



# **NASPO ValuePoint Master Agreement Terms and Conditions**

## **For Copiers and Managed Print Services**

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

**Department of Personnel & Administration  
State Purchasing & Contracts Office  
1525 Sherman Street, 3<sup>rd</sup> Floor  
Denver, Co 80203**

And

**Canon U.S.A., Inc.  
One Canon Park  
Melville, NY 11747**

**Master Agreement Number: 140595**

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## 1. NASPO VALUEPOINT MASTER AGREEMENT OVERVIEW

### 1.1. Parties

This Master Agreement is entered into by and between the State of Colorado, acting by and through the Department of Personnel & Administration, State Purchasing & Contracts Office (hereinafter called the "Lead State"), and Canon U.S.A., Inc. (hereinafter called "Contractor"), for the procurement of A3 MFD's, A4 MFD's, Production Equipment, Single-function Printers, Large/Wide Format Equipment, Scanners, Software, Supplies, Managed Print Services, and other Products and Services as approved per this Master Agreement, for the benefit of Participating States, Entity's, and Purchasing Entities. The Contractor and the Lead State hereby agree to the following terms and conditions.

### 1.2. Effective Date

This Master Agreement shall not be effective or enforceable until the date on which it is approved and signed (hereinafter called the "Effective Date") by the Colorado State Controller or designee.

### 1.3. Master Agreement Order of Precedence

1.3.1. Any Order placed under this Master Agreement shall incorporate, and shall be governed by the terms and subject to the conditions of, the following documents:

- a) A Participating Entity's Participating Addendum ("PA");
- b) NASPO ValuePoint Master Agreement Terms & Conditions, including all Exhibits;
- c) An Order issued against this Master Agreement;
- d) The Solicitation, RFP-NP-18-001 Copiers and Managed Print Services;
- e) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State; and
- f) Contractor Supplemental Documents, including all Attachments.

1.3.2. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and shall be incorporated into this Master Agreement.

### 1.4. Term of this Master Agreement

1.4.1. **Initial Term-Work Commencement.** The Parties' respective performances under this Master Agreement shall commence on the Effective Date or August 1, 2019, whichever occurs later. This Master Agreement shall terminate on December 31, 2021, unless terminated sooner, as specified in §6.10, **Defaults and Remedies**, or extended further as specified in §1.4.2 below.

1.4.2. **Extension of Agreement.** This Master Agreement may be extended beyond the original Contract period for up to three (3) consecutive one (1) year additional terms, upon the mutual agreement of the Lead State and Contractor, by written Amendment. The total duration of this Master Agreement, including any extensions, shall not exceed five (5) years.

1.4.3. **Amendments.** The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Lead State.

1.4.4. **Cancellation.** This Master Agreement may be canceled by either party upon sixty (60) days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending Orders outstanding at the time of

cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, and rights attending any warranty or default in performance in association with any Order. Cancellation of this Master Agreement due to Contractor default may be immediate.

## 2. DEFINITIONS

The following terms shall be construed and interpreted as follows:

<b>Term</b>	<b>Description</b>
<b><i>A3 MFD</i></b>	A Multi-function Device that is designed to handle letter, legal, ledger and some smaller paper sizes, such as postcards and envelopes.
<b><i>A4 MFD</i></b>	A Multi-function Device that is designed to handle letter, legal and some smaller paper sizes, such as postcards and envelopes. Ledger size paper is NOT an option on this Device.
<b><i>Acceptance</i></b>	A written notice from a Purchasing Entity to Contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a Product for which Acceptance Testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor.
<b><i>Acceptance Testing</i></b>	The process set forth in this Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity.
<b><i>Accessory</i></b>	A compatible item that is added to the Base Unit to enhance its capabilities and functions.
<b><i>Authorized Dealer ("Dealer")</i></b>	The Contractor's authorized sales and Service center (also known as a Dealer, Distributor, or Partner) that must be certified by the Contractor to sell the Contractor's Products, and perform machine installation and maintenance on Devices offered by the Contractor. A Purchasing Entity must be able to, at a minimum, visit the sales and Service center to view and test Equipment.
<b><i>Base Unit</i></b>	The copier, printer, Scanner, Large/Wide Format and Production Equipment that includes all standard Accessories and parts, and excludes optional Accessories and/or software.
<b><i>Blended Rate</i></b>	A rate that is derived by taking the b&w and color cost per click rates on one or more Devices and calculating one rate that a customer will be billed for all copies, regardless of Device type and b&w or color output. Allows for simplicity when billing copies run.
<b><i>Bronze Standard</i></b>	Devices that meet less than 50% of the 28 optional EPEAT criteria.
<b><i>Business Day</i></b>	Any day other than Saturday, Sunday or a legal holiday.
<b><i>Buyout to Keep</i></b>	The early termination option on an FMV or \$1 Buyout Lease that involves the acquisition of the Equipment by the Purchasing Entity, and consists of any current and past due amount, plus the remaining stream of Equipment Payments.
<b><i>Buyout to Return</i></b>	The early termination option on an FMV, \$1 Buyout or Straight Lease that involves the return of the Equipment by the Purchasing Entity to Contractor,

	in good working condition (ordinary wear and tear excepted), and consists of any current and past due amounts, plus the remaining stream of Equipment Payments.
<b><i>Ceiling Pricing</i></b>	Pricing that is established as a “not-to-exceed” amount; the maximum price Contractor may charge for Products, Services, and Supplies.
<b><i>Chief Procurement Officer</i></b>	The individual who has the authority to supervise and approve the procurement of all Products and Services needed by the Lead State or a Participating State.
<b><i>Contractor</i></b>	The person or entity delivering Products or performing Services under the terms and conditions set forth in this Master Agreement.
<b><i>Coterminous</i></b>	Two or more leases that end at the same time. The original lease payment is modified to reflect the addition of a new piece of Equipment or Accessory. The original term of the lease is not modified because of a Coterminous addition.
<b><i>Device</i></b>	Also referred to as “Equipment.” The Base Unit, either with or without optional Accessories and/or software.
<b><i>Direct Material</i></b>	Materials that are easily identified, measured, and charged to the cost of production; part of the finished Product. Examples include timber for furniture and leather for shoes.
<b><i>Electronic Product Environmental Assessment Tool (EPEAT)</i></b>	A tool that evaluates and selects Equipment according to a list of preferred environmental attributes. EPEAT registered means Devices meet the 1680.2 IEEE Standard for Environmental Assessment of Imaging Equipment, as amended.
<b><i>EULA</i></b>	End User License Agreement
<b><i>Embedded Software</i></b>	One or more software applications that permanently reside on a computing Device.
<b><i>Energy Star</i></b>	The U.S. Environmental Protection Agency’s standard for energy efficiency.
<b><i>Equipment</i></b>	Also referred to as “Device.” The Base Unit, either with or without optional Accessories and/or software.
<b><i>Equipment Downtime</i></b>	The period of time that a Device is waiting for Service to be completed.
<b><i>Equipment Payment</i></b>	The Equipment portion of the payment, less any Service, Supplies, and maintenance.
<b><i>Equipment Trade-In</i></b>	An agreed upon transaction between the Purchasing Entity and Contractor, in which Contractor takes ownership of Purchasing Entity’s owned Device, often for a discounted amount.
<b><i>Equipment Upgrade or Downgrade</i></b>	A replacement of the Purchasing Entity’s existing lease Equipment, with a different piece of Equipment, of either greater or lesser value. A new lease is then originated for the new piece of Equipment, with the remaining lease payments on the old Equipment wrapped into it. The old lease is closed out, and the Equipment is returned to Contractor.
<b><i>Free on Board (FOB) Destination</i></b>	Contractor is responsible for transportation and handling charges and the sale does not occur until the Products arrive at the Purchasing Entity’s specified location.

<b>Group</b>	The Device classification for the different types of Equipment in this Master Agreement. Groups are determined by the Devices primary functions and/or capabilities.
<b>Independent Contractor</b>	A natural person, business, or corporation that provides Products or Services to another entity under the terms specified in a contract. An employer-employee relationship does not exist.
<b>Initial Lease Term</b>	The length of time (i.e. 12, 18, 24, 36, 48, or 60 months) that a Purchasing Entity enters into a lease agreement.
<b>Intellectual Property</b>	Any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
<b>Lead State</b>	The State that is centrally administering this Master Agreement.
<b>Lease</b>	<p>Per the Governmental Accounting Standards Board (GASB), a lease is defined as a contract that conveys control of the right to use another entity's nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction.</p> <p>For the purposes of this Master Agreement, a Lease shall contain the following options:</p> <ol style="list-style-type: none"> <li>1. Short-Term Lease: Maximum possible term is 12 months, including any renewal or extension options.</li> <li>2. Straight Lease: A type of agreement in which ownership is not an option and the Total Monthly Payment amount remains firm throughout the Initial Term.</li> <li>3. Fair Market Value Lease (FMV): A lease in which the Purchasing Entity can either 1) Take title to the Equipment at the end of the Initial Lease Term by paying the residual value to Contractor, 2) Enter into a Renewal Term for the Equipment, or 3) Return the Equipment to Contractor at the end of the Initial Lease Term.</li> <li>4. \$1 Buyout Lease: A lease in which title to the Equipment will automatically pass from the Contractor to the Purchasing Entity at the end of the Initial Lease Term, and the Purchasing Entity will not be subject to additional payments in order to assume ownership.</li> </ol>
<b>Legacy Equipment</b>	Equipment that was purchased, leased, or rented under a prior NASPO ValuePoint or WSCA Master Agreement, another program, or via any other means.
<b>Maintenance Agreement</b>	An agreement in which the Contractor provides monthly Service, parts, Supplies, and Preventative Maintenance on purchased or leased Devices.
<b>Managed Print Services (MPS)</b>	The management, Service, and support of the Purchasing Entity's entire enterprise and output infrastructure of printed materials, with the objective of creating a solution that improves the print process and reduces the expense of printed material.
<b>Manufacturer</b>	A company that, as its primary business function, designs, assembles, and owns the trademark/patent and markets a Product. Also referred to as Contractor.
<b>Manufacturer's</b>	The list price or recommended retail price of a Product in which the

<b><i>Suggested Retail Price (MSRP)</i></b>	Manufacturer recommends that the retailer sell the Product.
<b><i>Master Agreement</i></b>	Also referred to as "Contract"; the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.
<b><i>Multi-function Device (MFD)</i></b>	A Device that incorporates the functionality of multiple Devices into one, such as print, fax, copy and scan. Each feature can work independently of the other.
<b><i>NASPO ValuePoint</i></b>	The NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is a 501(c)(3) limited liability company that is a subsidiary organization of the National Association of State Procurement Officials (NASPO). NASPO ValuePoint is identified in this Master Agreement as the recipient of reports and may perform Contract administration functions relating to collecting and receiving reports as well as other Contract administration functions as assigned by the Lead State.
<b><i>Newly Manufactured</i></b>	Devices that have not been Refurbished, Remanufactured, rented, leased, sold, or used in a demonstration, and are currently being marketed by the Manufacturer.
<b><i>Normal Business Hours</i></b>	8:00 a.m. to 5:00 p.m., Monday through Friday (state holidays excluded), regardless of time zone.
<b><i>Not Specifically Priced (NSP)</i></b>	NSP items are items that enhance or compliment the Contractor's Product, and may be acquired by a Purchasing Entity under Contractor's Master Agreement, but are not listed or priced in Contractor's NASPO ValuePoint Price List. NSP's may include Coin Op equipment, empowering software, etc. NSP items do not include Services.
<b><i>OEM</i></b>	Original Equipment Manufacturer.
<b><i>Order</i></b>	Any type of encumbrance document or commitment voucher, including, but not limited to, a purchase order, contract, MPS statement of work, Maintenance Agreement, lease agreement etc.)
<b><i>Participating Addendum</i></b>	A bilateral agreement executed by a Contractor and a Participating State or Entity incorporating this Master Agreement and any other additional Participating State or Entity specific language or other requirements (e.g. ordering procedures, other terms and conditions).
<b><i>Participating Entity</i></b>	A government entity within a state, or an eligible Non-Profit association, that is properly authorized to enter into a Participating Addendum.
<b><i>Participating State</i></b>	A state, which encompasses all government entities within that state, or the District of Columbia, or one of the territories of the United States, that enters into a Participating Addendum.
<b><i>Power Filter</i></b>	An electronic filter that is placed between an external power line and a Device for removing frequencies or electromagnetic interference.
<b><i>Preventative Maintenance</i></b>	The servicing of a Device for maintaining a satisfactory operating condition by providing systematic inspection, detection, and correction of failures either before they occur or before they develop into major defects.
<b><i>Private Label</i></b>	Products that are manufactured by one company and sold under a retailer's

	brand name.
<b>Product</b>	Devices, Accessories, parts, software, and/or Supplies provided or created by the Contractor pursuant to this Master Agreement.
<b>Production Equipment</b>	A high-speed, high quality printing Device that typically has advanced finishing functionality.
<b>Public Record</b>	All books and Public Records of a governmental entity, the contents of which are not otherwise declared by law to be confidential must be open to inspection by any person and may be fully copied or an abstract or memorandum may be prepared from those public books and Public Records.
<b>Purchasing Entity</b>	A city, county, district, institution of higher education, and some non-profits who issue an Order against this Master Agreement via their Participating State or Entity's Participating Addendum.
<b>Refurbished</b>	A Product that has received extensive maintenance and/or minor repair, including the replacement of all standard parts subject to wear during the normal course of use. Refurbished Equipment shall not have more than 750,000 original copies on it. In addition, Refurbished Equipment must only contain OEM parts. The Manufacturer must certify refurbished Equipment.
<b>Remanufactured</b>	The process of disassembling Devices known to be worn or defective that can be reused or brought up to OEM specification by cleaning, repairing or replacing it in a manufacturing environment and then reassembling and testing it, so that it will operate like a new Device. The Manufacturer must certify remanufactured Equipment.
<b>Renewal Term</b>	A lease term that supersedes the Initial Lease Term, and which a Purchasing Entity may enter into upon thirty (30) days prior written notice to Contractor. Each Renewal Term shall not exceed 12 months, the residual value of the Equipment, or the Useful Life of the Equipment. \$1 Buyout Leases are excluded from going into renewal.
<b>Resell</b>	Any payment in exchange for transfer of tangible Products, or assignment of the right to Services.
<b>Response Time</b>	The time from when the original Service Call is placed with the Contractor or Authorized Dealer, to when the Service technician arrives at the Purchasing Entity's location.
<b>Scanner</b>	A Device that scans documents and converts them into digital data.
<b>Segment</b>	The various speeds that Devices are categorized by.
<b>Service Base Location</b>	The place of business where the Contractor or Authorized Dealer stores parts and provides training for service technicians.
<b>Service Call</b>	An on-site Service technician visit due to Device error or malfunction.
<b>Services</b>	The labor required to be performed by Contractor pursuant to this Master Agreement or an Order.
<b>Single-function Printer</b>	An inkjet or laser Device that only prints and is not capable of other functions such as copying, faxing or scanning.
<b>Solicitation</b>	A written offer or attempt to purchase Products and/or Services through an official Proposal, Evaluation, and Award process.

<b><i>Supplies</i></b>	<u>Consumable</u> items that gets used up or are discarded once used, such as ink cartridges.
<b><i>Third Party</i></b>	Someone who may be indirectly involved but is not a principal party to an arrangement, contract, deal, lawsuit or transaction.
<b><i>Total Monthly Payment</i></b>	The Equipment portion of the payment, as well as any Service, Supplies or maintenance, and less any applicable taxes.
<b><i>Useful Life</i></b>	Period during which a Device is expected to be usable for the purpose in which it was manufactured.

### 3. NASPO VALUEPOINT PROGRAM PROVISIONS

#### 3.1. Price and Rate Guarantee Period

- 3.1.1.** The Price List(s) in **Exhibit A (Price Lists)**, identifies a complete listing of all Products and Services the Contractor can provide under this Master Agreement, with the exception of NSP items.
- 3.1.2.** MSRP/List Price discount percentages must be guaranteed throughout the term of this Master Agreement, including any renewal terms; however, Contractor may increase its discount percentage at any time. The Lead State must be notified of any such discount percentage increase, and provided with a copy of the new Group Price List(s).
- 3.1.3.** MSRP/List Price shall remain firm during the first twelve (12) months of the Master Agreement. After this period, Awarded Vendors may update their MSRP/List Price on a quarterly basis, according to the following guidelines:
- a) All requested price increases must include documentation from Direct Material suppliers detailing cost escalations, and Awarded Vendors must describe how those escalations impact current Product offerings.
  - b) With the exception of Direct Material cost increases, no price increase requests will be allowed.
  - c) Updated Price Lists must be submitted to the Lead State by the 1st day of each quarter.
  - d) Pricing will not go into effect unless, or until, it is approved by the Lead State.
- 3.1.4.** The Master Agreement pricing IS Ceiling Pricing. Contractor may offer lower pricing on a per Order basis to Purchasing Entity's; likewise, Purchasing Entity's may request lower pricing on a per Order basis from Contractor.
- 3.1.5.** Contractor may offer state-wide promotional discounts, customer location specific discounts, bulk discounts, or spot discounts. Contractor must notify the Participating State or Entity Contract Administrator of special state-wide promotional discounts.
- 3.1.6.** Any revisions to Product offerings (new Products, altered item or model numbers, etc.) must be pre-approved by the Lead State, and will be allowed once per month.
- 3.1.7.** Product updates are required by the 1st of the month and shall go into effect upon approval by the Lead State.
- 3.1.8.** Any Product additions must be updated with Buyer's Lab within ninety (90) days of submission to the Lead State. Failure to adhere to this requirement will result in the Product(s) being removed from the Master Agreement Price List(s) until such time as they can be verified on Buyer's Lab.

- 3.1.9. Updates to lease rates must be submitted by the 1st day of each quarter.
- 3.1.10. Price Lists received after the 1st of the month may not be approved for up to thirty (30) days following submission. In addition, errors in the Contractor's Price Lists may delay the approval process further.
- 3.1.11. All approved Price Lists will be submitted by the Lead State to NASPO ValuePoint. Contractor shall then update all applicable websites with the new Price Lists after the NASPO ValuePoint website has been updated.
- 3.1.12. All-inclusive Cost Per Copy (CPC) programs may be offered upon request by the Participating State or Entity, but pricing must not exceed Master Agreement pricing. Contractor must provide the Participating State or Entity with their pricing breakdown that enables the Participating State or Entity to easily compare the pricing in the CPC structure against the pricing in this Master Agreement.
- 3.1.13. Pricing must include all shipping, delivery, and installation costs associated with the Products. Excess installation charges however, may be billable. Refer to §4.9.5 for more information.

## 3.2. Participants and Scope

- 3.2.1. Contractor may not deliver Products or perform Services under this Master Agreement until a Participating Addendum acceptable to the Participating State or Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating State or Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating State or Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. Order) used by the Purchasing Entity to place the Order.
- 3.2.2. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies, political subdivisions and other Participating States or Entities authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Officer. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Officer.
- 3.2.3. Obligations under this Master Agreement are limited to those Participating States and Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Financial obligations of Participating States and Entities are limited to the Orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Contractor shall email a fully executed PDF copy of each Participating Addendum to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate databases.
- 3.2.4. Participating States and Entities may, through a Participating Addendum, limit:
  - a) Available financial vehicles;
  - b) Device Groups, Segments, Products, Services (including MPS); and
  - c) Any additional items as deemed necessary by the Participating State or Entity.

- 3.2.5.** A Participating State or Entity must sign a new Participating Addendum with Contractor, regardless of whether Contractor has signed Participating Addenda under a prior Master Agreement(s).
- 3.2.6.** NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to this Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO ValuePoint cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.
- 3.2.7.** Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor, and any such language shall be void and of no effect:
- a) Term of this Master Agreement;
  - b) Amendments;
  - c) Participants and Scope;
  - d) Administrative Fee;
  - e) NASPO ValuePoint Summary and Detailed Usage Reports;
  - f) NASPO ValuePoint Cooperative Program Marketing and Performance Review;
  - g) NASPO ValuePoint eMarket Center;
  - h) Right to Publish;
  - i) Price and Rate Guarantee Period; and
  - j) Individual customers.
- 3.2.8.** Participating Entities who are not states, may under some circumstances sign their own Participating Addendum, subject to the approval of participation by the Chief Procurement Officer of the state where the Participating Entity is located. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 3.2.9.** Purchasing Entities may not Resell Products. This limitation does not prohibit the following; however, any sale or transfer must be consistent with license rights granted for use of Intellectual Property:
- a) Payments by employees of a Purchasing Entity for Products;
  - b) Sales of Products to the general public as surplus property; and
  - c) Fees associated with inventory transactions with other governmental or non-profit entities, and consistent with a Purchasing Entity's laws and regulations.

