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

1.12.17 Successors in Interest

All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

1.12.18 Record Retention and Access

Record retention and access shall be in accordance with the terms of the Master Agreement.

1.12.19 Solicitation

The Contractor warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.

1.12.20 Immunity from Liability

Every person who is a party to the Contract is hereby notified and agrees that the State, and all of its employees, agents, successors, and assigns are immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

1.12.21 Public Records

The laws of the State of Iowa require procurement records to be made public unless otherwise provided by law.

1.12.22 Clean Air and Water Certification

Contractor certifies that none of the facilities it uses to produce goods provided under the Contract are on the Environmental Protection Agency (EPA) List of Violating Facilities. Contractor will immediately notify the State of the receipt of any communication indicating that any of Contractor's facilities are under consideration to be listed on the EPA List of Violating Facilities

1.12.23 Debarred, Suspended, and Ineligible Status

Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the State of Iowa or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify the State if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

1.12.24 Use of Name or Intellectual Property

Contractor agrees it will not use the name or any intellectual property, including but not limited to, any State trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the specific State agency involved.

1.12.25 Taxes

The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. The State is exempt from State and local sales and use taxes on the Deliverables.

1.12.26 Certification Regarding Sales and Use Tax

By executing the Contract, the Contractor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by the Iowa Code chapter 423; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code subsections 423.1(47) & (48). The Contractor also acknowledges that the State may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the State or its representative filing for damages for breach of contract.

1.12.27 Contractor Assignments of Rights -Antitrust Claims

In consideration of the mutual promises contained herein, Contractor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa relating to the subject of the Contract.

1.12.28 Delays or Impossibility of Performance

Neither party shall be in default under the Contract if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a "force majeure." The term "force majeure" as used in this Contract includes an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar causes beyond a party's reasonable control. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. "Force majeure" does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of Contractor or payment obligations by the State. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Contract. If a "force majeure" delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency. The party seeking to exercise this provision and not perform or delay performance pursuant to a "force majeure" shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

1.12.29 Obligations Beyond Contract Term

The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract. All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.

1.12.30 Counterparts

The parties agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

1.12.31 Further Assurances and Corrective Instruments

The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract.

ATTACHMENT B: State of Iowa Master Lease Agreement

1. **Definitions.** Capitalized terms not defined within this Master Lease shall be given the meaning as defined in the Master Agreement and Participating Addendum. In addition to any other terms that may be defined elsewhere in this Master Lease, the following terms shall have the following meanings:

- a. **“Equipment”** includes Desktops, Laptops, Tablets, Servers, and Storage as set forth in the Master Agreement.
- b. **“Lease”** means a Schedule and this Master Lease, collectively.
- c. **“Lessee”** means the Participating Agency, purchasing entity, or governmental agency authorized to enter into the Lease.
- d. **“Lessor”** means HP, Inc.
- e. **“Schedule”** means an equipment schedule document, which may be executed from time to time, that identifies the Equipment to be leased, and which document incorporates the terms and conditions of this Master Lease.
- f. **“State”** means the State of Iowa.
- g. **“Third Party(ies)”** means a person or entity (including any form of business organization, such as a corporation, partnership, limited liability company, association, etc.) that is not a party to this Master Lease.

2. **EQUIPMENT LEASED.** Each Schedule executed by Lessee and Lessor shall incorporate the terms and conditions of this Master Lease, and shall include such other terms as Lessee and Lessor may from time to time mutually agree upon in writing; provided that any such other terms must fall within the category(ies) of negotiable, pre-defined, transaction-specific terms and conditions identified as “Additional Terms and Conditions” in the Schedule. Except for such Additional Terms and Conditions, any other terms shall be null and void. Each Schedule executed hereunder shall constitute a separate, distinct, and independent agreement between Lessor and Lessee, and is a separate and assignable lease, independent of all other Schedules. To the extent the Lessee is not the Participating Agency, the Lessee shall be solely responsible for any payments due and duties and obligations otherwise owed Lessor under this Master Lease or with respect to that Schedule. The State generally bears no obligation or liability for any political subdivision or other non-State Purchasing Entity’s losses, liabilities, or obligations, including either Lessee’s or Lessor’s failure to perform, arising out of or relating in any way to this Master Lease. In the event of any conflict or inconsistency between this Master Lease and the provisions of any Schedule, the provisions of the Master Lease shall control. The Lessor shall deliver the Equipment within ten (10) days of the execution of a Schedule.