### **3.3. Administrative Fees**

- 3.3.1.** The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter.
- 3.3.2.** The NASPO ValuePoint Administrative Fee is not negotiable.

- 3.3.3. The Contractor shall report on all actual Equipment sales, and on estimated Service and Supply sales. This method will no longer require the Contractor to capture the actual Service and Supply revenues that are billed to the customer each month.
- 3.3.4. Industry research has shown close to a 1:1 ratio between sales price on a piece of Equipment and the actual amount of Service and Supply costs required to operate that Equipment over its Useful Life. Therefore, to simplify the reporting process and remove the burden to capture the actual Service and Supply costs, the Contractor shall report as follows:
- a) **Purchased Equipment:** Contractor shall report the actual amount invoiced (less any taxes) for all Equipment sold under the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as “Estimated Service and Supplies” providing the customer elects to enter into a Maintenance Agreement. Thus, in the Contractor’s Detailed Sales Report, for each item sold, there will be two-line items: one for the piece of Equipment, and one for the Estimated Service and Supplies. The amounts reflected for the Estimated Service and Supplies, if applicable, must be equal to the amount of the Equipment.
  - b) **Leased Equipment:** Contractor shall report sales according to the Purchased Equipment methodology described in 3.3.4(a), or they may report the actual amount invoiced (less any taxes) for the lease during the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as “Estimated Service and Supplies.” Thus, in the Contractor’s Detailed Sales Report, for each item leased, there will be two-line items: one for the invoice amount to the customer for the Equipment, and one for the Estimated Service and Supplies.
- 3.3.5. Some Participating States may require a fee be paid directly to the Participating State on sales made by Purchasing Entities within that state. For all such requests, the fee level, payment method, and schedule for such reports and payments will be incorporated into the Participating Addendum. The Contractor may adjust this Master Agreement pricing accordingly for sales made by Purchasing Entities within the jurisdiction of the Participating State requesting the additional fee.

### 3.4. NASPO ValuePoint Summary and Detailed Usage Reports

The Contractor shall provide the following NASPO ValuePoint reports:

- 3.4.1. **Summary Sales Data.** The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the Contract shall be reported as cumulative totals by state, which are inclusive of all line items identified in the Detailed Sales Report. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).
- 3.4.2. **Detailed Sales Report.** Contractor shall also report detailed sales data by:
- a) State;
  - b) Customer Type (e.g. local government, higher education, K-12, non-profit);
  - c) Customer bill-to name and address;
  - d) Contractor or Authorized Dealer Order number;
  - e) Customer purchase order number;
  - f) Customer number;
  - g) Order type (e.g. sales Order, credit, return, upgrade);
  - h) Purchase order date;

- i) Ship date;
- j) Invoice date and number;
- k) Product number and description
- l) List Price/MSRP;
- m) Contract Price;
- n) Quantity;
- o) Total Price;
- p) NASPO ValuePoint Admin Fee amount; and
- q) Dealer.

**3.4.3.** Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM or flash drive. Detailed sales reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is shown in **Exhibit F (NASPO ValuePoint Detailed Sales Reporting Template)**.

**3.4.4.** Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report.

**3.4.5.** Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with, and any PA roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

**3.4.6.** Timely submission of these reports is a material requirement of this Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

**3.5. NASPO ValuePoint Cooperative Program Marketing and Performance Review**

**3.5.1.** Contractor agrees to work cooperatively with NASPO ValuePoint personnel to ensure that Contractor's personnel will be educated regarding the provisions of this Master Agreement, as well as the competitive nature of NASPO ValuePoint procurements, the Participating Addendum process, and the manner in which Participating Entities can utilize this Master Agreement.

**3.5.2.** Contractor agrees, as Participating Addenda are executed, and if requested by NASPO ValuePoint personnel, to provide plans to launch this Master Agreement program within the Participating State. Plans will include timeframes to implement this Master Agreement and Participating Addendum, as well as confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the Participating State.

**3.5.3.** Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for

possible inclusion into the Participating Addendum. Contractor shall ensure that their sales force is aware of this contracting option.

- 3.5.4. Contractor agrees to fairly, actively, and equally promote and advertise their NASPO ValuePoint Master Agreement at all trade shows and Dealer meetings whereby Contractor displays or refers to their government contract award offerings.
- 3.5.5. Contractor agrees, within 30 days of this Master Agreement effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement, or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.
- 3.5.6. Contractor agrees to participate in person at an annual performance review, which may include a discussion of marketing action plans, target strategies, marketing materials, reporting, and timeliness of administration fee payments. The Lead State and NASPO ValuePoint shall determine the location of the performance review.
- 3.5.7. Contractor agrees that Contractor may not use the NASPO ValuePoint logos in sales and marketing materials until a logo-use agreement is executed with NASPO ValuePoint.
- 3.5.8. The Lead State shall evaluate the utilization of this Master Agreement at the annual performance review. The Lead State may, in its discretion, cancel this Master Agreement pursuant to §1.4, or not exercise an option to renew, when Contractor utilization does not warrant further administration of this Master Agreement. The Lead State may exercise its right to not renew this Master Agreement if Contractor fails to record or report revenue for three consecutive quarters, upon a 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two (2) years after execution of this Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel this Master Agreement pursuant to §1.4.4 or to terminate for default pursuant to §6.10.

### **3.6. NASPO ValuePoint eMarket Center**

- 3.6.1. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint customers to access a central online website to view and/or shop the Products and Services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.
- 3.6.2. The Contractor shall have visibility in the eMarket Center through one of the following no-cost options:
  - a) **Ordering Instructions**
    - i. The Contractor shall provide a link to their website, their Price list, their Dealer list, and any additional information they would like the customer to have in regards to placing Orders.
    - ii. Upon receipt of written request from the eMarket Center Site Administrator, the Contractor shall have thirty (30) days to provide NASPO ValuePoint with the Ordering Instructions.
  - b) **Hosted Catalog**
    - i. The Contractor shall provide a list of its awarded Products and Services pricing via an electronic data file, in a format acceptable to JAGGAER.

- ii. In order to maintain the most up-to-date version of its Product offerings, the Contractor must submit electronic data to the eMarket Center no more than four (4) times per calendar year.
  - iii. Upon receipt of written request from the eMarket Center Site Administrator, the Contractor shall have fifteen (15) days to set up an enablement schedule with NASPO ValuePoint and JAGGAER. The schedule shall include future calls and milestone timeframes related to testing and go-live dates.
  - iv. The Contractor shall have ninety (90) days from the receipt of written request, to provide the Hosted Catalog to NASPO ValuePoint.
  - v. The Hosted Catalog must be strictly limited to the awarded Products and Services, and must contain the most current approved pricing, including applicable quantity discounts.
  - vi. The catalog must include a Lead State Contract identification number and detailed Product line item descriptions.
  - vii. The catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although Suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple catalogs applicable to different NASPO ValuePoint Participating State or Entities if for example, the Participating State or Entity has incorporated an Administrative Fee into the Contract pricing, or a Participating State or Entity has determined that they will not allow all awarded Products and Services under their Participating Addendum. SciQuest will deliver the appropriate contract files to the user viewing the catalog.
- c) Punch-Out Catalog**
- i. The Contractor shall provide its own online catalog, which must be capable of being integrated with the eMarket Center via Commerce eXtensible Markup Language (cXML).
  - ii. The Contractor shall validate that its online catalog is current by providing a written update to the Lead State every four (4) months, verifying that they have audited the offered Products and Services pricing.
  - iii. The Contractor shall have ninety (90) days from the receipt of the written request, to deliver the Punch-Out Catalog to NASPO ValuePoint.
  - iv. The Punch-Out Catalog must be strictly limited to the awarded Products and Services, and must contain the most current approved pricing, including applicable quantity discounts.
  - v. The catalog must include a Lead State Contract identification number and detailed Product line item descriptions.
  - vi. The site must also return detailed UNSPSC codes for each line item.
  - vii. Contractor shall provide e-Quote functionality to facilitate volume discounts.
  - viii. The catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. It is possible to have multiple catalogs applicable to different NASPO ValuePoint Participating State or Entities if for example, the Participating State or Entity has incorporated an Administrative Fee into the Contract pricing, or a Participating State or Entity has determined that they will not allow all awarded Products and Services under

their Participating Addendum. JAGGAER will deliver the appropriate contract files to the user viewing the catalog.

**3.6.3. Revising Pricing and Products**

- a) Any revisions to Product offerings (new Products, altered SKU's, etc.) must be pre-approved by the Lead State, and will be allowed once per month.
- b) Updated Product files are required by the 1<sup>st</sup> of the month and shall go into effect upon approval by the Lead State.
  - i. Files received after the 1st of the month may not be approved for up to thirty (30) days following submission.
  - ii. Errors in the Contractor's submitted files may delay the approval process.

**3.6.4. Supplier Network Requirements for Hosted and Punch-Out Catalogs**

- a) Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use the JAGGAER's Supplier Portal to import the Contractor's catalog and pricing files into the JAGGAER system.
- b) Contractor can receive Orders through electronic delivery (cXML) or through low-tech options such as fax.
- c) More information about the SQSN can be found at [www.sciquest.com](http://www.sciquest.com), or by contacting the JAGGAER Supplier Network Services team at 800-233-1121.

**3.6.5. Order Acceptance Requirements for Hosted and Punch-Out Catalogs**

- a) Contractor must be able to accept Orders via fax or cXML.
- b) The Contractor shall provide confirmation via phone or email within 24 hours of Order receipt.
- c) If the Order is received after 3pm (EST) on the day prior to a weekend or holiday, the Contractor must provide confirmation via phone or email on the next business day.

**3.6.6. UNSPSC Requirements**

- a) Contractor shall support use of the United National Standard Product and Services Code (UNSPSC). UNSPSC versions that Contractors must adhere to are provided by JAGGAER and upgraded each year.
- b) NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC, and Contractor shall be required to support the migration effort.
- c) All line items for Products and Services provided under this Master Agreement must be associated to a UNSPSC code.
- d) All line items must be identified at the most detailed UNSPSC level, indicated by segment, family, class, and commodity.

**3.6.7. Applicability.** Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center, and that NASPO ValuePoint may elect at any time to remove any Contractor offerings from the eMarket Center.

**3.6.8.** Several NASPO ValuePoint Participating States and Entities currently maintain separate JAGGAER eMarket Place accounts. In the event that one of these Participating States or Entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarket Center),

but publish the information to their own eMarket Place, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint, and agrees to take commercially reasonable efforts to implement such separate JAGGAER catalogs.

### **3.7. Right to Publish**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State, prior approval for the release of any information, including any written correspondence, which pertains to the potential work or activities covered by this Master Agreement. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the Products and Services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of this Master Agreement for cause.

### **3.8. Individual Customers**

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of this Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in this Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in this Master Agreement and applicable Participating Addendum. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

## **4. STATEMENT OF WORK**

### **4.1. Overview**

- 4.1.1.** Contractor guarantees a continuing supply and consistent quality of Equipment, Accessories, software, Supplies, and Services offered.
- 4.1.2.** Contractor may not provide Products that have not been approved by the Lead State, with the exception of NSP items, as referenced in §4.3.9.
- 4.1.3.** Contractor shall maintain compliance with all requirements of this Master Agreement throughout the duration of the Contract.
- 4.1.4.** A Purchasing Entity that purchases or leases Equipment may issue an Order, pursuant to the terms and conditions that are incorporated into this Master Agreement, and according to the requirements listed in their states' Participating Addendum, including, but not limited to, the issuance of Contractor's Supplemental Documents, which are attached as Attachment A through Attachment H. Each Participating State or Entity shall be responsible for negotiating the terms and conditions of each of the aforementioned Attachments, as well as any additional EULA's the Contractor may provide under an Order.
- 4.1.5.** Per Section 508 of the United States Workforce Rehabilitation Act of 1973, Contractor provides Devices under Groups A, B, C, D, E, and F, which are accessible to people with disabilities.
- 4.1.6. MPS:**
  - a)** Contractor may provide MPS on Group A, Group B, Group C, Group D, Group E, and Group F.
  - b)** Contractor may not provide MPS maintenance or repair Services on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless they have a written agreement with the Manufacturer to do so.

#### **4.1.7. Survivability:**

- a) Any Order placed under this Master Agreement shall survive the expiration of this Master Agreement unless otherwise specified in a Participating Addendum.
- b) Contractor is not permitted to increase pricing on any Order that was placed prior to the expiration of this Master Agreement.

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

#### **4.2. Authorized Dealers**

**4.2.1.** Contractor may engage Authorized Dealers, who shall be Contractor's agent and Subcontractor for providing sales and support for the Products and/or Services purchased by the Purchasing Entity under this Master Agreement.

**4.2.2.** In the event Contractor elects to use Authorized Dealers in the performance of the specifications, Contractor shall serve as the primary Contractor, and shall be fully accountable to the Lead State for assuring that the Authorized Dealers comply with the terms and conditions of this Master Agreement, and shall be liable in the event that Authorized Dealers fail to comply with such terms and conditions.

**4.2.3.** Authorized Dealers shall be expected to stay current with Contractor's Products, pricing, Master Agreement, and Participating Addendum requirements.

**4.2.4.** Authorized Dealers shall have the ability to accept Orders from a Purchasing Entity and invoice them directly.

**4.2.5.** Contractor must disclose to the Lead State, a list of all Authorized Dealers that provide Products and/or Services, utilizing **Exhibit D (Authorized Dealers by State)**.

**4.2.6.** Contractor shall send notice to the Lead State, utilizing **Exhibit E (Authorized Dealer Form)** and the Authorized Dealers by State, within three (3) calendar days of engaging or removing a Dealer.

**4.2.7.** The Lead State reserves the right to deny the addition of any Authorized Dealer and will provide notification to the Contractor with justification as to why the decision was reached. In addition, it will be at the discretion of each Participating State or Entity as to whether they will utilize the Authorized Dealers as approved by the Lead State.

**4.2.8.** If an Authorized Dealer is performing unsatisfactorily, or is not in compliance with this Master Agreement, then it shall be at the discretion of the Lead State, upon recommendation from the Participating State, to either remove the Dealer from the Contract, or in the case of multiple branch locations in one state, or multiple states, remove them as a Dealer from the location in which they are not in compliance. Alternatively, the Contractor may investigate and consult with the Participating State and/or the Purchasing Entity as appropriate, and use commercially reasonable efforts to resolve the dispute.

#### **4.3. Product Offerings**

**4.3.1. Group Segments.** Contractor shall offer Products under the following Groups:

<b>Group A – MFD, A3 B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
2	20 – 30
3	31 – 40
4	41 – 50
5	51 – 60
6	61 – 70
7	71 – 90

<b>Group B – MFD, A4 B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	Up to 20
2	21 – 30
3	31 – 40
4	41 – 50
5	51 – 60
6	61+

<b>Group C – Production Equipment B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	65 – 79
2	80 – 89
3	90 – 110
4	111 – 130
5	131+

<b>Group D – Single-function Printers B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	Up to 20
2	21 – 40
3	41 – 60
4	61+

<b>Group E – Large/Wide Format Equipment B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>A1 or D Size PPM* (speeds are based on b&amp;w output)</b>
Low	1 – 3
Medium Low	4 – 8
Medium High	9 – 19
High	20+

Group F - Scanners	
Segment	PPM
1	10 – 29
2	30 – 49
3	50 – 69
4	70 – 89
5	90 – 110
6	111 – 130
7	131+

**4.3.2. Device Configurations.** Contractor's Devices shall be equipped, at a minimum, with the following Accessories/capabilities:

**a) Group A – MFD, A3**

- i) New Power Filter;
- ii) Duplex for Segment 3 and above;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segment 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 11" x 17"; and
- v) Bypass paper supply, if applicable for Segment.

**b) Group B – MFD, A4**

- i) New Power Filter;
- ii) Bypass paper supply;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segments 1 and 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 8 ½" x 14"; and
- v) Envelope adjustment capability.

**c) Group C – Production Equipment**

- i) New Power Filter;
- ii) Bypass paper supply;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segments 1 and 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 8 ½" x 14"; and
- v) Envelope adjustment capability.

- d) Group D – Single-function Printers**
  - i) Must include an inkjet, light emitting diode (LED), or laser print engine;
  - ii) Standard paper drawer(s);
  - iii) Standard paper capacity; and
  - iv) Network connectivity.
- e) Group E – Large/Wide Format Equipment**
  - i) Hard-Disk drive;
  - ii) Network connectivity;
  - iii) Touch screen control panel; and
  - iv) Automatic Media Selection – a built-on sensor detects the size of the original and the proper media size is then selected.
- f) Group F – Scanners**
  - i) Charge-Coupled Device (CCD) or Contact Image Sensor (CIS);
  - ii) Automatic Document Feeder (ADF);
  - iii) Letter or legal paper size capacity;
  - iv) Color depth of at least 24 bytes; and
  - v) Single pass duplex scan.

**4.3.3. Device Standards.** Devices shall meet the following requirements:

- a) Group A and Group B Base Units are OEM only;
- b) Group A and Group B must be EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List;
- c) Group D must be Energy Star compliant or EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List;
- d) If Contractor's Devices fail to meet the EPEAT Bronze Standard, or be Energy Star compliant (applicable to Group D Devices only) within one (1) year, then they will be removed from the Price List;
- e) Must be Newly Manufactured, current, Remanufactured, or Refurbished, except as specified in a Participating Addendum;
- f) Devices, when installed, and if available, must be set-up to receive automatic software updates and patches. For new software versions or upgrades that carry an additional cost, updates will not be done automatically; rather, Contractor or their Authorized Dealer will inform the Purchasing Entity of the new version and assist them in their decision to upgrade based on needed functionality and compatibility with their existing Equipment.
- g) Specifications must be published on Contractor's website;
- h) MSRP must not exceed what is listed with Buyers Laboratory Inc., or List Price must not exceed what is published on the Manufacturer's website;
- i) Must maintain a PPM speed, according to Segment classification; and

- j) Must be compatible with using recycled paper, up to and including, 100% Post-Consumer Waste (PCW) paper. Contractor may not fault the use of recycled paper for Device failures, as long as the recycled paper in use meets the standard paper specifications (e.g., multi-purpose, copy, or laser paper).

#### **4.3.4. Device Exceptions**

- a) Group C, Group D, Group E, and Group F will not be restricted to OEM, and do not have to be Private Labeled;
- b) Group C, Group E, and Group F are not required to be EPEAT registered or Energy Star compliant;
- c) 3D Printers may be offered by Contractor, and shall be priced based on a minimum discount of 10%;
- d) Digital Duplicators may be offered by Contractor, and shall be priced based on a minimum discount of 64%;
- e) Inkjet and Digital Presses may be offered by Contractor, and shall be priced based on the minimum discount offered in the Segment to which they belong (refer to the Group C Price List for Segment discounts);
- f) Roll-Fed Wide Format Printers may be offered by Contractor, and shall be priced based on a minimum discount of 10%.
- g) Contractor may offer Large/Wide Format Equipment that accommodates all paper sizes. Pricing shall be based on the discount offered for the Segment in which the Device belongs (refer to the Group E Price List for Segment discounts).

#### **4.3.5. Accessories**

- a) Contractor shall provide OEM and/or Third Party compatible Accessories that compliment or enhance the features of the Device.
- b) Contractor shall maintain a separate price list for Accessories for Base Units that have been discontinued. The pricing must be based on the same discount offered, per the 'Discount from MSRP' tab, on the applicable Group Price List.
- c) Purchasing Entities may add Accessories to Devices that have been purchased, leased or rented under prior NASPO ValuePoint and/or WSCA Master Agreements, as well as via any other means.

#### **4.3.6. Software**

- a) Contractor shall provide software to enhance the capabilities of the Devices, or software may be provided as a standalone option on any pre-owned, purchased, or leased Device.
- b) Contractor shall provide OEM and/or Third Party Software.
- c) All software drivers shall be, at a minimum, Windows 7 compliant, and all Devices must have universal software drivers.
- d) Purchasing Entities that acquire software Products (not including Embedded Software) shall be subject to the software developers' end-user license agreements distributed with such software Products, as referenced in Attachment F through Attachment H, and as additionally provided by Contractor upon Order placement. However, the Master Agreement will supersede and

control if there is conflicting language between the Master Agreement, and any software license agreement.