3. **TERM AND RENT; LACK OF FUNDS.**

- a. This Master Lease Agreement runs coterminous with the Participating Addendum and Master Agreement, and will terminate, renew, or extend upon termination, renewal, or extension of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein. The termination or expiration of this Master Lease shall have no effect upon any Schedule (or corresponding Lease) executed by Lessor and any Lessee prior to the date of termination or expiration of this Master Lease. The lease payments under each Lease shall be payable in accordance with the applicable Schedule. Lessee agrees that this Lease is a net lease, which may not be terminated or canceled except pursuant to its express terms, including the terms of this Master Lease; and that, subject to and except as otherwise permitted by the provisions of the Lease (including but not limited to applicable provisions of this Master Lease), Lessee is obligated to make all payments due under the Lease according to the terms set forth in the Schedule. The Payment schedule will be in accordance with the Participating Addendum.
- b. Notwithstanding the foregoing or anything in this Master Lease or any Schedule to the contrary, Lessee may terminate affected Schedules, in whole or in part, without penalty or liability and without any advance notice if Lessee encounters a lack of funds due to (“**Lack of Funds**”):

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- i. Lessee determines that it has not been appropriated sufficient funds or funds have been reduced, unallocated, or delayed such that Lessee cannot, in Lessee's sole discretion, meet its obligations,
- ii. Lessee's authority has been withdrawn or materially altered, or its duties, programs or responsibilities are modified or materially altered, or
- iii. There is a judicial decision that materially or adversely affects Lessee's ability to fulfill obligations under this Agreement or any affected Schedule.

4. ASSIGNMENT.

a. *Of Equipment by Lessee.* LESSEE MAY NOT SELL, PLEDGE, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS LEASE without Lessor's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Lessee shall have the right to use the Equipment itself and/or for its contractors or other governmental entities to use.

b. *Of Lease or Security Interest by Lessor.* LESSEE ACKNOWLEDGES THAT LESSOR MAY SELL, ASSIGN, GRANT A SECURITY INTEREST IN, OR OTHERWISE TRANSFER ALL OR ANY PART OF ITS RIGHTS, TITLE AND INTEREST IN ANY LEASE HEREUNDER AND THE EQUIPMENT RELATED THERETO TO: _____ ("Assignee"). Upon written notice to Lessee that this Lease, or the right to any payments hereunder, has been assigned to Assignee, Lessee shall, if requested, make payments under the applicable Lease directly to Assignee, subject to the terms and conditions of the applicable Lease, including this Master Lease. Upon the assignment of this Lease, Assignee shall have and be entitled to exercise any and all rights and remedies of Lessor hereunder, shall assume all of the duties and obligations of Lessor hereunder, and shall be subject to the terms and conditions of each Lease so assigned (including the terms and conditions of this Master Lease) as Lessor; and all references herein to Lessor shall include Assignee for purposes of such Lease.

5. REPRESENTATIONS AND WARRANTIES. In addition to any and all other applicable representations, warranties, and covenants set forth in any other agreement, the Parties make the following representations, warranties, and covenants:

a. *Equipment.* Notwithstanding anything in this Master Lease or any Schedule to the contrary, Lessor transfers to Lessee and Lessee shall have the non-exclusive benefit of any and all warranties, indemnities, and other benefits of, for, or related to any Equipment leased to Lessee pursuant to any Schedule that are made, expressly or impliedly, available to Lessor or as otherwise made, expressly or impliedly, in the Master Agreement or Participating Addendum. Lessor further represents, warrants, covenants, and agrees that any and all Equipment leased to Lessee hereunder will be new and unused; use and possession of such Equipment will not be interrupted or otherwise disturbed by any Third Party(ies) asserting a claim to the Equipment; Lessee shall peaceably hold and quietly enjoy the Equipment covered by each Lease throughout the term of such Lease without interruption or interference by Lessor or any person or entity claiming by, through or under Lessor or the Assignee; and such Equipment during Lessee's use, to the best of Lessor's knowledge, shall be free of any rightful claim of any Third Party(ies) based on patent or copyright infringement, trade secret misappropriation, unfair trade practice, or otherwise.

b. *General.* Lessor further represents and warrants to the Participating Agency and Lessee that it shall not offer or enter into any Schedule with any Lessee under this Master Lease such that the resulting Lease:

- i. permits the Lessee to purchase the leased Equipment at a price which is less than the Fair Market Value of the property at the end of the Lease term;
- ii. takes the form of or otherwise constitutes a conditional sales agreement under criteria established by the Internal Revenue Service for tax purposes, or
- iii. otherwise constitutes a "**Financing Agreement**" as defined in Iowa Code section 12.28.

6. EQUIPMENT LOCATION; USE AND REPAIR; RETURN. Lessor is the owner of the Equipment. Lessee agrees to keep the Equipment free from liens and encumbrances other than those arising by or through

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Lessor. Lessee may relocate Equipment without any notice to Lessor consistent with Lessee's governmental or business needs or activities. At Lessee's own cost, Lessee will keep the Equipment eligible for any manufacturer's certification, in compliance with all applicable laws and in good condition, except for ordinary wear and tear. Lessee will not make any physical alterations, additions or replacements of or to the Equipment without Lessor's prior written consent. Such consent is not to be unreasonably withheld, conditioned or delayed. Lessee is entitled to load software, applications, programs, and the like onto the Equipment without prior consent, which shall not be considered physical alterations for purposes of this Master Lease. All permitted alterations will become Lessor's property at no cost to Lessor, unless such alterations can be removed by Lessee without damaging the Equipment. Lessor may inspect the Equipment during normal business hours, upon at least ten (10) days' prior written notice. Inspection is subject to Lessee's normal security and confidentiality procedures, and subject to Lessor signing a non-disclosure agreement, or other ancillary agreement required to facilitate compliance with applicable law, rules, or regulations, by the Lessee. Unless Lessee purchases the Equipment at the end of the Lease term, Lessee will, within a reasonable period of time following the end of the Lease term, return the Equipment to the entity and location designated by Lessor (provided that, if there is a location within the State where such Equipment may be returned, Lessor will designate that location), in as good of condition as when Lessee received it, except for ordinary wear and tear. Lessee will pay all shipping and other expenses incurred in returning the Equipment. Lessee will insure or self-insure the Equipment for its full replacement value during shipping. If Lessee does not return or purchase the Equipment as required herein or under Section 14 below, the Lease term shall automatically extend on a month-to-month basis at the rent in effect at the end of the Lease term (prorated on a monthly basis if the Periodic Payment Period was other than monthly during the Lease term). Such extension shall continue until Lessee either returns or purchases all of the Equipment in accordance with the Master Lease Agreement.

7. TAXES. Lessor shall be responsible for paying any taxes incurred in connection with this Lease. The Lessee and the State are exempt from the payment of State sales and other taxes: https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/sales_tax_exempt_letter.pdf. Other governmental entities may be exempt from the payment of State sales and other taxes as well.

8. LOSS OR DAMAGE. Lessee is responsible for any loss, theft, destruction or damage of or to the Equipment (collectively "Loss") from any cause, whether or not insured, from the date of Acceptance until the Equipment is returned to Lessor at the end of this Lease. Subject to the terms of this Lease, Lessee is required to make all lease payments even if there is a Loss. Lessee must notify Lessor in writing reasonably promptly of any Loss. Then, at Lessee's option, Lessee will either (a) repair the Equipment so that it is in good condition and working order, except for ordinary wear and tear, and eligible for any manufacturer's certification, or (b) pay Lessor the Fair Market Value for the Equipment and Lessor will transfer Lessor's interest in the Equipment to Lessee, and the Lease will terminate with no further obligation or liability to Lessee. Lessee maintains a program of self-insurance with respect to the Equipment. Lessee will not be required to obtain a general public liability insurance policy for purposes of any Lease.