#### **4.3.7. Consumable Supplies**

- a) Contractor shall offer OEM or compatible Ink and Roll paper for Group E Devices. The Ink and/or paper may be purchased as standalone items, and will not be included as part of a Maintenance Agreement, nor will it be wrapped into the Total Monthly Payment on a lease agreement.
- b) Contractor shall offer OEM or compatible consumable for Supplies for Groups A, B, C, D, and F. These Supplies may be purchased as standalone items or included as part of a Maintenance Agreement. Under no circumstances may the Supplies, regardless of quantity, be financed, unless they are start-up Supplies. The Supplies that may be offered include, but are not limited to, the following:
  - i) Toner;
  - ii) Staples;
  - iii) Ink;
  - iv) Print Cartridges;
  - v) Imaging Drums;
  - vi) Fuser Kits;
  - vii) Transfer Kits;
  - viii) Waste Toner Bottles;
  - ix) Ozone Filters;
  - x) Developer;
  - xi) Rollers and Pads; and
  - xii) Maintenance Kits.
- c) Toner must be free of carcinogenic, mutagenic, or teratogenic substances.
- d) Contractor shall provide the Purchasing Entity with a method to return the empty toner cartridges at no additional charge.

#### **4.3.8. Remanufactured/Refurbished Equipment**

- a) Contractor may offer Remanufactured and/or Refurbished Equipment under Group A, B, C, D, E, and F.
- b) Remanufactured and Refurbished Equipment is not required to be EPEAT registered or Energy Star compliant.
- c) Equipment may be acquired via a purchase or lease agreement.
- d) Contractor must notify the Purchasing Entity in writing, when Remanufactured or Refurbished Equipment is being offered.
- e) All Remanufactured or Refurbished Equipment must be clearly labeled as such, and must be certified by the Manufacturer.

- f) Remanufactured Equipment must be priced according to the minimum discount offered for similar Equipment in Group A, B, C, D, E, and F.
- g) Refurbished Equipment shall be offered at a minimum discount of 10% less than the lowest priced Device of the Group and Segment to which the Refurbished Equipment belongs.
- h) Service and Supplies for Remanufactured and Refurbished Equipment will receive the same pricing as the published price for the Group and Segment to which it belongs.

#### **4.3.9. Open Market Items**

- a) Contractor may offer Not Specifically Priced (NSP) items that compliment or enhance the Products and/or Services. NSP items will not include:
  - i) Interactive White boards;
  - ii) Computers, monitors, or other related items;
  - iii) Fax machines;
  - iv) Overhead Projectors; and
  - v) Cameras.
- b) NSP items may only be acquired through the Contractor or their Authorized Dealers and must be reported quarterly with all other sales.
- c) NSP items must be priced at a minimum discount of 15% from MSRP or List Price.
- d) NSP items shall not be offered to a Purchasing Entity as a stand-alone option, and the maximum allowable amount of all NSP items in a single Order shall be determined by the Participating State or Entity.
- e) It shall be at the discretion of the Participating State or Entity to allow Open Market Items in their Participating Addendum.

#### **4.3.10. Emerging Technologies**

- a) Upon approval from the Lead State, Contractor may add new, related technology.
- b) Technology does not have to be restricted to OEM, nor does it have to be Private Labeled.
- c) Any new technology that a Contractor requests to add to their Price List must contain a full description of the Product, along with MSRP and pricing information, as well as an explanation/justification as to how the Product conforms to the requirements of this Master Agreement.
- d) Any new technology must be priced at a minimum discount of 3%.

### **4.4. Service Offerings**

#### **4.4.1. Managed Print Services**

- a) Contractor shall provide the following:
  - i) **Free Initial Assessment** – which shall include the following:
    - 1) Document workflow
    - 2) Identification of Service, Supplies, and parts
    - 3) Current output

- 4) Total Cost of Ownership (TCO)
  - 5) Employee to Device ratio
  - 6) Preliminary estimated cost savings
- ii) **Implementation** – which shall consist of the following:
- 1) Plan Development
  - 2) Hardware and Software Installation and Set-up for remote management/MPS account management software.
- iii) **Remote Device Monitoring** – which shall include the following:
- 1) Job Accounting
  - 2) Automated Meter Reads
  - 3) Automated Toner Replenishment
- iv) **End-user Support** – which shall include the following:
- 1) Training
  - 2) Help Desk Services
- v) **Account Management** – which shall include the following:
- 1) Reporting
  - 2) Invoicing
  - 3) Customer Business Reviews
- b) Contractor may also provide the following:
- i) **Maintenance**
    - 1) Preventative Maintenance
    - 2) Service and Repair
    - 3) On-site break/fix
    - 4) Parts Management
    - 5) Warranty Management
  - ii) **Ongoing Fleet Management and Optimization**
    - 1) Consumable Spend
    - 2) Continual Assessments
    - 3) Green Initiatives
    - 4) Add/Move/Change Services
    - 5) Disaster Recovery
  - iii) **Cost Based Assessment**
    - 1) Asset Mapping
    - 2) End-user Survey
    - 3) Detailed Recommendation
    - 4) Analysis and Plan Design

- iv) Change Management
- v) Professional Services
- c) All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, as referenced in **Exhibit C (Sample MPS Statement of Work)**, **Attachment C (Canon Sample MPS Agreement Terms and Conditions)**, and **Attachment D (Canon Sample MPS Customer Expectations Document)**, and they must be approved by both parties prior to the initiation of any engagement.
- d) The free initial assessment shall not constitute a commitment on behalf of the Purchasing Entity. Upon request from a Purchasing Entity, Contractor must provide the assessment with the understanding that the Purchasing Entity is under no obligation to enter into an MPS engagement.
- e) MPS pricing and billing options shall be flexible, as long as pricing doesn't exceed Master Agreement pricing, and the Purchasing Entity will drive the complexity of the solution required with a staged approach to implementation.

#### 4.4.2. Maintenance Agreements

- a) **Pricing**
  - i) Pricing shall include a zero base, cost per click rate for b&w and/or color for Groups A, B, C and D.
  - ii) Pricing for a monthly base charge, a set copy allowance and an overage rate for b&w and/or color shall also be provided.
  - iii) Pricing must be provided that includes all parts, labor, Preventative Maintenance, Service Calls, and Supplies for Groups A, B, C and D.
  - iv) A pricing option for ALL Groups shall include parts, labor, Preventative Maintenance (if applicable), and Service Calls, but **excludes** Supplies.
  - v) Paper and ink for Group E Devices shall not be included as part of the Service and Supply pricing.
  - vi) Contractor may increase their Service and Supply pricing to include staples (if applicable to the Device).
  - vii) Contractor may charge flat rate fees for Services performed on any Accessories.
  - viii) Service Calls due to misuse, neglect or abuse shall not be covered by the Maintenance Agreement, and Contractor and Authorized Dealers may bill the Purchasing Entity at an hourly rate for Services rendered.
  - ix) **11"x17" impressions:**
    - 1) Shall be counted as two (2) clicks on Group A Devices; and
    - 2) May be counted as two (2) clicks on Group C Devices.
  - x) Contractor shall offer a one (1) click rate that encompasses all paper sizes for Group C Devices.
  - xi) A two-sided document shall be counted as two (2) clicks.
  - xii) Contractor must not charge for scans on any MFD.
  - xiii) **Initial Term:**
    - 1) Pricing shall remain firm for the initial term of the Maintenance Agreement.

- 2) For leased Equipment, the Maintenance Agreement term is equal to the term of the lease (i.e. 24, 36, 48 months etc.).
- 3) For purchased Equipment, the initial term is whatever period of time the Purchasing Entity elects, as long as it does not exceed 60 months on Group A, Group B, Group D, Group E, and Group F Devices and 84 months on Group C Devices.

**xiv) Renewal Term:**

- 1) If a Purchasing Entity wishes to renew a Maintenance Agreement for Equipment that was acquired under this Master Agreement, then the Contractor may negotiate new pricing. This pricing shall not exceed this Master Agreement pricing.
- 2) If a Purchasing Entity wishes to renew a Maintenance Agreement for Equipment that was acquired under Master Agreement (3091), then §4.4.2(f) shall apply.

**b) Blended Rates**

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

**c) Manual Meter Reads**

- i) Contractor may collect meter reads from a Purchasing Entity via electronic means.
- ii) Meter reads may be submitted via the Contractor's online portal, or through e-mail, or facsimile.
- iii) A Participating State or Entity may also elect, at their discretion, to submit meter reads through the Device.

**d) Customer Owned Equipment**

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

**e) Leased Equipment**

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

**f) Legacy Equipment**

- i) Upon request from the Purchasing Entity, Contractor may provide Maintenance Agreements on any Equipment that is owned or was leased or rented through Master Agreement (3091), or via any other means, providing the following conditions are met:
  - 1) The Device has not reached the end of its Useful Life;

- 2) The maximum term of the Maintenance Agreement does not exceed the Useful Life of the Device, unless otherwise specified in a Participating Addendum; and
  - 3) The Maintenance Agreement adheres to the same requirements as outlined in §4.4.2(d) and §4.4.2(e).
- ii) Devices that were previously serviced by another Dealer or Manufacturer must be inspected and repaired, if necessary. Upon mutual agreement, Contractor may charge Purchasing Entity for any parts and/or labor required to bring the Device up to acceptable maintenance levels.
  - iii) If the Device has been at the Purchasing Entity's location for less than five (5) years, then Maintenance Agreement pricing shall not exceed this Master Agreement pricing, until the Purchasing Entity reaches the five (5) year mark. Refer to §4.4.2(f)(iv) below for additional information.
  - iv) If the Device has been at the Purchasing Entity's location for more than five (5) years, then Maintenance Agreement pricing shall not exceed 107% of the Service and Supply pricing in this Master Agreement for years 5 through 7, and 110% for years 8 and beyond. The Service and Supply pricing that will be used for this calculation will be based on the following:
    - 1) The Group and Segment to which the Device is categorized; and
    - 2) The Service and Supply pricing for that Group and Segment, as listed under Newly Manufactured Equipment in this Master Agreement.

#### 4.4.3. Service Requirements

- a) **Technicians.** All technicians shall be factory trained by the OEM and certified to Service the Devices.
- b) **Standard Service Levels.** Participating States and/or Entities shall negotiate their own Service Level Agreement (SLA) with the Contractor. The SLA, must, at a minimum, adhere to the following requirements:
  - i) **End-User Training**
    - 1) An initial, no charge, on-site, one-hour training session for each Device, must be offered by Contractor for all non-desktop Products placed at each Purchasing Entity's location. For drop-shipped or desktop Products, Contractor shall offer an initial, one-hour, no charge, web-based, or on-line training session.
    - 2) Technical support training shall also be included in the initial, no charge training, and will include network connectivity and print driver installation. This training will be in addition to the one-hour of free training for Device operation.
    - 3) If Purchasing Entity elects to exercise the training option, then Contractor shall provide the training within ten (10) Business Days of Purchasing Entity's request.
    - 4) Contractor shall offer additional on-site, one-hour training sessions for a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity prior to Order placement.
    - 5) Contractor must provide on-site or off-site operational training to designated Purchasing Entity personnel, until the personnel are able to operate the Equipment independently. Pricing for operational training shall be based on a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity prior to Order placement.
    - 6) Contractor shall provide Product literature, user-manuals, and access to on-line resources, if available, at no charge to the Purchasing Entity.

- 7) Contractor shall provide a toll-free end-user technical support number that Purchasing Entities can utilize for everyday minor troubleshooting. A Purchasing Entity must be able to obtain assistance during Normal Business Hours.
  - 8) Contractor shall provide phone/technical support within two (2) hours of Purchasing Entity's request for assistance.
- ii) **Preventative Maintenance.** Contractor shall perform all Preventative Maintenance Services at the Manufacturer's suggested intervals, or as specified in an Order. Preventative Maintenance shall not be a requirement on desktop Devices.
- iii) **Equipment Performance**
- 1) Equipment Downtime shall be calculated from the time a service call is placed with Contractor or with Dealer's dispatch department until the time the technician completes the repair.
  - 2) Equipment Downtime due to lack of consumable Supplies is not acceptable.
  - 3) Equipment Uptime is calculated between 8:30am and 5:00pm, Monday through Friday, excluding Contractor and Dealer holidays. Uptime requirements shall not include Preventative Maintenance service calls, calls which could have been prevented by key operator functions outlined in the Device's operating manual, calls due to customer mishandling, units which are running outside the Manufacturer's optimum performance volume, or Devices which need to be over-hauled as a result of reach the end of Useful Life (in the Contractor's opinion).
  - 4) **Devices under 91ppm:** Contractor shall guarantee that the fleet of Devices for each Purchasing Entity will be operational at least 96% of the time, during Normal Business Hours for Group A, Group B, Group C, and Group D.
  - 5) **Devices over 91ppm:** Contractor shall guarantee that digital press Production Equipment for each Purchasing Entity will be operational at least 90% of the time, during Normal Business Hours.
  - 6) If any fleet of Devices fails to perform at the operation level specified in §4.4.3(b)(iii)(4) and (5), then §4.11.13 shall apply.
  - 7) Contractor must provide daily communication to the Purchasing Entity regarding inoperable Equipment, including updates regarding resolution timeframe, and any parts, Accessories, or Devices on back-order.
- iv) **Loaner Equipment.** If any Device, excluding digital press Production Equipment, and Group E Equipment, is inoperable for two (2) Business Days, due to Equipment malfunction, as reasonably determined by Contractor, then Contractor shall provide the Purchasing Entity with:
- 1) A loaner Device of similar speed and capabilities until such time as the inoperable Device(s) are now operable; or
  - 2) Provide the Purchasing Entity with off-site manned production capabilities to accomplish the work of the unit that is inoperable at the sole expense of the Contractor. Such costs shall be limited to the cost of production (Service and Supplies), Equipment, labor, and transportation to and from the off-site production facility and the Purchasing Entity location.
- v) **Repair Parts**
- 1) Contractor shall guarantee the availability of repair parts for a minimum of five (5) years after the Purchasing Entity's Acceptance of any Device.

- 2) All Device components, spare parts, application software, and ancillary Equipment that is supplied under this Master Agreement, must conform to Manufacturer specifications.
- 3) Contractor shall be responsible for ensuring that any repair parts are operable and installed in accordance with Manufacturer specifications.
- 4) Repair parts may be new, reconditioned, reprocessed or recovered.

**vi) Replacement Equipment**

- 1) If Purchasing Entity is not satisfied with any Device that does not perform up to its documented Equipment specifications, Contractor will, at Purchasing Entity's written request, replace it without charge with an equivalent unit or, upon mutual agreement with the Purchasing Entity, with a Device of comparable features and capabilities.
- 2) Prior to installing a substitute Device, Contractor will be allowed thirty (30) days to remedy any quality or reliability issues.
- 3) A designated factory authorized technician must certify each Device's ability to produce acceptable impressions with an acceptable number of copies between calls or uptime. This certification will remain in effect for up to five (5) years from the Purchasing Entity date of purchase or lease, providing the Equipment has not been subjected to abuse or neglect and has been continuously covered by a Maintenance Agreement. This certification will be void in accordance with §4.11.10.

**vii) Service Zones**

- 1) Unless otherwise specified in a Participating Addendum, Contractor shall adhere to the following Service Call Response Times based on the distance that their Service Base Location is from the Purchasing Entity:

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

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

**viii) Service Logs**

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

**ix) Equipment Relocation**

- 1) Equipment relocation Services include dismantling, packing, transporting, and re-installing Equipment.

- 2) Contractor may charge for this Service based on the following table:

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

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

- 3) Contractor shall not charge for any fees incurred due to fuel or tolls.
- 4) Moves must be performed within thirty (30) calendar days of the Purchasing Entity request. Request may be verbal or written, but Contractor must confirm the request in writing and provide a date that the move will occur. Written confirmation must be sent to the Purchasing Entity within three (3) Business Days of request. In the event that there will be a delay in these Services, Contractor shall communicate with Purchasing Entity and agree on a mutually beneficial time-frame.

**c) Meter Read Invoicing**

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

**d) Service Level Calculations**

- i) At the discretion of the Participating State or Entity, Contractor shall produce reports that can be measured against the required SLA components. Refer to §4.4.3(e) for reporting requirements.
- ii) The Participating State or Entity shall determine how the reports will be utilized and whether liquidated damages will be assessed for failure to meet the SLA requirements. Any liquidated damages or penalty structure shall be defined in the Participating State or Entity's Participating Addendum.

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

- i) The report shall include the following:
  - 1) Up-time percentage (%) per fleet of Devices;

- 2) Number of Service Calls placed;
- 3) Response Time per Device;
- 4) Dates that Preventative Maintenance was performed, if applicable;
- 5) Hours of end-user training performed; and
- 6) Estimated end of Useful Life per Device, based on current usage.

- ii) The report may include, but not be limited to, the following:
- 1) Location of Devices;
  - 2) Click usage per Device; and
  - 3) EPEAT certification level of each Device.

f) **Additional Terms and Conditions.** Maintenance Agreements shall be subject to the additional terms and conditions set forth in **Attachment B (Canon Maintenance Terms and Conditions)**, and **Attachment E (Digital Press Production and Large Format Equipment Master Services Agreement Terms and Conditions)**.

**4.4.4. Software Subscriptions**

- a) Software pricing shall be inclusive of available software patches and any updates.
- b) Purchasing Entities shall have the option to finance software subscriptions according to the lease rates listed in Groups A, B, C, D, E, and F of the Master Agreement.
- c) Any new releases of software versions (upgrades) shall be chargeable to the Purchasing Entity; however, Contractor may not charge for the installation of the software upgrade.
- d) License fees and support fees shall remain firm throughout the term of the agreement.
- e) Software subscriptions shall not be subject to automatic renewals. Should there be any conflicting language between the software EULA and the Master Agreement, the Master Agreement shall govern and control.
- f) Contractor shall be responsible for communicating all updates, patches, and new releases/versions to Purchasing Entities.
- g) Contractor shall provide a web-based or toll-free hotline during Normal Business Hours for Purchasing Entities to report software problems or answer software related questions.

**4.5. Purchase and Lease Programs**

4.5.1. Contractor shall offer the following acquisition methods:

Financial Vehicle	Standard Terms Offered
Purchase	N/A
Fair Market Value Lease	12, 18, 24, 36, 48 and 60 months
\$1 Buyout Lease	
Straight Lease	12 months
Short-Term Lease	

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

4.5.3. Contractor shall also offer 72 and 84-month lease rates for Group C Devices only.

#### 4.5.4. Equipment Trade-In

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

#### 4.5.5. Lease Rates

- a) Contractor shall include an estimated property tax amount in their lease rates.
- b) The rate for any lease shall remain fixed throughout the Initial Lease Term.
- c) Equipment Payments for Renewal Terms shall never exceed Master Agreement pricing.
- d) If a Purchasing Entity enters into a Renewal Term, then the Equipment Payment will be subject to the lease rates listed in the most recent Price List(s) posted on the NASPO ValuePoint website.
- e) Contractor may update lease rates on a quarterly basis to allow for changes in the financial market. The rates must be indexed against the US Daily Treasury Yield Curve Rates, or something similar, and must be the rate in effect at the end of each calendar quarter. Refer to <https://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yield> for additional information.
- f) On a quarterly basis, Contractor may update the personal property tax uplift on lease rates based on the participation of states not listed in the RFP, or a change in the property tax assessed by states that are listed in the RFP.
- g) Contractor shall offer Coterminous lease rates to any Purchasing Entity wishing to add Products to an existing lease agreement.

#### 4.5.6. Leasing Overview

- a) All lease programs must remain with the Contractor or Authorized Dealers through an in-house leasing program, or through the financial branch or subsidiary of the Contractor. In addition, Contractor and their Authorized Dealers may use Third Party leasing companies, but all billing must be invoiced in the name of the Contractor or their Authorized Dealer, and all contractual obligations shall remain with the Contractor.
- b) A Purchasing Entity may lease Equipment pursuant to the terms and conditions identified herein.
- c) A Purchasing Entity that leases Equipment may issue an Order, pursuant to the terms and conditions that are incorporated into this Master Agreement, and according to the requirements listed in their states' Participating Addendum. Without limiting the foregoing, each Order shall, except as otherwise provided in the applicable state's Participating Addendum, be subject to and be governed by the terms and conditions of Attachment A (Canon Lease Agreement Terms and Conditions).
- d) Lease agreements shall not be subject to automatic renewals.
- e) In the event that the term of a lease agreement extends beyond the term of the Participating Addendum, the terms and conditions of this Master Agreement and Participating Addendum shall continue to apply.