9. LATE CHARGES. In accordance with Iowa Code Section 8A.514 and 11 Iowa Admin. Code 41.1(2), if any undisputed payment under the Lease is not made when due, Lessee agrees to pay interest at a rate of one percent (1.0%) per month, but in no event greater than the maximum rate allowable under applicable law, on any unpaid delinquent and undisputed balance until paid. No interest shall accrue or be paid to Lessor on any compensation or other amounts property withheld or retained by Lessee under this Master Lease, any Lease, or any other agreement between the Lessee and Lessor.

10. TRUE LEASE; PRECAUTIONARY SECURITY INTEREST. The Lessee and Lessor agree that each Lease is intended to be, and shall be treated as, a "true lease" for tax and accounting purposes. If notwithstanding the intent of the Parties, any Lease is deemed to constitute a lease intended for security or to create a security interest, Lessee shall be deemed to have granted Lessor a purchase money security interest in the Equipment (including any replacements, substitutions, additions, attachments and proceeds). Lessor may file financing statements or other documents to protect Lessor's ownership interest in the Equipment.

11. DEFAULT.

a. *Lessee Default.* Each of the following is a "Lessee Default" under this Lease:

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- i. Lessee fails to pay any lease payment or any other payment under this Lease when due and such failure continues for a period of sixty (60) business days after Lessee's receipt of written notice of such failure from Lessor;
 - ii. Lessee fails to perform any of Lessee's other obligations under this Lease, and this failure continues for sixty (60) business days after Lessor has notified Lessee of it in writing;
 - iii. Lessee becomes insolvent, Lessee dissolves, Lessee assigns Lessee's assets for the benefit of Lessee's creditors, or Lessee enters (voluntarily) any bankruptcy, receivership or reorganization proceeding as debtor, or are the subject (as debtor) of an involuntary bankruptcy, receivership or reorganization proceeding that is not dismissed within sixty (60) days after being filed; or
 - iv. any guarantor of this Lease dies, does not perform its obligations under the guaranty, or becomes subject to one of the events listed in paragraph (iii) above.
- b. *Lessor Default.* Each of the following is a "**Lessor Default**" under this Lease:
- i. Lessor breaches this Lease or fails to perform any of its obligations under this Lease, and this breach or failure continues for sixty (60) business days after Lessee has notified Lessor of it; or
 - ii. Any other grounds set forth in this Master Lease, including but not limited to:
 1. Termination resulting from Lack of Funds as set forth in Section 3 (TERM AND RENT; LACK OF FUNDS); and
 2. Termination resulting from the failure of Lessor or any subcontractor or other Third Party operating on Lessor's behalf to fulfill any requirement set forth in Section 5(b)(i).

12. REMEDIES.

- a. *Lessee Default.* If a Lessee Default occurs and is continuing, Lessor may terminate each Lease with respect to which the Lessee Default occurred and is continuing effective upon the date specified in Lessor's written termination notice sent to Lessee (the "**Termination Date**"). The Termination Date must be at least sixty (60) days after the date Lessee received Lessor's termination notice. Within twenty (20) days after the Termination Date, Lessee must return to Lessor, pursuant to Section 6 (Equipment Location; Use and Repair; Return) above, each item of Equipment leased under each Lease that Lessor terminated due to the Lessee Default, together with, unless they can be removed by Lessee without damaging the Equipment, all alterations and Lessee must remove any software and data from such Equipment. If Lessee does not return such Equipment to Lessor within twenty (20) days after the Termination Date, Lessor may repossess such Equipment. All amounts due under each Lease that Lessor terminated due to the Lessee Default for the time period up to and including the date of Lessee's return, or Lessor's repossession, of the Equipment shall be due and payable on such date, subject to Section 3(b). Notwithstanding anything in any Lease to the contrary, and subject to Section 3(b), Lessee shall only be obligated to make payments to Lessor for the time period up to and including Lessee's return, or Lessor's repossession, of the Equipment and for which Lessee would otherwise be obligated to pay Lessor pursuant to the Lease. The foregoing shall be the sole and exclusive remedy available to Lessor in the event of a Lessee Default, and Lessee shall not be liable to Lessor for any consequential, incidental, indirect, special, or punitive damages under any Lease.
- b. *Lessor Default.* If a Lessor Default occurs with respect to any Lease and is continuing, the Lessee under that Lease may terminate the applicable Lease and return the Equipment without any penalty or further liability and/or exercise any other right or remedy available at law or in equity or under the Lease or any other agreement.
- c. *Delay not a Waiver.* Any failure or delay by Lessee or Lessor to exercise any right shall not operate as a waiver of any existing or future rights or modify the terms of this Lease.

- 13. PURCHASE OPTION; AUTOMATIC RENEWAL.** If a Lessee Default has not occurred, Lessee will have the option at the end of the initial or any renewal term of this Lease to purchase all or some of the Equipment at the Fair Market Value of such Equipment at the time the option is exercised ("**Fair Market Value Purchase**

Option”), or to renew the term of the Lease. Lessee must give us at least thirty (30) days’ written notice before the end of the initial term or then-current renewal term, as applicable, if Lessee intends to purchase the Equipment or renew the term. Lessor must notify Lessee at least sixty (60) but no longer than ninety (90) days before the end of the initial term or the then-current renewal term, as applicable, that the initial term or the then-current renewal term is about to expire. If Lessee does not timely give written notice, this Lease will expire at the end of the then-current term, and Lessee will return the Equipment pursuant to Section 6 (Equipment Location; Use and Repair; Return) above. If the Fair Market Value Purchase Option has been selected, Lessor will use Lessor’s reasonable judgment to determine the Equipment’s “Fair Market Value”, which shall be the amount that would be realized for the same Equipment in an arm’s-length sale. If Lessee does not agree with Lessor’s determination of the Equipment’s Fair Market Value, the Fair Market Value will be determined at Lessee’s and Lessor’s expense, shared equally, by an independent appraiser selected mutually by Lessee and Lessor. Upon payment of the purchase option price, Lessor shall transfer Lessor’s interest in the Equipment to Lessee “As-Is, Where-Is” without any representation or warranty whatsoever (except that Lessor shall warrant the Equipment is free and clear of any and all liens, security interests and encumbrances created by or through Lessor, and that Lessor has good title to the Equipment), and the Lease will terminate.

14. SOFTWARE. When required by the software publisher, Lessees may be required to sign a software publisher’s standard contract documents governing access to or use of certain Software installed on Equipment leased hereunder. Such standard contract documents shall be considered an End User License Agreement (“EULA”). Except as otherwise set forth in the applicable EULA as ultimately negotiated and agreed to by Lessee and the software publisher, the Software is and shall remain the software publisher’s property subject to (i) the terms and conditions of the applicable EULA between Lessee and the applicable software publisher and (ii) any security interest granted Lessor in Section 10 ((True Lease; Precautionary Security Interest). The EULA shall be separate and distinct from this Lease, and, unless Lessor is also the software publisher, Lessor is not a party to, and does not have any obligations under the EULA. Except as expressly modified by this Section 14 (Software), none of the terms and conditions of this Lease shall apply to the Software. Except to the extent Lessor is the software publisher and as otherwise provided in the applicable EULA, upon expiration or earlier termination of the Lease, Lessor has no obligation to return the Software and/or any data stored therein to Lessee or any other person or entity.

15. MISCELLANEOUS.

a. *Multiple Counterparts and Electronic Signatures.* This Master Lease Agreement may be executed in several counterparts, each of which shall be considered an original and all of which when taken together shall constitute one contract binding on all Parties. The Parties agree to accept electronic signatures in lieu of “wet” signatures in accordance with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act, codified at Iowa Code chapter 554D (UETA), and any other applicable law.

b. *Confidentiality.* Confidentiality information and access to data is pursuant to the terms of the Master Agreement.

c. *Independent Contractor.* Lessor is an independent contractor performing services for Lessees hereunder.

d. *Amendments.* This Master Lease may be amended, modified, or replaced from time to time by mutual consent of the Lessee and Lessor. Individual Leases may be amended, modified, or replaced from time to time by mutual consent of the applicable Lessee and Lessor. Both Parties must execute all amendments in writing, provided that such amendments may be executed in accordance with Section 15(a) (Multiple Counterparts and Electronic Signatures).

e. *No Third Party Beneficiaries.* There are no third-party beneficiaries to this Master Lease or any Lease executed hereunder. This Master Lease or any Lease executed hereunder are intended only to benefit the Lessee, individual Lessees, and Lessor, and their respective successors and permitted assigns.