- f) A lease agreement issued prior to the termination of this Master Agreement and Participating Addendum, shall survive the termination of this Master Agreement and the Participating Addendum.
- g) With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, a Purchasing Entity shall return the Equipment at the end of the Initial Lease Term, or at the end of the Renewal Lease Term, or the Contractor may pick the Equipment up, without any further financial obligations to the Purchasing Entity.
- h) Equipment pickups must be performed within thirty (30) calendar days of the end of the Initial or Renewal Term.
- i) Equipment returns must be performed within thirty (30) calendar days after the Contractor or Authorized Dealer provides return shipping instructions to the Purchasing Entity.
- j) Contractor shall be responsible for all Product pickup and return costs.
- k) The maximum term on any Initial Lease Term shall be 60 months, with the exception of Group C Devices, which shall have a maximum term of 84 months, and with the exception of Short-Term Leases, which shall have a maximum term of 12 months.
- l) The length of a Renewal Term shall be at the discretion of the Participating State or Entity, but at no time shall the Renewal Term exceed the Useful Life of the Equipment.
- m) All Renewal Terms shall be billed on a monthly basis.

#### **4.5.7. Leasing Options**

##### **a) FMV Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
  - 1) Exercise their purchase option;
  - 2) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of the Participating State or Entity; or
  - 3) Return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

##### **b) \$1 Buyout Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, the Contractor shall provide title to the Equipment to the Purchasing Entity, or as otherwise determined in a Participating Addendum, and the Purchasing Entity shall not be subject to any additional expense in order to assume possession of the Equipment.

**c) Straight Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
  - 1) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of the Participating State or Entity; or
  - 2) Return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

**d) Short-Term Lease**

- i) A Purchasing Entity shall have the option to enter into a maximum lease term of 12months.
- ii) Upon the expiration of the lease term, a Purchasing Entity shall return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

**4.5.8. Leasing Terms and Conditions**

**a) Possession and Return of Leased Equipment**

- i) Purchasing Entity is responsible for risk of loss to the Products while the Products are in Purchasing Entity's possession. Purchasing Entity shall be relieved of all risks of loss or damage to the Products during periods of transportation and de-installation.
- ii) Contractor or Authorized Dealer must notify a Purchasing Entity, in writing, of their End of Term (EOT) options at least sixty (60) to ninety (90) days prior to the end of any Initial Lease Term. Such notification may include, but not be limited to, the following:
  - 1) Any acquisition or return options, based on the type of lease agreement;
  - 2) Any renewal options, if applicable; and/or
  - 3) Hard drive removal and surrender cost, if applicable.
- iii) If a Purchasing Entity desires to exercise a purchase, renewal, or return of the Equipment, it shall give Contractor at least thirty (30) days written notice prior to the expiration of such lease term. Notwithstanding anything to the contrary, if Purchasing Entity fails to notify Contractor of its intent with respect to the exercise of a purchase, renewal, or return of the Equipment, the Initial Lease Term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged, unless otherwise specified in a Participating State or Entity's Participating Addendum.
  - 1) If the Purchasing Entity fails to notify Contractor at least thirty (30) days prior to lease termination of digital press Production Equipment and/or large format printers, then the lease will automatically renew on a month-to-month basis until the Purchasing Entity notifies the Contractor of their intent. In such a case, the automatic renewal term shall not exceed a maximum of 12 monthly payments. At which point in time, Contractor will make arrangements to pick up the Equipment from the Purchasing Entity.
- iv) If Purchasing Entity does not exercise the purchase or renewal option, it will immediately make the Product available to Contractor in as good of condition as when Purchasing Entity received it, except for ordinary wear and tear.

- b) **Payment.** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Products, or such later date as Contractor may designate. The remaining payments will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order.
- c) **Buyout to Keep Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Keep option on an FMV or \$1 Buyout I Lease.
- d) **Buyout to Return Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Return option on an FMV, \$1 Buyout or Straight Lease, and return the Equipment to the Contractor in good working condition (ordinary wear and tear excepted).
- e) **Equipment Upgrade or Downgrade.** A Purchasing Entity may do an Equipment Upgrade or Downgrade on a lease at any time throughout the term of the lease agreement. The Purchasing Entity and the Contractor shall negotiate the price of the Equipment Upgrade or Downgrade, but at no time shall the total cost of the Equipment Upgrade or Downgrade be less than the remaining stream of Equipment Payments.
- f) **Non-appropriation of Funds.** The continuation of any lease agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. The Purchasing Entity may terminate any such lease agreement, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Purchasing Entity's funding sources are not available.
- g) **Assignment**
  - i) Purchasing Entity has no right to sell, transfer, encumber, sublet or assign the Product or any lease agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld).
  - ii) Purchasing Entity agrees that Contractor may not sell or assign any portion of Contractor's interests in the Product and/or these Lease Terms or any Order for leases, without notice to Purchasing Entity even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as Contractor assigns to them, but none of Contractor's obligations (Contractor will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Purchasing Entity may have against Contractor.
  - iii) No assignment to an Assignee will release Contractor from any obligations Contractor may have to Purchasing Entity.
- h) **Early Termination Charges**
  - i) Except in the case of Non-appropriation of funds, FMV, \$1 Buyout, Straight and Short-Term Leases shall be subject to an early termination charge, and shall involve the return of the Equipment (in good working condition; ordinary wear and tear excepted) by the Purchasing Entity to the Contractor. With respect to the Equipment, the termination charge shall not exceed the balance of remaining Equipment Payments (including any current and past due amounts), and with respect to Service or maintenance obligations, the termination charge shall not exceed four (4) months of the Service and Supply base charge or twenty-five percent (25%) of the remaining Maintenance Agreement term, whichever is less.
- i) **Default.** Each of the following is a "default" under these lease terms:

- i) Purchasing Entity fails to pay any payment or any other amount within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
  - ii) Any representation or warranty made by Purchasing Entity in these lease terms is false or incorrect and Purchasing Entity does not perform any of its obligations under these lease terms, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after Contractor has notified Purchasing Entity;
  - iii) Purchasing Entity or any guarantor makes an assignment for the benefit of creditors;
  - iv) Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
  - v) Purchasing Entity stops doing business as a going concern or transfers all or substantially all of Purchasing Entity's assets.
- j) **Remedies.** If a Purchasing Entity defaults on a lease agreement, then Contractor, in addition to, or in lieu of, the remedies set forth in this Master Agreement, and Participating Addendum, may do one or more of the following:
- i) Cancel or terminate any or all Orders, and/or any or all other agreements that Contractor has entered into with Purchasing Entity;
  - ii) Require Purchasing Entity to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to:
    - 1) All past due payments and all other amounts payable under the lease agreement;
    - 2) All unpaid payments for the remainder of the lease term, discounted at a rate equal to three percent (3%) per year to the date of default; and
    - 3) Require Purchasing Entity to deliver the Product to Contractor per mutual arrangements.

## 4.6. Security Requirements

### 4.6.1. Network and Data Security

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

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

**4.6.3. Data Breach.** Contractor shall have an incident response process that follows National Institute of Standards and Technology (NIST) standards as referenced in Special Publication 800-61, Revision 2 (available at <http://dx.doi.org/10.6028/NIST.SP.800-61r2>) and includes, at a minimum, breach detection, breach notification, and breach response.

#### **4.6.4. Authentication and Access**

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

#### **4.6.5. Hard Drive Removal and Surrender**

- a) Contractor shall ensure that all hard drive data is cleansed and purged (if capable) from the Device at the end of its Useful Life, or when any hard drive leaves the Purchasing Entity's possession; or
- b) At the Participating State or Entity's discretion, Contractor shall remove the hard drive from the applicable Device and provide the Purchasing Entity with custody of the hard drive before the Device is removed from the Purchasing Entity's location, moved to another location, or any other disposition of the Device. The Purchasing Entity shall then be responsible for securely erasing or destroying the hard drive.
- c) If Contractor takes possession of any Device at the Purchasing Entity's location, then they shall also remove any ink, toner, and associated Supplies (drum, fuser, etc.) and dispose of them in accordance with applicable law, as well as environmental, and health considerations, or as otherwise specified in a Participating Addendum.
- d) Hard drive sanitation shall be at no expense to the Purchasing Entity; however, Contractor may charge the Purchasing Entity a fee if the Purchasing Entity elects to keep the hard drive in their possession. Contractor must disclose the price for removal and surrender of the hard drive, prior to Order placement.
- e) If the hard drive is not removable, or the Device does not contain a hard drive, then Contractor must convey this to the Purchasing Entity at the time of Order placement. In the case of a non-removable hard drive, §4.6.5(a) shall apply.
- f) If a Contractor is removing another Manufacturer's Equipment, they are not permitted to remove the hard drive. Only the Manufacturer or their Authorized Dealer shall remove hard drives in their own Devices. Contractor shall work with the Manufacturer to ensure the requirements pursuant to this Subsection are met.

#### **4.7. Equipment Demonstration Requirements**

- 4.7.1. Contractor must offer trial or demonstration Equipment for Group A, Group B, and if requested by the Purchasing Entity, Group C, Group D, Group E, and Group F.
- 4.7.2. Trial or demonstration Equipment may be new or used; however, no used, Remanufactured, or Refurbished Devices shall be converted to a purchase or lease.
- 4.7.3. At the discretion of the Participating State or Entity, and upon request by a Purchasing Entity, showroom Equipment for Groups A, B, and C may be converted to a purchase or lease, providing the following conditions are met:

- a) The meter count on Group A and Group B Devices does not exceed 10,000 copies total (i.e. b&w and color combined);
- b) The meter count on Group C Devices not exceed 50,000 copies total (i.e. b&w and color combined);
- c) The Device must be discounted by at least 5% off of this Master Agreement pricing for that same Device; and
- d) The Purchasing Entity and the Contractor indicate on the Order that the Device is a showroom model.

**4.7.4.** Any trial or demonstration period shall not exceed thirty (30) calendar days.

#### **4.8. Shipping and Delivery Requirements**

- 4.8.1.** All Orders, regardless of quantity, shall be delivered to the Purchasing Entity within thirty (30) calendar days after Contractor receipt of Order, unless otherwise specified by a Purchasing Entity.
- 4.8.2.** Software related to the Device must be installed within five (5) Business Days of the Device installation, or as otherwise stated in an Order.
- 4.8.3.** All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. The minimum shipment amount, if any, will be found in the special terms and conditions. Any Order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.
- 4.8.4.** Responsibility and liability for loss or damage shall transfer to the Purchasing Entity upon delivery of the Product, except as to material defects, fraud and Contractor's warranty obligations, which shall remain with the Contractor.
- 4.8.5.** All deliveries shall be made during Normal Business Hours, which may vary for each Purchasing Entity of each Participating State.
- 4.8.6.** It shall be the responsibility of the Contractor to be aware of the delivery days and receiving hours for each Purchasing Entity.
- 4.8.7.** The Purchasing Entity shall not be responsible for any additional charges, should the Contractor fail to observe specific delivery days and receiving hours.
- 4.8.8.** The Purchasing Entity shall establish the delivery days and delivery hours at the time of Order placement.
- 4.8.9.** All deliveries, with the exception of drop-shipped or desktop Products, shall be made to the interior location specified by the Purchasing Entity. Specific delivery instructions will be noted on the Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.
- 4.8.10.** Products shall be packaged and labeled so as to satisfy all legal and commercial requirements applicable for use by any Purchasing Entity, and shall include, without limitation and if applicable, OSHA material safety data sheets, and shall conform to all statements made on the label.

4.8.11. Packages that cannot be clearly identified may be refused and/or returned at no cost to the Purchasing Entity.

4.8.12. **Laws and Regulations.** Any Products and Services offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

#### **4.9. Equipment Installation Requirements**

4.9.1. Prior to Order acceptance, Contractor must advise Purchasing Entity of any specialized installation and site requirements for the delivery and installation of Device. This information should include, but is not limited to, the following:

- a) Air conditioning;
- b) Electrical;
- c) Special grounding;
- d) Cabling;
- e) Space;
- f) Humidity and temperature limits; and
- g) Other considerations critical to the installation.

4.9.2. The Purchasing Entity shall be responsible for furnishing and installing any special wiring or dedicated lines.

4.9.3. Network installation shall include configuration of the Device for the proper network protocols, and installation of the appropriate print drivers on up to five (5) computers per Device, or as otherwise specified in a Participating Addendum.

4.9.4. If applicable, all Devices must be set-up with Preventative Maintenance notifications turned on, and with the most environmentally responsible defaults enabled, including Energy Star saving settings.

4.9.5. Contractor may charge for excessive installation requirements, including rigging, access alterations, and access to non-ground floors via stairs. Any such excessive installation charges must be quoted to the Purchasing Entity prior to the signature of any Order, and shall be based on the actual expenditures of Contractor or Authorized Dealer.

4.9.6. Contractor or Authorized Dealers shall affix a label or a decal to the Device at the time of installation that shows the name, address, and telephone number of Contractor or Authorized Dealer responsible for warranty Service of the Equipment.

4.9.7. Contractor shall clean-up and remove all debris and rubbish resulting from their work as required by the Purchasing Entity. Upon completion of the work, the premises shall be left in good repair and in an orderly, neat, clean, and unobstructed condition.

#### **4.10. Inspection and Acceptance**

4.10.1. All Products are subject to inspection at reasonable times and places before Acceptance.

4.10.2. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option:

- a) Declare Contractor to be in breach and terminate the Order;
- b) Demand replacement Product from Contractor at no additional cost to Purchasing Entity; or,
- c) Continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met.

**4.10.3.** Purchasing Entity shall confirm delivery, installation and Acceptance of all Products covered by each purchase or lease Order, by signing a Delivery and Acceptance Certificate (D&A), as referenced in Exhibit B (Sample D&A Certificate), which shows Acceptance of the Product(s) and allows Contractor to invoice for the Product(s).

**4.10.4.** Purchasing Entity agrees to sign and return the D&A to Contractor (which, at mutual agreement, may be done electronically) within five (5) Business Days after any Product is installed, or as otherwise stated in a Participating Addendum.

**4.10.5.** Failure to sign the D&A or reject the Product(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity; however, it does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) defects subsequently revealed when Products are put to use. Acceptance of such Products may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor shall be liable for any resulting expense incurred by the Purchasing Entity in relation to the preparation and shipping of Product(s) rejected and returned, or for which Acceptance is revoked.

**4.10.6. Transfer of Title**

- a) Contractor shall have exclusive title to the Products being delivered and the Products shall be free and clear of all liens, encumbrances, and security interests. Title to the Device shall only pass to the Purchasing Entity upon:
  - i) Purchasing Entity up-front purchase of the Device;
  - ii) Purchasing Entity exercising the purchase option at the end of a Fair Market Value Lease;
  - iii) Upon expiration of a Purchasing Entity's \$1 Buyout Lease; or
  - iv) Purchasing Entity has secured Third Party financing and the Purchasing Entity is making payment directly to the Contractor.
- b) Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

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

**4.11. Warranty Requirements**

**4.11.1.** The Warranty period shall begin upon Acceptance of the Products, and shall be for a minimum of ninety (90) days for purchase or leased Equipment.

- 4.11.2.** Contractor shall also offer a 1-year warranty, and in some cases, a 3-year warranty, for select imagePROGRAF, imageCLASS, and imageFORMULA Devices.
- 4.11.3.** Contractor shall also offer an eCarePAK program for the Devices listed in §4.11.2. The additional service coverage that this program offers includes covered parts and labor, as well as helpdesk support for triaging issues. For desktop Devices covered under the eCarePAK program, Contractor shall also offer Advanced Exchange Replacement services, which allows for quick and easy Device replacement by mail should any covered Device become inoperable.
- 4.11.4.** Devices that are sold under this Master Agreement will come with the standard features as published on the Manufacturers website, and will not deviate from the stated specifications.
- 4.11.5.** Products shall be in good working order, free from any defects in material and workmanship, and fit for the ordinary purposes they are intended to serve.
- 4.11.6.** If defects are identified, per mutual agreement of Contractor and the Purchasing Entity, Contractors obligations shall be limited solely to the repair or replacement of Products proven to be defective upon inspection.
- 4.11.7.** Replacement of Products shall be on a like-for-like basis and shall be at no cost to the Purchasing Entity.
- 4.11.8.** Repair of defective parts and/or Devices shall be at no cost to the Purchasing Entity.
- 4.11.9.** Upon significant failure of a Product, the warranty period shall commence again for the same amount of time as specified in §4.11.1. Significant failure shall be determined by the Participating State.
- 4.11.10.** Contractor warranty obligations shall not apply if:
- a) Product is installed, wired, modified, altered, or serviced by anyone other than Contractor and/or their Authorized Dealer;
  - b) If a defective or non-Contractor authorized Accessory, Supply, software, or part is attached to, or used in the Device; and
  - c) The Device is relocated to any place where Contractor Services are not available.
- 4.11.11.** Contractor agrees to perform its Services in a professional manner, consistent with applicable industry standards.
- 4.11.12.** It will be at the discretion of each Participating State or Entity to negotiate additional warranty requirements with the Contractor.
- 4.11.13. Lemon Clause**
- a) This clause shall apply to all Devices that are purchased or leased under this Master Agreement.
  - b) This clause shall not apply if Supplies are used in the Devices that were not manufactured, provided, or authorized by the Contractor.
  - c) The application period is thirty-six (36) months from the date of Acceptance.

- d) This clause shall take precedence over any other warranty or Services clauses associated with this Master Agreement, or as specified by a Participating State or Entity in their Participating Addendum.
- e) A Purchasing Entity must maintain an uninterrupted Maintenance Agreement on all purchased Devices in order for this clause to apply past the initial ninety (90) day warranty.
- f) Any Device that fails (except due to operator error) to function in accordance with the Manufacturer's published performance specifications, four (4) times in any four (4) week period and/or is subject to recurring related problems, shall be replaced with a like-for-like (i.e. similar usage, remaining useful life etc.) Device that meets or exceeds the requirements of the original Device, at no cost to the Purchasing Entity.

#### **4.12. Customer Service**

- 4.12.1. Key Personnel.** Contractor shall ensure that staff has been allocated appropriately to ensure compliance with this Master Agreement and subsequent Participating State or Entity requirements and that the individuals occupying the Key Personnel positions have adequate experience and knowledge with successful implementation and management of a national cooperative contract. Contractor shall ensure that there is always a single point of contact for the following positions:
- a) **Master Agreement Contract Administrator** - the Lead State's primary contact in regards to Contract negotiations, amendments, Product and Price List updates, and any other information or documentation relating to this Master Agreement;
  - b) **NASPO ValuePoint Reporting Contact** - Responsible for submitting quarterly reports and the quarterly Administrative Fee to the appropriate personnel;
  - c) **Master Agreement Marketing Manager** - Responsible for marketing this Master Agreement, as well as creating Participating State websites, and ensuring that all uploaded data and content is current; and
  - d) **National Service Manager** - Responsible for overseeing the Regional Service Managers, Field Service Technicians, training, and inside Service operations. This position works with the Lead State Contract Administrator to ensure contractual obligations are met, while providing leadership for the Contractor's operations, as well as strategic planning of the Service department.
- 4.12.2.** Contractor shall provide a single point of contact for each Participating State, who will handle any questions regarding the Products provided, as well as pricing, delivery, billing, status of Orders, customer complaints and escalated issues.
- 4.12.3.** Contractor shall provide full Service and support for Products during Normal Business Hours.
- 4.12.4.** Contractor shall have a designated customer service team who will be available by phone (via local or toll free number), fax, or email during Normal Business Hours.
- 4.12.5.** Customer service representatives shall have online access to account information and will respond to inquiries concerning the status of Orders (shipped or pending), delivery, back-orders, pricing, Product availability, Product information, and account and billing questions.

### **5. ADMINISTRATION OF ORDERS**

#### **5.1. Ordering and Invoicing Specifications**

- 5.1.1.** Master Agreement Order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

- 5.1.2.** Contractor shall accept procurement credit cards as a form of payment from Purchasing Entity, with no additional charge or fee assessed.
- 5.1.3.** Contractor shall provide a centralized billing option, upon request, and at the discretion of a Participating State or Entity.
- 5.1.4.** Authorized Dealers may invoice the Purchasing Entity directly, unless otherwise specified in a Participating Addendum.
- 5.1.5.** Contractor and/or Authorized Dealers may charge the Purchasing Entity a re-stocking fee for any Products that are not accepted. The amount of the fee shall be the lesser of 10% of the purchase price, or \$200.00, unless otherwise specified in a Participating Addendum.
- 5.1.6.** Contractor may bill property tax separately or as otherwise indicated in a Participating Addendum or an Order.
- 5.1.7.** Contractor and/or Authorized Dealers may estimate meter reads if a Purchasing Entity fails to submit the required information within the specified time-frame.
- 5.1.8.** This Master Agreement permits Purchasing Entities to define project-specific requirements and informally compete the requirement among other contractors having a NASPO ValuePoint Master Agreement, on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to Purchasing Entity rules and policies. The Purchasing Entity may, in its sole discretion, determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- 5.1.9.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of Products, and/or Services contemplated by this Master Agreement.
- 5.1.10.** Contractor shall not begin work without a valid purchase order or other appropriate commitment document compliant with the law of the Purchasing Entity.
- 5.1.11.** Orders must be placed consistent with the terms of this Master Agreement, and only during the term of this Master Agreement.
- 5.1.12.** All Orders pursuant to this Master Agreement, at a minimum, shall include:
  - a)** Name of Purchasing Entity;
  - b)** The name, phone number, and address of the Purchasing Entity representative;
  - c)** Order date;
  - d)** Description of the Product and/or Service ordered;
  - e)** Model number;
  - f)** Serial number;
  - g)** Price;
  - h)** This Master Agreement number; and
  - i)** Any additional information required by the Participating Entity.

- 5.1.13.** All software Orders must reference the Manufacturer's most recent release or version of the Product, unless the Purchasing Entity specifically requests a different version.
- 5.1.14.** All communications concerning administration of Orders placed shall be furnished solely to the authorized individual within the Purchasing Entity's location, or to such other individual identified in writing in the Order.
- 5.1.15.** Contractor shall not issue an invoice until the Purchasing Entity has confirmed Acceptance, per §4.10.3.
- 5.1.16.** Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- 5.1.17. Internet-based Portal and Electronic Catalogs.** If Contractor provides the ability to place an Order through an internet-based portal or electronic catalog, then Contractor shall maintain all necessary hardware, software, backup-capacity and network connections required to operate that internet-based portal or electronic catalog. In addition, Contractor shall adhere to the following requirements:
- a) The internet-based portal or electronic catalog shall clearly designate that the Products are part of this NASPO ValuePoint Master Agreement, and shall link to the Participating State or Entity's designated web location;
  - b) All Environmentally Preferable Products (EPP) shall be clearly listed;
  - c) If the Contractor's electronic catalog will either be hosted on or accessed through the Participating State's eCommerce system, then Contractor shall comply with all policies, procedures and directions from the Participating State or Entity in relation to hosting its catalog on or making its catalog accessible through that system;
  - d) All information made available through the Participating State or Entity's eCommerce system is accurate and complies with this Master Agreement and the Participating Addendum; and
  - e) Paper catalogs or catalogs on other digital media must be supplied to the Participating State or Entity upon request.
- 5.1.18.** Substitutions are not allowed. If an ordered Product is out-of-stock, Contractor shall notify the Purchasing Entity and request approval before substituting for the out-of-stock item. Contractor's request to substitute shall explain how the substituted Product compares with the out-of-stock item. Any substitute Product offered must be on this Master Agreement Price List.
- 5.1.19.** Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery Order arrangement priced against this Master Agreement, may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery Order agreement.
- 5.1.20.** Contractor's process for resolving disputed invoices, issuing refunds and/or credit, and addressing over-payments as well as Product returns is as follows:
- a) Purchasing Entity shall contact the Contractor via email or the 800 customer service number provided on the invoice;

- b) If the Customer Service team is not able to resolve the issue, then the call will be escalated to the Master Agreement Contract Administrator;
- c) If Contractor agrees to Purchasing Entity's dispute, the Purchasing Entity's account shall be credited. If the Master Agreement Contract Administrator does not agree with the Purchasing Entity's dispute, then the Purchasing Entity can request further review by the Director of Bids and Administration.

In all instances of dispute resolution, the Purchasing Entity may contact the Participating State Contract Administrator, or the Lead State for assistance in resolving the dispute.

## **5.2. Payment**

Payment for completion of a Contract Order is normally made within thirty (30) days following the date the entire Order is delivered or the date a correct invoice is received, whichever is later. After forty-five (45) days, the Contractor may assess overdue account charges up to a maximum rate of one (1) percent per month on the outstanding balance.

## **6. GENERAL PROVISIONS**

### **6.1. Insurance**

- 6.1.1.** Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option; result in termination of its Participating Addendum.
- 6.1.2.** Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:
  - a) Commercial General Liability covering premises operations, Independent Contractors, Products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence, \$2 million general aggregate, \$2 million Products and completed operations aggregate and \$50,000 and any one fire. If any aggregate limit is reduced below \$2,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the Participating Entity, a certificate or other document satisfactory to the Participating Entity, showing compliance with this provision.
  - b) Cyber Liability covering claims and losses with respect to network, internet (Cloud) or other data disclosure risks (such as data breaches, releases of Confidential Information, unauthorized access/use of information, and identity theft) with minimum limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
  - c) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
  - d) Automobile Liability covering any auto (including owned, hired and non-owned), with a minimum limit of \$1,000,000 each accident combined single limit.
- 6.1.3.** Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that the insurer not revoke them until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Purchasing Entity and Participating Entity by the Contractor.

- 6.1.4.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that:
- a) Names the Participating States identified in the Request for Proposal as additional insured's, and;
  - b) Provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.
- 6.1.5.** Contractor shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within seven (7) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Purchase Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within fifteen (15) days after any renewal date. These certificates of insurance must expressly indicate compliance with each insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 6.1.6.** Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Order.

**6.2. Records Administration and Audit**

- 6.2.1.** The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any Order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder.
- 6.2.2.** Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of this Master Agreement or Orders, or underpayment of fees found as a result of the examination of the Contractor's records.
- 6.2.3.** The rights and obligations herein right exist in addition to any quality assurance obligation in this Master Agreement requiring the Contractor to self-audit Contract obligations and that permits the Lead State to review compliance with those obligations.

### **6.3. Confidentiality, Non-Disclosure, and Injunctive Relief**

**6.3.1. Confidentiality.** Contractor acknowledges that it and its employees or Authorized Dealers may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity's or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or Authorized Dealers in the performance of this Master Agreement, including, but not necessarily limited to:

- a) Any Purchasing Entity's records;
- b) Personnel records;
- c) Information concerning individuals is Confidential Information of Purchasing Entity. Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that:
  - i) Is or becomes (other than by disclosure by Contractor) publicly known;
  - ii) Is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement;
  - iii) Is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement;
  - iv) Is obtained from a source other than Purchasing Entity without the obligation of confidentiality;
  - v) Is disclosed with the written consent of Purchasing Entity; or
  - vi) Is independently developed by employees, Dealers or Subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

**6.3.2. Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and Distributors of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

**6.3.3. Injunctive Relief.** Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal

remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

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

**6.3.5.** The rights granted to Purchasing Entities, and the Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to §6.2, **Records Administration and Audit**. To the extent permitted by law, Contractor shall notify the Lead State of any entity seeking access to the Confidential Information described in this subsection.

#### **6.4. License of Pre-Existing Intellectual Property**

Contractor grants to the Purchasing Entity a non-exclusive, perpetual, irrevocable, unlimited license to use the Intellectual Property and its derivatives, embodied in any Products delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property") solely to the extent as necessary for the Purchasing Entity to use the Products as contemplated by this Master Agreement. The license shall be subject to any third party rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Purchasing Entity, written consent of the owner for the licensed Pre-existing Intellectual Property. Notwithstanding the foregoing, no license to use any software Products is granted other than as provided in the developer's end-user license agreement therefor.

#### **6.5. Public Information**

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

#### **6.6. Assignment/Subcontracts**

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

**6.6.2.** The Lead State reserves the right to assign any rights or duties, including written assignment of Contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint.

#### **6.7. Changes in Contractor Representation**

The Contractor must notify the Lead State of changes in the Contractor's Key Personnel, in writing within ten (10) calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed in the Contractor's proposal.

#### **6.8. Independent Contractor**

**6.8.1.** Contractor shall perform duties as an Independent Contractor, and not as an employee. Neither the Contractor nor any employee or Authorized Dealer of the Contractor, shall be or deemed to be an employee of the Lead State, NASPO ValuePoint, and/or any Participating State or Entity.

**6.8.2.** Contractor acknowledges that its employees are not entitled to unemployment insurance benefits unless the Contractor or a Third Party provides such coverage, and that the Lead State, NASPO

ValuePoint and any Participating State or Entity does not pay for or otherwise provide such coverage.

**6.8.3.** Contractor shall have no authority to bind the Lead State, NASPO ValuePoint and any Participating State or Entity to any agreements, liability, or understanding except as may be expressly set forth in this Master Agreement, Participating Addendum or an Order.

**6.9. Force Majeure**

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war, which is beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of this Master Agreement.

**6.10. Defaults and Remedies**

**6.10.1.** The occurrence of any of the following events shall be an event of default under this Master Agreement:

- a) Nonperformance of contractual requirements; or
- b) A material breach of any term or condition of this Master Agreement; or
- c) Any certification, representation or warranty by Contractor in this Master Agreement that proves to be untrue or materially misleading; or
- d) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- e) Any default specified in another section of this Master Agreement.

**6.10.2.** Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of thirty (30) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part, if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis.

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

- a) Exercise any remedy provided by law;
- b) Terminate this Master Agreement and any related Contracts or portions thereof;
- c) Impose liquidated damages as provided in this Master Agreement;
- d) Suspend Contractor from being able to respond to future Solicitations;
- e) Suspend Contractor's performance; and
- f) Withhold payment until the default is remedied.

**6.10.4.** Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in this Master Agreement, in addition to those set forth in its Participating Addendum.

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

**6.11. Waiver of Breach**

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

**6.12. Debarment**

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

**6.13. Indemnification**

**6.13.1.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, and Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable, from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or Subcontractors or volunteers, at any tier, relating to the performance under this Master Agreement.

**6.13.2. Indemnification – Intellectual Property.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").

**6.13.3.** The Contractor's obligations under this section shall not extend to any combination of the Product with any other Product, system or method, unless the Product, system or method is:

- a) Provided by the Contractor or the Contractor's subsidiaries or affiliates;
- b) Specified by the Contractor to work with the Product;
- c) Reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available Product, system or method capable of performing the same function; or
- d) It would be reasonably expected to use the Product in combination with such Product, system or method.

**6.13.4.** The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the

Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

#### **6.14. No Waiver of Sovereign Immunity**

**6.14.1.** In no event shall this Master Agreement, any Participating Addendum or any Contract or any Purchase Order issued thereunder, or any act of a Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

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

#### **6.15. Governing Law and Venue**

**6.15.1.** The laws of the Lead State shall govern the construction and effect of this Master Agreement. Venue for any administrative or judicial action relating to this Master Agreement shall be in the City and County of Denver, Colorado.

**6.15.2.** The construction and effect of any Participating Addendum or Order against this Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

**6.15.3.** If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): The Lead State for claims relating to the procurement, evaluation, award, or Contract performance or administration if the Lead State is a party; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

#### **6.16. Assignment of Antitrust Rights**

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

#### **6.17. Contract Provisions for Orders Utilizing Federal Funds**

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-

**Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.**

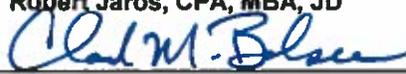
**THE PARTIES HERETO HAVE EXECUTED THIS MASTER AGREEMENT**

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

<p><b>CONTRACTOR</b> Canon U.S.A., Inc.</p> <p>By: Shinichi Yoshida Title: Executive Vice President and General Manager</p> <p>By: <u></u> *Signature</p> <p>Date: <u>7/29/19</u></p>	<p><b>STATE OF COLORADO</b> Jared S. Polis, Governor Department of Personnel &amp; Administration State Purchasing &amp; Contracts Office Kara Veitch, Executive Director</p> <p>By: <u></u> John Chapman, State Purchasing Manager</p> <p>Date: <u>Aug 1, 2019</u></p>
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**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

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

<p><b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD</p> <p>By: <u></u></p> <p>Date: <u>8/8/19</u></p>
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## **EXHIBIT A, PRICE LISTS**

**Group A** (posted as separate file)

**Group B** (posted as separate file)

**Group C** (posted as separate file)

**Group D** (posted as separate file)

**Group E** (posted as separate file)

**Group F** (posted as separate file)

**MPS** (posted as separate file)

**Software** (posted as separate file)

**Accessories for Discontinued Base Units** (posted as separate file)

**EXHIBIT B, SAMPLE D&A CERTIFICATE**

**NASPO VALUEPOINT MASTER AGREEMENT NO. 140595  
AND THE STATE OF Insert Name of Participating State PARTICIPATING  
ADDENDUM NO.  
WITH Canon U.S.A., Inc.**

**To:** Insert Name of Contractor or Authorized Dealer

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

**Insert name of Purchasing Entity**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**EXHIBIT C, SAMPLE MPS STATEMENT OF WORK**

<b>Agency/Customer:</b>		<b>Contractor:</b>	
<b>Contact Name:</b>		<b>Contact Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>Email:</b>		<b>Email:</b>	
<b>Phone:</b>		<b>Phone:</b>	
<b>Fax:</b>		<b>Fax:</b>	
		<b>Contractor website:</b>	
<b>Print Assessment Date:</b>		<b>Period of Performance:</b>	
<b>Statement of Work must incorporate the following documents:</b>			
NASPO ValuePoint Master Agreement # 140595		[Imbed document here]	
Participating Addendum # _____		[Imbed document here]	
Contractor's Print Assessment		[Imbed document here]	

**Statement of Work, at a minimum, must include the following elements:**

- 1. Introduction:**  
*Describe your current environment. What is your inventory, including owned, rented, or leased Devices?*
- 2. Scope:**  
*Include Project scope (i.e. single-function, multi-function printers etc.) and software*
- 3. Out of Scope:**  
*This Project does not cover the following functions or deliverables:*
- 4. Objective:**  
*The main objective of this project is:  
System and procedures will be set up to allow:*
- 5. Location:**  
*Enter all physical locations of where work will be performed*

**6. Discovery/Assessment:**

*Contractor will be required to discover/assess Purchasing Entity print environment as described below:*

***Deliverables:***

*Describe the deliverables for Discovery/Assessment*

***Checkpoints:***

*Describe the checkpoints for Discovery/Assessment*

**7. Data Security**

*Include description of data security requirements*

**8. Data Breach**

*Describe any data breach requirements*

**9. Equipment Guarantees**

*Describe downtime, on-site service, response time etc. (Note: this section must, at a minimum, adhere to the same requirements as outlined in the Master Agreement and/or Participating Addendum)*

**10. End of Life/Equipment replacement**

*Insert description of end of life/equipment replacement process*

**11. Implementation:**

***Deliverables:***

*Describe the deliverables for Implementation*

***Checkpoints:***

*Describe the checkpoints for Implementation*

***User Acceptance Testing:***

*Describe User Acceptance Testing for Implementation*

***Production Rollout:***

*Describe the Production Rollout for Implementation*

**12. Contractor Staff and Support**

*Describe Contractor staff roles and their availability*

**13. Purchasing Entity Roles and Responsibilities**

*Insert description of Purchasing Entity Roles and Responsibilities including:*

***Contacts:***

Project Manager

End-User Representative

System Administrator

Technical Support

***General and Technical Responsibilities:***

*Insert description of Purchasing Entity Roles and Responsibilities*

**14. Performance Penalties**

*Insert description of Contractor Performance Penalties*

**15. Payment**

*Describe billing cycles and invoice information*

This Agreement is entered into by and between the *[Purchasing Entity]*, located at *[Agency address]* and *[Contractor]* licensed to conduct business in the State of \_\_\_\_\_ ("*Contractor*"), located at *[Contractor address]* for the purpose of providing *Managed Print Services*.

The signatories to this Managed Print Services Agreement represent that they have the authority to bind their respective organizations to this Agreement.

*In Witness Whereof*, the parties hereto, having read this Managed Print Services Agreement in its entirety, including all attachments, have executed this Agreement.

This Agreement is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.  
Initial term of this Agreement is \_\_\_\_\_ year(s) or until \_\_\_\_\_.  
Maximum term of this Agreement is five (5) years, or until \_\_\_\_\_.

Contractor Signature	Date	Purchasing Entity Signature	Date
Contractor or Authorized Dealer Printed Name, Title		Purchasing Entity Printed Name, Title	

**EXHIBIT D, AUTHORIZED DEALERS BY STATE**

**Canon Dealer List (posted as separate file)**

## EXHIBIT E, AUTHORIZED DEALER FORM

**Manufacturer Name:** \_\_\_\_\_

(Check one)

- The Dealer listed below is authorized to provide Products and Services in accordance with the NASPO ValuePoint Copiers and Managed Print Services Master Agreement.
  
- The Dealer listed below will no longer provide Products and Services under the NASPO ValuePoint Copiers and Managed Print Services Master Agreement for the following reason:

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

Signed: \_\_\_\_\_  
(Contractor Representative)

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
(Authorized Dealer Representative)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Print First and Last Name of Authorized Dealer Representative)

# EXHIBIT F, NASPO VALUEPOINT DETAILED SALES REPORTING TEMPLATE



NASPO ValuePoint  
Detailed Sales Repo

## ATTACHMENT A, CANON LEASE AGREEMENT TERMS AND CONDITIONS

**CFS:** Canon Financial Services, Inc., a New Jersey Corporation, with its place of business at 158 Gaither Drive, Suite 200, Mount Laurel, New Jersey 08054

**CUSTOMER:** political subdivision or agency or other Purchasing Entity under the applicable Participating Addendum

**PRODUCTS:** The Devices, Accessories, parts, software, and/or Supplies being leased by Customer under a Fair Market Value Lease, a \$1 Buyout Lease, a Straight Lease, or a Short-Term Lease, as specified in the applicable Order.

1. **TERM OF LEASE:** Each lease of Products under an Order shall be effective on and commence from the date the Products are delivered to Customer ("Commencement Date"), provided Customer executes CFS' form of acceptance ("Acceptance Certificate") or otherwise accepts the Products as specified herein. The term of each lease shall consist of the initial term specified in the applicable Order and any renewal term(s) if and as applicable. After acceptance of the Products, Customer shall have no right to revoke such acceptance or cancel the lease during the term thereof, except as set forth herein.

2. **RENEWAL OF LEASE; RETURNS OR PURCHASES OF PRODUCTS; BUYOUT TO KEEP/RETURN:** Leases shall not be subject to automatic renewals, except as hereafter provided. With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, Customer shall return the Products at the end of the initial lease term, or at the end of the Renewal Lease Term, or CFS may pick the Products up, without any further financial obligations to Customer.

**FMV Leases:** Upon expiration of the initial lease term, Customer may do one of the following:

- 1) Exercise its purchase option;
- 2) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer, Short-Term Leases excepted; or
- 3) Return the Products to CFS, or have CFS pick the Products up.

**\$1 Buyout Leases:** Upon the expiration of the initial lease term, CFS shall provide title to the Products to the Customer, or as otherwise determined in a Participating Addendum, and Customer shall not be subject to any additional expense in order to assume possession of the Products.

**Straight Leases:** Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

**Short-Term Lease:** Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the rental on a month to month basis, up to a total maximum term of 12 months, including the initial lease term; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

If Customer desires to exercise a purchase, renewal, or return of the Products, it shall give CFS at least thirty (30) days written notice prior to the expiration of such lease term. Notwithstanding anything to the

contrary, if Customer fails to notify CFS of its intent with respect to the exercise of a purchase, renewal, or return of the Products, the initial lease term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged, unless otherwise specified in a Participating State or Entity's Participating Addendum.

Notwithstanding the foregoing, if Customer fails to notify CFS at least thirty (30) days prior to lease termination of a digital press Production Device and/or large format printer, then the lease will automatically renew on a month-to-month basis until Customer notifies CFS of its intent. In such a case, the automatic renewal term shall not exceed a maximum of 12 monthly payments. At which point in time, CFS will make arrangements to pick up the Equipment from Customer.

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

Product Payments for renewal terms shall never exceed Master Agreement pricing. If Customer enters into a renewal term, then the Product Payment will be subject to the lease rates listed in the most recent Price List(s) posted on the NASPO ValuePoint website.

Customers under FMV or \$1 Buyout Leases shall have a Buyout to Keep Option. Customers under FMV, \$1 Buyout or Straight Leases shall have a Buyout to Return Option. The Buyout to Keep Option price shall be the Remaining Lease Balance (as hereinafter defined). The Buyout to Return Option shall be the Remaining Lease Balance, less the Fair Market Value (as hereinafter defined). Customer must notify the CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Keep option on an FMV or \$1 Buyout Lease. Customer must notify CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Return option on an FMV, \$1 Buyout or Straight Lease, and return the Products to CFS in good working condition (ordinary wear and tear excepted).

3. **PAYMENTS:** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Products, or such later date as CFS may designate. The remaining payments (together with the first scheduled payment, the "Payments") will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order. The Payments are comprised of the principal and interest thereon. Customer's obligation to pay all amounts due for the lease of the Products shall be absolute and unconditional and is not subject to any abatements, set-off, defense or counterclaim for any reason whatsoever.

4. **APPLICATION OF PAYMENTS:** All Payments received by CFS from Customer under this Agreement will be applied to amounts due and payable hereunder chronologically, based on the date of the charge as shown on the invoice for each such amount, and among amounts having the same date in such order as CFS, in its discretion, may determine.

5. **NO CFS WARRANTIES: CUSTOMER ACKNOWLEDGES THAT CFS IS NOT A MANUFACTURER, DEALER, OR SUPPLIER OF THE PRODUCTS. CUSTOMER AGREES THAT THE PRODUCTS ARE LEASED "AS IS" AND IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY CUSTOMER. CUSTOMER ACKNOWLEDGES THAT CFS HAS MADE NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SUITABILITY OR DURABILITY OF THE PRODUCTS, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Any warranty with respect to the Products made by the manufacturer, dealer, or supplier is separate from, and is not a part of, the lease of the Products and shall be for the benefit of CFS, Customer and CFS' successors or assignees, if any. So long as Customer is not in breach or default with respect to its lease, CFS assigns to Customer any warranties (including those agreed to between Customer and the manufacturer, dealer, or supplier) which CFS may have with respect to any

item of the Products; provided that the scope and limitations of any such warranty shall be solely as set out in any agreement between Customer and such manufacturer, dealer, or supplier or as otherwise specified in warranty materials from such manufacturer, dealer, or supplier and shall not include any implied warranties arising solely from CFS' acquisition of the Products. CUSTOMER ACKNOWLEDGES THAT NEITHER THE SUPPLIER NOR ANY DEALER IS AUTHORIZED TO WAIVE OR ALTER ANY TERM OF THIS AGREEMENT OR ANY SCHEDULE, OR TO MAKE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THIS AGREEMENT OR THE PRODUCTS ON BEHALF OF CFS.

6. **NON-APPROPRIATION OF FUNDS:** The continuation of any lease agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. Customer may terminate any such lease agreement, and CFS waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Customer's funding sources are not available.

7. **ACCEPTANCE; DELIVERY:** Customer's acceptance of a Product as provided in the Master Agreement shall conclusively establish that the Equipment has been delivered to and accepted by Customer for all purposes of this Agreement and Customer may not for any reason revoke that acceptance.

8. **LOCATION; LIENS; NAMES; OFFICES:** Customer shall not move the Products from the location specified in the applicable Order except with the prior written consent of CFS. Customer shall keep the Products free and clear of all claims and liens other than those in favor of CFS. Customer's legal name (as set forth in its constituent documents filed with the appropriate governmental office or agency) is as set forth in the applicable Order. The chief executive office address of Customer is as set forth herein. Customer shall provide CFS with written notice at least thirty (30) days prior to any change of its legal name or chief executive office address, and shall execute and deliver to CFS such documents as required or appropriate.

9. **WARRANTY OF BUSINESS PURPOSE; USE; PERSONAL PROPERTY; FINANCING STATEMENTS:** Customer represents and warrants that the Products will not be used for personal, family, or household purposes. Customer shall comply with all laws and regulations relating to the use and maintenance of the Products. Customer shall put the Products only to the use contemplated by the manufacturer or developer. The Products shall remain personal property regardless of whether it becomes affixed to real property or permanently rests upon any real property or any improvement to real property. Customer authorizes CFS (and any third party filing service designated by CFS) to execute and file (a) financing statements evidencing the interest of CFS in the Products (including forms containing a broader description of the Equipment than the description set forth herein), (b) continuation statements in respect thereof, and (c) amendments thereto, and Customer irrevocably waives any right to notice thereof.

10. **INDEMNITY:** Customer shall reimburse CFS for and defend CFS against any claim for losses or injury caused by the Products. This Section shall survive termination of the lease.

11. **MAINTENANCE; ALTERATIONS:** Customer shall at all times maintain and keep in effect a service contract, through one of Contractor's Authorized Dealers under the Master Agreement or by other contractual arrangements, to keep and maintain the Equipment in good working order and to supply and install all replacement parts and accessories when required to maintain the Equipment in good working condition. Customer shall not, without the prior written consent of CFS, make any changes or substitutions to the Equipment. Any and all replacement parts, accessories, authorized changes to and/or substitutions for the Equipment shall become part of the Equipment and subject to the terms of this Agreement.

12. **TAXES; OTHER FEES AND CHARGES:** CUSTOMER SHALL PAY AND DISCHARGE WHEN DUE ALL LICENSE AND REGISTRATION FEES, ASSESSMENTS, SALES, USE AND OTHER TAXES,

AND OTHER EXPENSES AND CHARGES, together with any applicable penalties, interest, and administrative fees now or at any time imposed upon any Products, the Payments, or Customer's performance or non-performance of its obligations hereunder, whether payable by or assessed to CFS or Customer. If Customer fails to pay any such fees, assessments, taxes, expenses or charges as required hereunder, CFS shall have the right but not the obligation to pay those fees, assessments, taxes, expenses and charges, and Customer shall promptly reimburse CFS, upon demand, for all such payments made plus administrative fees and costs, if any. Notwithstanding the generality of the foregoing, Customer shall not be liable for property taxes, which shall be the sole responsibility of CFS.

13. **INSURANCE:** Customer, at its sole cost and expense, shall, during the term hereof including all renewals and extensions, obtain, maintain and pay for (a) insurance against the loss, theft, or damage to the Equipment for the full replacement value thereof, and (b) comprehensive public liability and property damage insurance. All such insurance shall provide for a deductible not exceeding \$5,000 and be in form and amount, and with companies satisfactory to CFS. Each insurer providing such insurance shall name CFS as additional insured and loss payee and provide CFS thirty (30) days' written notice before the policy in question shall be materially altered or canceled. Customer shall pay the premiums for such insurance, shall be responsible for all deductible portions thereof, and shall deliver certificates or other evidence of insurance to CFS. The proceeds of such insurance, at the option of CFS, shall be applied to (a) replace or repair the Equipment, or (b) pay CFS the "Remaining Lease Balance," which shall be the sum of: (i) all amounts then owed by Customer to CFS under the lease; plus (ii) the present value of all remaining Payments for the full term of the lease; plus (iii) except in the case of \$1 Buyout Leases, the Fair Market Value of the Products (as defined herein); plus (iv) any applicable taxes, and any expenses, charges or fees which may be payable as otherwise provided herein or in the Master Agreement or the applicable Participating Addendum. For purposes of determining present value, Payments shall be discounted at three percent (3%) per year. Customer hereby appoints CFS as Customer's attorney-in-fact solely to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for any loss or damage to Equipment under any such insurance policy. If within ten (10) days after CFS' request, Customer fails to deliver satisfactory evidence of such insurance to CFS, then CFS shall have the right, but not the obligation, to obtain insurance covering CFS' interests in the Equipment, and add the costs of acquiring and maintaining such insurance, and an administrative fee, to the amounts due from Customer with respect to the lease. CFS and any of its affiliates may make a profit on the foregoing.

14. **LOSS; DAMAGE:** Customer assumes and shall bear the entire risk of loss, theft of, or damage to the Products from any cause whatsoever, effective upon delivery to the Customer, except that Customer shall be relieved of all risks of loss or damage to the Products during periods of transportation and de-installation. No such loss, theft or damage shall relieve Customer of any obligation with respect to its lease of the Products. If any Equipment is lost or stolen, Customer, at the option of CFS, will (a) replace the same with like equipment in a condition acceptable to CFS and convey clear title to such equipment to CFS (and such equipment will become "Equipment" and be subject to the terms of this Agreement), or (b) pay CFS the Remaining Lease Balance. Upon CFS' receipt of the Remaining Lease Balance, CFS shall transfer the applicable Equipment to Customer "AS-IS, WHERE-IS" without any representation or warranty whatsoever, except for title, and this Agreement shall terminate with respect to such Equipment.

15. **DEFAULT:** Each of the following is a "default" under these lease terms:

- i) Customer fails to pay any Payment within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
- ii) Any representation or warranty made by Customer in these lease terms or in the Master Agreement is false or incorrect and Customer does not perform any of its obligations under these lease terms or in the Master Agreement, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after CFS has notified Customer;
- iii) Customer or any guarantor makes an assignment for the benefit of creditors;

- iv) Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
- v) Customer stops doing business as a going concern or transfers all or substantially all of Customer's assets.

16. **REMEDIES:** If Customer defaults on a lease, then CFS, in addition to, or in lieu of, the remedies set forth in the Master Agreement, and Participating Addendum, may do one or more of the following:

- i) Cancel or terminate the Order;
- ii) Require Customer to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to the Remaining Lease Balance.

17. **EXPENSES OF ENFORCEMENT:** Customer shall reimburse CFS for all of its out-of-pocket costs and expenses incurred in exercising any of its rights or remedies hereunder or in enforcing any of the terms of this Agreement, including, without limitation, reasonable fees and expenses of attorneys and collection agencies, whether or not suit is brought. If CFS should bring court action, Customer and CFS agree that attorney's fees equal to twenty-five percent (25%) of the total amount sought by CFS shall be deemed reasonable for purposes of this Agreement.

18. **ASSIGNMENT:** (i) Customer has no right to sell, transfer, encumber, sublet or assign the Product or any lease agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld). (ii) CFS may not sell or assign any portion of CFS' interests in the Products or any Order for leases, without notice to Customer even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as CFS assigns to them, but none of CFS' obligations (CFS will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Customer may have against CFS.

19. **DATA:** Customer acknowledges that the hard drive(s) on the Equipment, including attached devices, may retain images, content or other data that Customer may store for purposes of normal operation of the Equipment ("Data"). Customer acknowledges that CFS is not storing Data on behalf of Customer and that exposure or access to the Data by CFS, if any, is purely incidental to the services performed by CFS. CFS does not have an obligation to erase or overwrite Data upon Customer's return of the Products to CFS. Customer shall indemnify CFS, its subsidiaries, directors, officers, employees and agents from and against any and all costs, expenses, liabilities, claims, damages, losses, judgments or fees (including reasonable attorneys' fees) arising or related to the storage, transmission or destruction of the Data. This section survives termination or expiration of the lease term under the applicable Order. The terms of this section are without limitation of Contractor's obligations with respect to Data under the Master Agreement, the applicable Participating Addendum, and the applicable Order.

20. **MAXIMUM INTEREST; RECHARACTERIZED AGREEMENT:** No Payment is intended to exceed the maximum amount of interest permitted to be charged or collected by applicable laws, and any such excess Payment will be applied to payments due under the applicable Order, in inverse order of maturity, and thereafter shall be refunded. If the lease under any Order is characterized as a conditional sale or loan, Customer hereby grants to CFS, its successors and assigns, a security interest in the Products to secure payment and performance of Customer's obligations under such Order.

21. **UCC-ARTICLE 2A: CUSTOMER ACKNOWLEDGES AND AGREES THAT EACH ORDER IS INTENDED AS A "FINANCE LEASE" AS THAT TERM IS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE ("UCC 2A") AND THAT CFS IS ENTITLED TO ALL BENEFITS, PRIVILEGES, AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE. CUSTOMER WAIVES ITS RIGHTS AS A LESSEE UNDER UCC 2A SECTIONS 508-522.**

22. **WAIVER OF OFFSET:** Each Order shall be a net lease. If the Products are not properly installed, do not operate as represented or warranted, or are unsatisfactory for any reason, Customer shall make

such claim solely against the supplier, dealer, or manufacturer. Customer waives any and all existing and future claims and offsets against any Payments or other charges due under each Order, and unconditionally agrees to pay such Payments and other charges, regardless of any offset or claim which may be asserted by Customer or on its behalf.

23. **AUTHORITY AND AUTHORIZATION:** Customer represents and agrees that (a) Customer is a state or a political subdivision or agency of a state or other eligible Purchasing Entity under the applicable Participating Addendum; (b) that entering into and performance of each Order is authorized under Customer's state laws and Constitution and does not violate or contradict any judgment, law, order, or regulation, or cause any default under any agreement to which Customer is party; and (c) Customer has complied with any bidding requirements and, where necessary, has properly presented each Order for approval and adoption as a valid obligation on Customer's part. Upon request, Customer agrees to provide CFS with an opinion of counsel as to clauses (a) through (c) above, an incumbency certificate, and other documents that CFS may request, with all such documents being in a form satisfactory to CFS.

24. **GOVERNMENT USE:** Customer agrees that the use of the Products are essential for Customer's proper, efficient and economic operation, Customer will be the only entity to use the Products during the term of the applicable Order and Customer will use the Products only for Customer's governmental purposes. Upon request, Customer agrees to provide CFS with an essential use letter in a form satisfactory to CFS as to the preceding sentence.

## ATTACHMENT B, CANON MAINTENANCE TERMS AND CONDITIONS

This document includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as "You" herein).

### 1. Maintenance.

- 1.1 Authorized Dealer shall provide all routine preventive maintenance and emergency service necessary to keep the Equipment in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (a) You shall give Authorized Dealer reasonable and safe access to the Equipment to perform on-site service. Authorized Dealer may terminate its maintenance obligations on any Equipment you relocate to a site outside Authorized Dealer's service territory. If, in Authorized Dealer's opinion, any Equipment cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer may, at its option, (i) substitute comparable Equipment or (ii) cancel any balance of the term of the Maintenance Agreement as to such Equipment and refund the unearned portion of any prepaid charges hereunder. Parts or Equipment replaced or removed by Authorized Dealer in connection with maintenance services will become the property of Authorized Dealer and you disclaim any interest therein.
  - (b) Installation/Implementation of software Products may be at an additional charge, and may be conditioned on a separate statement of work or other document covering the scope and schedule of installation/implementation, configuration options, responsibilities of each party, and other matters, which shall govern as to the matters covered therein. Additional charges may apply for work beyond the initial scope described in such separate document.
  - (c) Support for software Products is provided directly by the respective developers thereof and as set forth in each developer's applicable separate support contract, and is not provided by Authorized Dealer under the Maintenance Agreement except as expressly provided herein. Support for software Products may require separate purchase by you of a support contract. The terms of support contracts for software Products are available from the developers, or will be provided to you by Authorized Dealer upon request.
  - (d) Authorized Dealer shall make available to you from time to time software patches and any updates for software Products and Embedded Software, but only if such patches and updates are provided to Authorized Dealer by the developers of such software Products and Embedded Software. New releases (upgrades) of software Products, and installation/implementation thereof, shall be chargeable to you. You are not required to use Authorized Dealer for installation software patches, updates or upgrades, but if installation is done by anyone other than Authorized Dealer, Authorized Dealer shall have no responsibility for any performance or other issues that may result from such installation.
  - (e) Authorized Dealer shall also use reasonable efforts to provide Level 1 support for the software Products (for all software Products for which separately-priced support contracts are available, Level 1 support shall be provided only if and so long as the support contract for such software Product from the developer has been purchased and remains in effect). Level 1 support consists of (i) providing help-line telephone assistance in operating the software Product and identifying service problems and attempting to troubleshoot any such problems in the software Product; (ii) escalating operating problems to the available developer of the software Product as needed to rectify such problems, including facilitating contact between you and the developer of the software Product as necessary; and (iii) maintaining a log of such problems to assist in tracking the same.
- 1.2 For Equipment under NASPO ValuePoint Groups A & C, the meter shall record a quantity of 2 impressions for any image produced on 11"x17" media.
- 1.3 In the event your toner usage exceeds by more than 10% the published manufacturer specifications for conventional office image coverage, as determined by Authorized Dealer, Authorized Dealer may invoice you for such excess, provided that Authorized Dealer shall not invoice you for excess toner usage as aforementioned unless and until Authorized Dealer has first notified you of the excess toner usage, and until you and Authorized Dealer have consulted in good faith in an attempt to identify the reason(s) for the

excess toner usage and you have had a reasonable opportunity, if practicable, to rectify the excess toner usage. You may purchase additional toner from Authorized Dealer if required during the term of the Maintenance Agreement.

- 1.4 You shall bear all risk of loss, theft or damage to unused consumables, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of the Maintenance Agreement.
- 1.5 Unless otherwise indicated, you authorize Authorized Dealer to use networked features of the Equipment including imageWARE to receive software updates, activate features/new licenses and transmit use and service data accumulated by the Equipment over your network by means of an HTTPS protocol and to store, analyze and use such data for purposes related to servicing the Equipment, providing reports and product improvement. You agree to provide meter readings to Authorized Dealer, in accordance with a meter read option made available by Authorized Dealer. Authorized Dealer may change your meter read options from time to time upon 60-day notice. If Authorized Dealer does not receive timely meter readings from you, you agree to pay invoices that reflect Authorized Dealer's estimates of meter readings. Authorized Dealer reserves the right to verify the accuracy of any meter readings from time to time, and to invoice you for any shortfall in the invoice for the next periodic billing cycle.
2. **Non-Covered Service.** The following services, and any other work beyond the scope of this Agreement are not included within Maintenance: (a) replacement of any consumable supply item not provided as part of toner inclusive service identified on the face page, including, without limitation, paper, toner, ink, waste containers, fuser oil, staples, other media, print heads and puncher dies; (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Equipment; the use of parts, supplies or software which are not supplied by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; use of the Equipment with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions; (c) de-installation, re-installation or relocation of Equipment; (d) repairs to or realignment of Equipment, and related training, necessitated by changes you made to your system configuration or network environment; (e) work which you request to be performed outside of Authorized Dealer's regular business hours; or (f) repair of network/system connection device.
3. **Term and Renewal of Maintenance Agreement.** For leased Equipment, the term of the Maintenance Agreement therefor shall be equal to the term of the lease. For purchased Equipment, the term of the Maintenance Agreement shall be as specified on the related Order (provided, that it may not exceed 60 months on Group A, Group B, Group D, Group E and Group F Devices and 84 months on Group C Devices). Maintenance Agreements shall not be subject to automatic renewal; if you desire to renew a Maintenance Agreement, the pricing during the renewal term shall be as determined pursuant to the Master Agreement.
4. **Limited Warranty.** All Equipment is provided with a manufacturer's end user limited warranty from Canon USA, Inc. Authorized Dealer is an authorized Canon service dealer and provides warranty service under the Canon USA limited warranties. All other Products are provided subject to such end user warranties and license terms as are provided by the manufacturer or developer as packaged or otherwise provided with the Listed Items. Authorized Dealer shall upon your request provide to you copies of all such end user warranties and license. SUCH WARRANTIES, TOGETHER WITH WARRANTIES AS PROVIDED IN THE MASTER AGREEMENT AND THE APPLICABLE PARTICIPATING ADDENDUM, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE USE OR PERFORMANCE OF THE PRODUCTS, AND ALL SUCH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. YOU EXPRESSLY ACKNOWLEDGE THAT SUCH WARRANTIES DO NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE PRODUCTS.
5. **LIMITATION OF LIABILITY.** NEITHER AUTHORIZED DEALER NOR CONTRACTOR SHALL BE LIABLE FOR EXPENDITURES FOR SUBSTITUTE EQUIPMENT OR SERVICES, LOSS OF REVENUE OR PROFIT, LOSS, CORRUPTION OR RELEASE OF DATA, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, STORAGE CHARGES OR INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED AND EVEN IF AUTHORIZED DEALER OR CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## ATTACHMENT C, CANON SAMPLE MPS AGREEMENT TERMS AND CONDITIONS

1. **TERM.** The Managed Print Services ("MPS") shall begin on the Start Date and continue for the initial term specified above.
2. **CHARGES.** Authorized Dealer agrees that pricing shall remain firm for the initial terms of the Maintenance Agreement. Upon expiration of the initial contract term, or during any renewal period, Dealer reserves the right to increase the pricing upon thirty (30) days prior written notice, based on any changes to the fleet, or services being delivered, provided these changes are outside the scope of the original statement of work, and provided the pricing does not exceed Master Agreement pricing. If you have selected the Fleet Coverage Plan, the Base Charge, Covered Images and Per Image Charges noted above shall apply to all of the Equipment on the Schedule. If you have selected the Per Unit Coverage Plan, the Base Charge, Covered Images and the Per Image Charges for each unit shall be reflected on the Schedule.
3. **PRIOR ASSESSMENT.** As part of an initial assessment, Authorized Dealer has performed a network and system discovery analysis of your IT environment in which services are to be rendered under this Agreement. Additionally, as part of the initial assessment, Authorized Dealer has used certain discovery tools to identify the components and conditions of your IT environment.
4. **COVERED PRINTERS.** This agreement is intended to provide services for your entire fleet of printers; however, certain models of printers may not be eligible for services under this contract due to age, geographic location or other reasons determined by Authorized Dealer. At Authorized Dealer's discretion, the ineligible printers may be placed under a "Standard Plan" and identified on the associated schedule ("Schedule B") and shall only receive toner cartridges and monitoring services. The "Premier" scope of services as defined in Paragraph 7 covers only the printers identified on the associated schedule ("Schedule A" or "Schedule A-MICR"). The parties may agree to add or remove printers from time to time during the Term by mutual execution of an Authorized Dealer MPS Change Order. Customer shall provide Authorized Dealer a standard device configuration sheet showing the start meter reading of the added printer(s) as of the start date of this contract. Otherwise, Authorized Dealer may compute a start reading for the printer(s) utilizing the current meter reading and subtracting an estimated monthly volume per printer, as determined by Authorized Dealer. In the event Customer acquires additional devices subsequent to the start date of this Agreement, the start meter shall be zero. If the quantity of printers changes during the Term from the original quantity listed on Schedule A, Schedule A-MICR or Schedule B, Authorized Dealer reserves the right to adjust the pricing accordingly.
5. **YOUR RESPONSIBILITIES. As a condition precedent to Authorized Dealer's duties:**
  - (a) The Printers shall meet the "Fit for Service" requirements outlined in the MPS Customer Expectation Document (CED) and shall be in good working condition on the Start Date (as determined solely by Authorized Dealer in its reasonable discretion.)
  - (b) You shall provide Authorized Dealer with an accurate location and printed configuration page for each printer placed under this Agreement. You shall notify Authorized Dealer if you relocate any printers from the address indicated on Schedule A, A-MICR, B or any related Change Order.
  - (c) You shall use only Authorized Dealer-approved parts and supplies for the Printers.
  - (d) You shall have proper electrical and network connections, install, and use Authorized Dealer approved surge protector where appropriate.
  - (e) You shall provide a Key Operator responsible for designated duties in the operator's manual and insure that the proper supplies are being installed and/or used correctly with the printers.
  - (f) You are solely responsible for security of your electronic and other data.
  - (g) You must install and keep the Data Collection Agent ("DCA") installed on your network for networked devices and locally for non-networked devices throughout the Term of this Agreement. If the DCA does not communicate with Authorized Dealer, you agree to provide manual meter readings upon request.
  - (h) You agree that Authorized Dealer may use estimated meter readings if it does not receive timely meter reading on any Printers covered by this Agreement.
  - (i) You shall utilize the Authorized Dealer ordering procedures for adding or deleting printers and ordering Toner Cartridges. You acknowledge that Authorized Dealer will not deliver services or toner for printers not listed on Schedule A, Schedule A-MICR, Schedule B or any related Change Order until you complete the proper ordering procedure to add the printer to the Agreement.
  - (j) You shall provide timely meter readings for any printer not connected to the DCA for any reason.

## ADDITIONAL TERMS AND CONDITIONS

### 6. AUTHORIZED DEALER RESPONSIBILITIES

- (a) Authorized Dealer may tag each Printer initially listed on Schedule A, Schedule A-MICR or Schedule B with an Authorized Dealer Service tag indicating serial # and Authorized Dealer contact information.
- (b) Printers listed on Schedule A, A-MICR and B are provided replenishment of Original Equipment Manufacturer ("OEM") or 3rd Party manufactured toner cartridges, as indicated on Page 1, for exclusive use with the Printers specified on Schedule A, A-MICR and B. The pricing in this agreement is based upon 5% toner coverage for black & white and 20% for color letter size pages. You agree that Authorized Dealer may invoice you for excess usage in the event your actual toner usage exceeds these assumptions by more than 10%. Excess toner charges shall be computed using the expected print volume ("EPV") minus the actual print volume reported. The EPV = actual number of cartridges shipped x the toner yield per cartridge x 90%. You shall bear all risk of loss, theft or damage to unused toner cartridges provided to you under this Agreement, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of this Agreement.
- (c) Authorized Dealer may perform an initial walkthrough of Customer locations covered under this Agreement. Customer shall identify each networked and non-networked device to be covered under this agreement. Authorized Dealer will deliver, install, configure and test its network Data Collection Agent ("DCA") with your IT staff assistance. Authorized Dealer will provide all technical support, updates and maintenance for the DCA.
- (d) You acknowledge that Authorized Dealer's ability to deliver the services is dependent upon your full and timely cooperation with Authorized Dealer, as well as the accuracy and completeness of the information provided by you to Authorized Dealer. If, during the initial three (3) months of the Term, the assumptions used to develop the pricing and any related Statement of Work is found to be incorrect or misstated, the parties agree to meet and in good faith negotiate equitable changes in the scope of work and associated charges. You agree to follow the detailed operational procedures and program guidelines, which are explained in the MPS Customer Expectation Document, which you hereby acknowledge, receipt of at the time of executing this agreement.

### 7. SERVICES. YOU SHALL RECEIVE THE SERVICES DESCRIBED IN THIS PARAGRAPH 7 ONLY FOR THE EQUIPMENT LISTED ON A SCHEDULE A, SCHEDULE A-MICR, CHANGE ORDER FORM A, OR CHANGE ORDER FORM A-MICR . SUCH SERVICES ARE SUBJECT TO THE EXCLUSIONS HERINAFTER DESCRIBED.

### 8. COVERED SERVICES

- (a) Authorized Dealer shall provide all routine preventive maintenance, maintenance kits and emergency service necessary to keep the Printers in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (b) You shall afford Authorized Dealer full, free and safe access to the Printers to perform on-site service. Authorized Dealer may terminate its maintenance obligations as to any Printers if you relocate it to a site outside Authorized Dealer's authorized service territory. If, in Authorized Dealer's opinion, any Printers cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer shall, at its option, either (i) substitute comparable Printers or (ii) cancel the balance of any remaining term of this Agreement as to such Printers and refund the unearned portion of any prepaid charges hereunder. Parts replaced or removed by Authorized Dealer in connection with maintenance services hereunder shall become the property of Authorized Dealer and you disclaim any interest therein.

### 9. NON-COVERED SERVICE. You acknowledge that Authorized Dealer shall not have obligations related to i) overhauls and/or reconditioning of printers; ii) printer user errors; (iii) the alteration, modification or customization of any software controlling, used by, installed on or embedded in the Printers; (iv) the service or repair of devices, accessories, power, data or communication lines or other instruments which are external to or otherwise not a component part of the Printers; (v) hard drive removal or (vi) supplying external communications or data transfer lines, paper or other throughput, staples, cassettes, exit trays or other like items or supplies (other than toner cartridges as defined in section 3 ) used or consumed in the normal operations of the Printers ("Excluded Items"). The following services, and any other work beyond the scope of this Agreement, shall be invoiced in accordance with Canon's then current contract pricing:

- (a) replacement of any consumable supply item other than toner;
- (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Printers; the use of parts, supplies or software which are not supplied

by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; transportation of the Printers; accident; use of the Printers with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions;

- (c) re-installation or relocation of Printers;
- (d) repairs to or realignment of Printers, and related training, necessitated by changes you made to your system configuration or network environment;
- (e) repairs or service required because of inadequate operation of the Printers (e.g., Authorized Dealer technician is dispatched to rectify a problem described in the operator manual); and
- (f) work that you request to be performed outside of Authorized Dealer's regular business hours.

**10. DATA.** You acknowledge that the hard drive(s) on the Equipment may retain images, content or other data that you may store for purposes of normal operation of the Equipment ("Data"). You acknowledge that Authorized Dealer is not storing Data on your behalf and that exposure or access to the Data by Authorized Dealer, if any, is purely incidental to the services performed by Authorized Dealer. You are solely responsible for the Data. The Canon branded Equipment contains various security features that you can utilize. Upon your request, Authorized Dealer will work with you to provide information regarding your options and offer services to assist you. Please note that Canon offers basic data security options free of charge; however, other optional services may have an additional cost associated. The terms of this Section shall solely govern as to Data, notwithstanding that any provisions of this Agreement or any separate confidentiality or data security or other agreement now or hereafter entered into between you and Authorized Dealer could be construed to apply to Data.

**11. TERMINATION.** Either party may terminate this Agreement, with or without cause, by providing thirty (30) days written notice to the other party.

## ATTACHMENT D, CANON SAMPLE MPS CUSTOMER EXPECTATIONS DOCUMENT

1. **Introduction.** This Customer Expectation Document is designed to provide details related to the Canon Managed Print Services ("MPS") Program and to answer commonly asked questions. The terms and conditions of the MPS program can be found in the associated Managed Print Services Agreement.
2. **Program Objectives.** The MPS program is designed to help organizations achieve business efficiencies and cost savings through better management and administration of print environments. Our unique consulting process contemplates collaboration with our customers to identify areas for print optimization, increased productivity and cost savings. Critical to this process is the availability of print volume data from all sources within the print enterprise. The success of the program is dependent on uninterrupted communication with the printers or alternative sources of data capture in order for Authorized Dealer to perform the services and provide accurate and timely billing under the agreement.
3. **Initial Contract Set-up**
  - a) **Start Date.** The contract becomes effective approximately 10 days after the Customer executes the MPS Agreement accompanied by a complete listing of the covered Printers on Schedule A and Schedule B, if applicable. This allows Authorized Dealer ample time to prepare its systems to accept customer calls and begin to provide services.
  - b) **Initial Printer Listing.** Schedule A and B contain all relevant information on each printer initially covered under the MPS Agreement. Printers listed in Schedule B will only be eligible for toner fulfillment and monitoring services. The Customer is responsible for discovering and identifying the required information for all printers to be covered under this agreement. Although Authorized Dealer software tools may help discover devices based on detection of activity, idle units and units with no network connection may not be detected during this discovery process. In the event a customer identifies additional equipment which was mistakenly excluded from the original schedules, additional printers can be added using the Change Order form along with a printed configuration page for each printer added and made retroactive to the start date. Customers who call for services or toner for units not yet added to the contract may be told their printer is not covered since it will not appear in the Authorized Dealer system.
  - c) **"Fit for Service" Requirements.** Prior to the start of the contract, the following must be confirmed:
    - i. Each printer must have a minimum of 25% toner remaining in the cartridge;
    - ii. Each printer must have a minimum of 25% life remaining for other consumable maintenance items (fuser kit, maintenance kit, drums);
    - iii. Any printer displaying a service or supplies alert (error codes, low consumables, etc.) or demonstrating a technical or performance issue (regardless of alert status) must have the condition corrected;
    - iv. Any printer with an image quality issue must have the condition corrected; and
    - v. Any printer inadvertently placed on an MPS contract that does not meet "Fit for Service" requirements, must have the issues promptly remediated or the Printer must be removed from the MPS contract.
  - d) Customers can contact Authorized Dealer Customer Service (see Section 5 below) to purchase the required consumable items (toner cartridge, maintenance kit, fuser kit, drum, etc.) and/or request a service call to remediate technical issues, so the printer can be added to an MPS contract.
  - e) **Tagging.** Each printer initially covered under the agreement may be tagged with an Authorized Dealer Service tag by an Authorized Dealer representative. The tag includes the serial # of the printer, the phone # for service and supplies and other relevant information. The tag should not be removed from the printer during the term of the agreement. Authorized Dealer may mail tags to the customer for placement on the printers for machine additions or remote locations during the term of the contract.
  - f) **Installation of DCA Software.** Authorized Dealer will work with the Customer's IT staff to perform the initial installation of the Data Collection Agent ("DCA") software for networked devices. Additionally, Authorized Dealer may assist the Customer's IT staff to push the local client version of the DCA software for use with any non-networked printers. It is the Customer's responsibility to keep the DCA installed during the term including any reinstallation that may be required because of change in the Customer's infrastructure or environment.

**4. Ordering Procedures**

- a) **Toner.** Printer toner cartridges may be ordered from Authorized Dealer by either calling Customer Service or by placing an on-line order (if applicable). Customers who wish to use on-line ordering must first register through Authorized Dealer's on-line customer portal. Customers will be asked to provide the related serial # or asset tag# located on the asset tag placed on the printer. The maximum toner order is limited to one (1) cartridge per serial#. Authorized Dealer Reserves the right to limit toner shipments based upon print volume/utilization. Canon's Managed Print Services program does not contemplate the provision of "shelf stock" at Customer locations. Customers that require extra toner stored onsite may purchase shelf stock by contacting Customer Service (see Section 5 below).
- b) **Service Calls.** Requests for repair may be placed by either calling Authorized Dealer's Dispatch Center or by placing a service request on-line within the Authorized Dealer's on-line customer portal (if applicable).
- c) **Add/Remove.** Additions or deletions of printers covered under the MPS Agreement are made by executing and submitting an MPS Change Order form indicating the pertinent information on the specific units being added or removed from the agreement or submitting such request on-line within the customer portal (if applicable). Additionally, Customers must provide a printed configuration page from each added or removed unit that provides Authorized Dealer necessary meter, quality and other information necessary to make the change effective. Please note that changes to the printer fleet configuration may impact the price per copy reflected in the contract on a prospective basis.

**5. Customer Service.** For any questions or contract changes, please reference the following contact information:

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

- 6. **Relocations.** If Customers relocate any printers under the agreement, they must promptly notify Authorized Dealer in order to change the location information in the Authorized Dealer database. Customers are responsible for de-installing and reinstalling all relocated printers including installation of the DCA in order to keep the printers communicating with Authorized Dealer. Please note that printers relocated outside of Authorized Dealer's Servicing geography may not be eligible to be covered under this agreement.
- 7. **Meter Collection.** The MPS program is designed to automatically collect periodic meter readings from the printers covered under this agreement using the DCA software program. The DCA program is initially installed on the Customer network for connectivity to networked printing devices. A local DCA program must be installed on individual networked computers in order to communicate with non-networked printers. It is extremely important to keep the DCA software connected in order for Authorized Dealer to capture information in order to provide the services under the MPS Agreement. Customers are responsible to maintain this critical connection that may require reinstallation of the local DCA software when upgrading, replacing or repairing related computers.
- 8. **Fixed Volume.** If Authorized Dealer does not receive timely meter readings from the DCA software or alternatively from the Customer through other means of communication, Authorized Dealer will estimate the usage on the related devices utilizing predetermined average monthly volume information, which are based on Authorized Dealer standard usage rates by model.
- 9. **Toner Usage Reconciliation.** The MPS program includes replenishment of toner cartridges based upon toner page coverage of 5% for black toner and 20% for color toner. Customers who print images with more toner average coverage should expect to pay additional charges. Toner usage reconciliation is done separately for black toner, color toner, and MICR toner. Please see the reconciliation example below:

Toner Manufacturer Yield per Cartridge	3,000
# of Cartridges shipped to Customer*	<u>x 10</u>
Manufacturer Expected Print Volume	30,000
Extra 10% provided by Authorized Dealer	<u>3,000</u>
Authorized Dealer Expected Print Volume	27,000
Actual Print Volume	<u>25,500</u>
Volume Reconciliation	1,500
Price per Page	<u>x \$ .0200</u>
Toner Usage Reconciliation Charge	\$30.00

\* **Note 1:** Certain cartridges for the same models may contain different manufacturer yields.

\* **Note 2:** Cartridge yield associated with "Unused Toner Cartridges" (see definition in Section 12 below)

purchased from Authorized Dealer for purposes of "shelf stock" may be considered during toner reconciliation, when the Actual Print Volume exceeds the Authorized Dealer Expected Print Volume.

10. **Quarterly Review Process.** Customers are entitled to a quarterly review discussion to review expectations, charges, print volume data and recommendations for further optimization of the print environment.
11. **Renewal and End of Term Process**
  - a) The MPS agreement will not automatically renew. If the Customer wishes to renew, then Authorized Dealer shall promptly provide a renewal quote for the renewal period. Upon mutual agreement, a new agreement shall be executed for the renewal term.
  - b) If the Customer does not choose to renew, the Customer may return unused toner cartridges within 30 days of the end of term and Authorized Dealer will adjust the # of cartridges shipped for computing the final toner reconciliation described above.
  - c) Customers must contact Authorized Dealer's Customer Service to obtain return instructions and return authorization # prior to mailing the returned supplies back to Authorized Dealer. In the event Authorized Dealer is unable to obtain a final meter reading from the DCA or other reasonable means, Authorized Dealer will estimate the final meter reading using customer volume history or utilizing the Authorized Dealer standard usage rates by model.
12. **Unused Toner Cartridges.** Unused toner cartridges are defined as the original items shipped to Customers, which:
  - a) were provided to the Customer by Authorized Dealer;
  - b) are in the original box, which is unopened and undamaged;
  - c) the contents (toner cartridges) are sealed and undamaged; and
  - d) are deemed resalable, in Authorized Dealer's sole discretion.
13. **Restocking Fee.** A restocking fee of 10 percent (10%) of the MSRP value shall be charged for all unused toner cartridges returned to Authorized Dealer, unless the returned cartridge is deemed defective or the restocking fee is prohibited by law.
14. **Toner Availability.** Authorized Dealer shall use commercially reasonable efforts to procure toner cartridges for the printer(s) covered by the MPS contract. In the event OEM toner is no longer readily available (discontinued by the manufacturer, restricted distribution, exhausted inventory, etc.) Authorized Dealer shall, at its option, either (i) substitute OEM cartridges with compatible (3rd party) toner cartridges, or (ii) substitute comparable printer(s) at your expense, or (iii) cancel the balance of any remaining term of the MPS contract for the affected printer(s) and refund the unearned portion of any prepaid charges associated with the printer(s).

## ARTICLE II

### **DCA Software & Technical Requirements**

Authorized Dealer must utilize data collection software to provide services under this agreement. Authorized Dealer is responsible to maintain the software, provide updates when necessary, and assist with the initial installation as necessary. The detailed technical information with respect to the Data Collection Agent (DCA) is as follows:

The DCA collects usage data on Products from predefined Management Information Bases (MIBs), using Simple Network Management Protocol (SNMP). For greater security, the DCA initiates communication solely with the Authorized Dealer Data Repository. Communication sessions are conducted via HTTPS (port 443), the universal standard in secure transactions. The DCA sends and receives data in a single hourly session.

Authorized Dealer does not provide root access or local edit access to the DCA and Authorized Dealer does not permit scripts to be run against the DCA.

Customers must provide the following technical information in conjunction with the implementation of the Canon Managed Print Services program. This information is required specifically for the expressed purposes of configuration and implementation of the DCA. Requirements and details below may be subject to change based on modifications to the existing software or a change to the DCA software being utilized.

### **INFORMATION**

#### **DCA Server (must be able to access all subnets with devices under contract)**

Hostname  
IP Address  
Default Gateway  
Fully Qualified Domain Name  
DNS Server (primary and secondary)  
Subnet Mask

#### **Network**

Subnet Range(s)  
**Proxy (if applicable)**  
Proxy Name  
Port Number  
Username / Password (if required)

#### **SNMP**

Public (READ)  
Any non-public SNMP community strings

### **CONFIGURATION**

In addition to the information above to function properly, the DCA requires the following network configuration

Port 80 TCP (outbound access)

Port 443 TCP (outbound access)

SNMP (access to all subnets with devices on contract) Port 161 UDP (access to all subnets with devices on contract)

#### **ADDITIONAL PORTS REQUIRED FOR MDS CLOUD CC AGENT**

- Port 427 UDP (outbound access)
- Port 47545 UDP (outbound access) (Canon Devices)
- Port 47546 TCP (outbound access) (Canon Devices)
- Port 9007 TCP (outbound access) (Canon Devices)
- Port 50700 UDP (inbound access) (Canon Device event notifications)
- Port 11427 UDP (inbound access) (Canon Device power status notifications)
- Port 44301 TCP (inbound access) (Open CC Agent dashboard on network)

### **HARDWARE**

Hardware: Non-dedicated server powered on 24 hours a day, 7 days a week

Network Card: 100mbit or higher

RAM 512 MB or higher

Internet connected browser

### **ADDITIONAL HARDWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Dual Core CPU 2.0GHz or faster
- RAM 4GB or more Recommended 8GB or more
- Available Storage 8GB or more Recommended 35GB or more

### **SOFTWARE**

Computers where the DCA will be installed must meet the following software requirements:

Windows 7, 8, 10, Server 2008 R2, Server 2012, Server 2016 or higher and .NET Framework 3.5 SP1 Including .NET 3.0 and 2.0 Feature enabled

Virtualization software support: The following virtualization software will support the installation:

Microsoft Virtual Server 2005

VMware GSX

### **ADDITIONAL SOFTWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Virtual Environments:

VMware vSphere v6.0/v6.5

Microsoft Hyper-V: Windows Server 2008 R2/Server 2012/Server 2012 R2

- .NET Framework 4.5.2 or higher: <https://www.microsoft.com/en-US/download/details.aspx?id=42643>

- IIS 10.0 Express: <https://www.microsoft.com/en-us/download/details.aspx?id=48264>

- SQL Server Express 2014 SP2 or higher: [https://www.microsoft.com/en-](https://www.microsoft.com/en-US/download/details.aspx?id=53167)

[US/download/details.aspx?id=53167](https://www.microsoft.com/en-US/download/details.aspx?id=53167)

### **COLLECTION INTERVALS FOR MDS CLOUD CC AGENT**

- Errors and alerts – Every 5 minutes while not in sleep mode
- Consumable Supplies (Toner & Paper levels) – Every 60 minutes while not in sleep mode
- Counters – Every 8 hours

### **DATA TRANSMISSION**

The DCA transmits small amounts of data to the central server. This data includes only statistical and alert condition information. **NO IMAGE DATA IS TRANSMITTED.** The following data estimates are provided to assist in the assessment of network impact.

DCA scan, blank IP: 5.2KB

DCA scan, 1 printer: 7.2KB

DCA scan, 1 printer, 254 local IP addresses: 96KB

DCA scan, network of 15 printers, 254 local IP addresses: 125KB

## **ATTACHMENT E, DIGITAL PRESS PRODUCTION AND LARGE FORMAT EQUIPMENT MASTER SERVICES AGREEMENT TERMS AND CONDITIONS**

This Attachment includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as "Customer" herein) for Océ Production Equipment and Large Format Equipment (referred to as "Equipment" herein). In the event of a conflict between the Canon Maintenance Terms and Conditions set forth in Attachment B and the terms and conditions in this Attachment E, the terms and conditions in this Attachment E shall govern.

### **1. Installation and Site Preparation**

**1.1** Authorized Dealer shall install the Equipment at the location identified on the applicable Schedule ("Equipment Location"). Installation shall be deemed complete when the Equipment has been installed and is ready for commercial operation. Customer shall furnish a suitable installation site in accordance with Authorized Dealer's power, environmental, and other requirements. All site preparation, including appropriate space requirements, electrical wiring, air conditioning, required venting or special duct work and necessary permits or approvals, is Customer's responsibility.

**1.2** For Software installed at a Customer location, installation shall be determined complete when the Software has been installed and is ready for commercial operation. For all of the Software, installation shall be deemed complete when Customer is provided instructions on how to access and/or download the Software.

### **2. Supplies**

Customer is entitled to the amount of toner/supplies which, on average, covers six percent (6%) of the letter size media unless another coverage rate is specified in an Order. Unless otherwise agreed to in an Order, for cutsheet color products, Customer is entitled to the amount of toner/supplies which, on average, covers ten percent (10%) of the letter size media per color (black counts as a color). Unless specifically agreed to in an Order, supplies do not include staples. Reconciliation for overuse of toner/supplies shall be invoiced to and paid by Customer at the rates in effect at the time of such reconciliation, and will be calculated based on coverage/use.

### **3. Maintenance**

**3.1** Equipment Support: Authorized Dealer shall provide Customer: (a) Authorized Dealer's standard preventive maintenance services ("PM's"), including labor and replacement parts to be provided Monday – Friday during Authorized Dealer's standard business hours (the length and frequency of periods of time required for preventive maintenance will be determined by Authorized Dealer); (b) corrective maintenance coverage as indicated on the applicable Schedule, including labor and replacement parts (service on Authorized Dealer holidays is available with advance notice to Authorized Dealer and Authorized Dealer shall bill Customer at its then current hourly rates for holiday service) provided that repairs can be performed in the field; and (c) engineering changes, including safety changes, deemed necessary by Authorized Dealer. Preventive maintenance includes testing, adjusting, cleaning and replacement of components scheduled in accordance with the Equipment service specifications. PM's performed on weekends, holidays or between 5PM and 8:00AM (at Customer's request) will be billed at Authorized Dealer's holiday rates according to the Master Agreement Price Lists. If Customer refuses to permit installation of a safety change or removes one already installed, Authorized Dealer may discontinue maintenance support services for all Equipment until the hazard has been corrected. All defective parts removed during maintenance shall become the property of Authorized Dealer. Parts used for repair may be used or remanufactured in accordance with manufacturer's specifications. The Equipment may contain software that allows Authorized Dealer to access the Equipment remotely ("Remote Software"). In such cases, Customer authorizes Authorized Dealer to use the Remote Software to (i) receive software updates and transmit use and service data accumulated by the Equipment over Customer's network by means of an HTTPS (or other) protocol and (ii) store and analyze such data solely for Authorized Dealer's own purposes related to servicing the Equipment and for product improvement.

**3.2** Customer shall: (a) provide Authorized Dealer full, free and safe access, subject to Customer's safety and security regulations, to the Equipment for performance of maintenance as deemed necessary by Authorized Dealer; (b) allow Authorized Dealer to store reasonable quantities of maintenance equipment and/or parts on Customer's premises; (c) provide a suitable environment for the Equipment in accordance with manufacturer's environmental requirements; and (d) inform Authorized Dealer promptly of any operating problems

**3.3 Remote Help Desk Support (applicable to cut sheet printers and Software under 5x8 service coverage)**

If Customer purchases "Remote Help Desk Support", then the following terms are applicable:

- (a) Authorized Dealer provides Remote Help Desk Support via telephone, to access Authorized Dealer Support Specialists for operator questions, installation support, explanation of maintained software features and functionality, network connectivity questions, and other support issues ("Remote Support"). Remote Support is available Monday – Friday 8:00AM to 8:00PM EST, excluding holidays. By purchasing Remote Support, Customer has unlimited access to the help desk.
- (b) Authorized Dealer will provide Remote Support to those Customer employees who have been issued an ID code providing email/telephone access to the Authorized Dealer Software Support Center. Customer shall be responsible for controlling ID code access and for any unauthorized use of ID codes. ID codes are non-transferable.

**3.4 Services for Additional Charge**

- (a) The services listed in this Section are not included as part of Authorized Dealer's remedial or preventive maintenance services: Services for repair of Equipment (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers) or replacement of parts (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers ) caused or made necessary, in Authorized Dealer's reasonable discretion, in whole or in part, by: (i) Customer's failure to continually provide a suitable environment in accordance with Authorized Dealer's requirements; (ii) neglect, misuse, or use of the Equipment for purposes other than for which it was designed, or failure to operate the Equipment in accordance with Authorized Dealer's or manufacturer's operating instructions or within manufacturer's specifications; (iii) accident, disaster, including effects of water, wind, lightning, or transportation; terrorism, vandalism or burglary; (d) alterations of Equipment, including any deviation from Equipment design, unless previously authorized in writing by Authorized Dealer; (iv) attachment(s) to the Equipment, including connection of devices not supplied by Authorized Dealer, which cause the Equipment to malfunction, unless previously authorized in writing by Authorized Dealer; (v) Customer's failure to perform or its failure to correctly perform the normal duties of Customer's operators; (vi) the use of any non-Authorized Dealer parts, toner, developer or inks; (vii) the use of forms not in compliance with Authorized Dealer's paper specifications; (viii) maintenance or repair services performed by Customer or a third party without written authorization from Authorized Dealer; or (ix) pre or post processing Equipment disconnected from the printing system to which it was originally installed unless previously authorized in writing by Authorized Dealer. If in Authorized Dealer's reasonable discretion, Equipment has been rendered un-repairable, then Authorized Dealer may refuse to render services under this Agreement and may terminate the appropriate Schedule.
- (b) If repairs or replacements as set forth above are needed due to the causes listed in (a) above, Authorized Dealer's prices to provide any such repair or replacement will: (i) use the published hourly Master Agreement service rates and minimum charges for the service time, which includes travel and waiting time; (ii) use the current parts and material prices; and (iii) travel expenses. All repairs will be governed by the terms of this Agreement, however, Authorized Dealer reserves the right to decline to perform such services.
- (c) Authorized Dealer may withdraw any item of Equipment from maintenance coverage (i) if such Equipment has been removed from the Equipment Location and Authorized Dealer does not offer maintenance services at the new Equipment location; or (ii) if Authorized Dealer declares end of life for such Equipment, and then only with at least ninety (90) days prior written notice. Customer shall pay monthly service charges up to the date of termination. For any prepaid amounts, Authorized Dealer shall refund or credit the pro rata amount of the remaining term from the effective date of termination

## ATTACHMENT F, SAMPLE ECOPY EULA

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P/N: 73-00521  
December, 2009

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**NUANCE COMMUNICATIONS, INC. SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT**

**THIS AGREEMENT**, by and between the end user entity whose name and address is entered during the online registration process described in Section 1 below ("**you**") and Nuance Communications, Inc. ("**Nuance**"), sets forth the terms and conditions under which Nuance will furnish updates to and technical support for the following licensed software: eCopy ShareScan® software, eCopy PaperWorks™ software, eCopy Business Automation Services™ software, and the Nuance-developed Connector software that you have licensed from Nuance ("**Licensed Products**") and are specified in the website through which you obtained your Licensed Product ("**Download Site**"). **IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, THEN DO NOT REGISTER WITH NUANCE, AND NOTIFY THE ENTITY FROM WHOM YOU PURCHASED AND THE FEE THAT YOU PAID WILL BE REFUNDED.** If you or a third party acting on your instructions registers with Nuance, then you will be deemed to have accepted and agreed to this Agreement.

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- 2. TERM.** Unless terminated pursuant to Section 10 below, this Agreement shall be in effect for the period of time listed in the Download Site that begins on the start date of the license of the related Licensed Product(s) for which you have purchased M&S from Canon U.S.A., Inc. ("**Canon USA**") or from an authorized office imaging retail dealer of Canon USA ("**Dealer**"). This Agreement will be extended upon your purchase of extended M&S solely from Canon USA or a Dealer. The period of extended M&S will be described in an Extension Certificate provided by Canon USA or a Dealer. No matter when purchased, the term of extended M&S starts upon the expiration of the prior M&S term. For current extended M&S prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. To ensure continued support, extended M&S should be purchased by you prior to the expiration of this Agreement.

- 3. AUTOMATIC COMMENCEMENT.** Notwithstanding Section 2 above, the term of M&S will commence automatically no later than 180 days after Nuance ships the Licensed Product or any Extension Certificate.
- 4. UPDATES TO LICENSED PRODUCTS.** During the effective term of this Agreement, Nuance shall make available all updates to the Licensed Products to you within 30 days of Nuance's commercial release of such updates and you may download and install one copy of each update for each Licensed Product. If the "eCopy ShareScan® Suite™" Licensed Product is covered by this Agreement, then as part of your M&S you are entitled to receive one copy of each Nuance-developed Connector software product made generally available during the term of this Agreement, which will be licensed to you under the same license agreement that governs the eCopy ShareScan Suite Licensed Product. Nuance reserves the right to discontinue support for Nuance-developed Connectors to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Products, such as versions for new operating systems, are not within the scope of this Agreement. Any operating system software from Microsoft® Licensing Inc. or its affiliates ("**Microsoft**") that has been pre-loaded on the eCopy ScanStation System will be supported by Microsoft in accordance with the license agreement accompanying such operating system software.
- 5. TECHNICAL SUPPORT.** You shall first contact Dealer for Level 1 support on the Licensed Products. Level 1 support consists of providing help-line telephone assistance in operating the Licensed Products and identifying service problems facilitating contact between you and Nuance to rectify such problems and maintaining a log of such problems to assist in tracking the same. If you still require technical support after Dealer has provided Level 1 support, then you shall have access to Nuance technical support as escalated through Dealer during the term of this Agreement. You must specify a designated individual who will act for you as the sole support liaison to Dealer. You shall have access to telephone, e-mail, or web based support during the term of this Agreement. You can contact Technical Support online at [www.askecopy.com](http://www.askecopy.com). Nuance will support the current Major Release (and related Point

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- (a) **On-Demand Online Training** – Access to online library of best practices, "how-to" and "what's new" videos related to Licensed Product installation;
- (b) **eCopy User Group** - Membership to eCopy's User Group allows you to connect with other licensees of the Licensed Product to share experiences, feedback and recommend enhancements to the Licensed Product. Membership includes access to periodic webinars, electronic newsletters and access to Premium Knowledge Base Articles.
- (c) **Remote Technical Diagnostics** – Communicate with live technical support resources to remotely troubleshoot performance and configuration issues;
- (d) **License Key replacement** – Upon your request, a replacement license key can be issued to replace a lost or corrupt license key at no additional cost to you;
- (e) **Designated Contacts** – During the term of M&S, you may designate two primary individuals (each a "Technical Contact") to serve as the liaison between you, the Dealer, Canon USA and Nuance support personnel. Your designated Technical Contact shall be the sole liaison between you, the Dealer, Canon USA and Nuance for M&S. To avoid interruptions in services, notify Dealer, Canon USA and Nuance whenever your Technical Contact responsibilities are transferred to another individual.
- (f) **Connector Migration Support** – With respect to Connectors delivered to you by Nuance at the time the Licensed Product is delivered ("Core Connector"), Nuance will, at no additional cost, provide up to four (4) hours of technical support for issues encountered with the Core Connectors when moving the Licensed Product to hardware not supplied by Nuance or when upgrading the Licensed Product from a prior version of the

Licensed Product; provided (a) the upgrade is from the immediately prior version of the Licensed Product (i.e. from V4.x to V5.x, not V3.x to V5.x); (b) you have registered the Licensed Product in accordance with Section 1, (c) you request such Connector Migration Support no more than once in any twelve month period during the Term and (d) you schedule Connector Migration Support via your Dealer during Nuance's normal business hours.

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acknowledge that no refunds of any maintenance fees shall be made.

**11. TERMINATION.** This Agreement shall terminate automatically without notice to you upon failure to comply with any term or condition of this Agreement or upon the termination of the license agreement for any Licensed Product. Upon such termination, you

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## SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT

This software support and maintenance agreement ("Agreement") by and between the Customer whose name and address appear in the registration described in Section 1 below ("Customer") and Therefore Corporation GmbH ("Therefore Corporation"), sets forth the terms and conditions under which Therefore Corporation will furnish updates to and technical support for the licensed software products listed on this Agreement ("Licensed Software").

- 1. ELIGIBILITY.** In order for Customer to be eligible for maintenance and support services, Customer must register online by completing the requested information when prompted during installation. Once Customer activates the support services, Therefore Corporation's support and maintenance database will determine eligibility and the effective term (including the initial term and any extended terms purchased with the initial purchase of Licensed Software) and send confirmation to Customer. In case an online registration is not possible, the registration may be completed via e-mail to the e-mail address displayed in the registration procedure.
- 2. TERM.** This Agreement shall commence on the date ("Commencement Date") which is the initial date of license of the Licensed Software. Unless terminated pursuant to Section 9 below, this Agreement shall be in effect for one (1) year from the Commencement Date, and is included at no additional charge in the price of the Licensed Software purchased from Canon U.S.A., Inc. ("Canon USA") or an authorized office imaging retail dealer of Canon USA ("Dealer"). At the original purchase or prior to the expiration of this one (1) year term, Customer may purchase extended maintenance and support solely from Canon USA or a Dealer. For current extended support prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. No matter when purchased, the term of extended maintenance and support starts upon the expiration date of the term that you have previously purchased. To ensure continued maintenance and support, the extension must be purchased by Customer prior to the expiration of this Agreement. If additional Licensed Software is purchased, this may result in adjustment of the effective term for all supported Licensed Software. Customer may contact the purchase source for the Licensed Software (Canon USA or Dealer) for information about the effective term of support and maintenance. Support outside the scope or term of this Agreement may be provided at the published rates of Therefore Corporation, Canon USA or its Dealers, as the case may be, for time and materials and with Customer assuming all costs, including shipping.
- 3. UPDATES TO LICENSED SOFTWARE.** During the effective term of this Agreement Therefore Corporation will provide updates to the Licensed Software from time to time as these become available. Therefore will distribute such Updates (a) by on-line download offered to Customer's support liaison designated under this Agreement, or, (b) upon written request of Customer's support liaison and payment of the costs of media and shipping, by delivery of Licensed Software in suitable tangible media, in each case after Customer's provision of license serial number or other required license and support entitlement verification. Therefore Corporation reserves the right to discontinue support for connections to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Software, such as versions for new operating systems or which feature new functionality, are not within the scope of this Agreement. Any open source software and certain other third party software components that are included in the Licensed Software will be supported solely to the extent that the relevant developer makes support available to Therefore Corporation, and Therefore Corporation reserves the right to replace such third party software at any time, including if technical updates or compatibility upgrades deemed necessary by Therefore Corporation are not forthcoming from any such developer. Any updates or modified version of the Licensed Software provided under this Agreement shall be subject to the same End-User License Agreement as is applicable to the Licensed Software, and shall be subject to its terms.
- 4. OBTAINING TECHNICAL SUPPORT.** Customer shall contact the purchasing source (Dealer or Canon USA) for Level 1 support on Licensed Software. Level 1 support consists of providing help-line telephone assistance in operating Licensed Software and identifying service problems, escalating issues as needed to rectify such problems and maintaining a log of such problems to assist in tracking the same. If Customer still requires technical support after Level 1 support has been provided by Dealer or Canon USA, as the case may be, then, at Customer's request, Canon USA shall escalate the issue in coordination with Therefore Corporation. Customer must specify a designated individual who will act for Customer as the sole support liaison to Dealer or Canon USA. Therefore Corporation will support every software release for the Licensed Software for a period of time of at least eighteen (18) months. Thus, Customer is advised to install promptly all updates produced by Therefore Corporation under Section 3 and made available to Customer by its Dealer or Canon USA under Section 3 to ensure that Therefore Corporation will support Customer's versions of the Licensed Software throughout the term of this Agreement and any extension of this Agreement. In making a request for technical support, the Customer representative must identify Customer and provide (where applicable) the serial number(s) of its Licensed Software to ensure that it is entitled to support.

**5. ASSIGNMENT.** Therefore Corporation is entitled to assign, sub-contract or sub-let this Agreement or any part thereof. Customer is not entitled to assign this Agreement or any part thereof without the prior written consent of Therefore Corporation.

**6. LIMITATION OF LIABILITY.** NEITHER THEREFORE, CANON USA NOR ANY DEALER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) ARISING FROM THE MAINTENANCE AND SUPPORT OF THE THEREFORE SYSTEM, INCLUDING LICENSED SOFTWARE AND UPDATES THEREFOR, OR FROM ANY OF THEREFORE'S OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF THEREFORE, CANON USA OR DEALER HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. CUSTOMER ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR THEREFORE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF CUSTOMER'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO DEALER OR CANON USA.

**7. GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which Therefore Corporation will produce Updates to be made available to Customer through Canon USA and its Dealers with maintenance and certain technical support services for Licensed Software, including updates to Licensed Software. This Agreement supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New York. All questions concerning the terms and conditions of this Agreement should be directed in writing to