f. *Choice of Law and Forum.* Choice of Law and Forum is in accordance with the terms of the Participating Addendum. Any Assignee shall identify an agent and address for service of process in writing at the time of any assignment pursuant to Section 4(b) (Assignment of Lease or Security Interest by Lessor). If for any

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reason Lessor's agent for service is unable to act as such or the address of the agent changes, Lessor shall immediately appoint a new agent and provide the Lessee and individual Lessees making purchases hereunder with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the Lessee and the individual Lessee. Nothing in this provision will alter the right of the Lessee or any individual Lessee to serve process in any other manner permitted by law. This Section shall survive termination of this Master Lease and any individual Leases executed hereunder.

g. *Use of Third Parties.* Except as otherwise permitted herein, none of the leasing services to be provided by Lessor pursuant to this Master Lease shall be subcontracted or delegated to any Third Party without the prior written consent of the Lessee. Such consent shall not be deemed in any way to provide for the incurrence of any additional obligation of Lessee, whether financial or otherwise. Any subcontract to which Lessee has consented shall be in writing and shall in no way alter the terms and conditions of this Master Lease or any Lease executed hereunder. All subcontracts shall be subject to the terms and conditions of this Master Lease and to any conditions of approval that Lessee may deem necessary.

h. *Integration.* This Master Lease and individual Leases executed hereunder represent the entire agreement between the Parties. Neither Party is relying on any representation that may have been made which is not included in this Agreement. The Agreement may only be changed through an Amendment signed by both parties. Terms associated with transactional documents (e.g., invoices) as well as terms such as "shrink wrap" or "click wrap" agreements will have no force and effect unless reduced to a formal Amendment signed by both parties.

i. *Waiver.* The Parties may agree in writing to waive some aspect of contract performance; however, such waivers must be in writing and mutually signed. Failure by one Party to require performance under the Agreement by the other Party does not affect the right to enforce the terms of the Master Lease or individual lease, or a claim of default concerning subsequent compliance issues.

j. *Severability.* If any provision of this Master Lease or any individual Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Master Lease or such individual Lease.

k. *Records Retention and Access.* Records retention and access shall be in accordance with the terms of the Master Agreement.

l. *Headings or Captions and Terms.* The Parties acknowledge that the headings and captions used in this Master Lease are for convenience and reference purposes only. They are not intended to have any legal or substantive significance or alter the meaning or interpretation of the provisions they precede.

m. *Not a Joint Venture.* Nothing in this Master Lease shall be construed as creating or constituting a partnership, joint venture, or other association of any kind implying the establishment of an agent/principal relationship between the Parties.

n. *Attachments.* The Parties agree that if any document is attached hereto by the Parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

o. *Obligations of Joint Entities.* If Lessor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Lessor under this Master Lease or individual Leases executed hereunder, and for any default of such activities or obligations.

p. *Material Breaches.* The references in this Master Lease or individual Leases executed hereunder to specific material breaches shall not be construed as implying that other breaches are not material.

q. *Right of Inspection/Contract Compliance.* Right of inspection shall be in accordance with the terms of the Master Agreement.

r. *Non-Exclusivity.* This Master Lease and individual Leases executed hereunder are not exclusive. During the term of the Master Lease or the term of individual Leases executed hereunder, the Lessee may enter into

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a master lease agreement for similar or identical leasing services, or individual Lessees may lease similar or identical Equipment from other lessors.

s. *Sovereign Immunity.* No Lessee waives sovereign immunity or any other immunity available to it by entering into this Master Lease or any individual Lease executed hereunder, and each Lessee specifically retains and reserves the defense of sovereign immunity and all defenses available under State and federal laws, rules, and regulations for any claim arising out of or related to this Master Lease or any individual Lease executed hereunder.

t. *Conflicts of Interest.* Lessor represents that no relationship exists or will exist during the term of the Master Lease or any individual Lease executed hereunder between Lessor and any Lessee that is or may constitute a conflict of interest or appearance of impropriety. To the extent applicable, the provisions of Iowa Code Chapter 68B shall apply to this Master Lease and any individual Leases executed hereunder, and Lessor shall not engage in any conduct or permit any Third Party to engage in any conduct that would violate that chapter.

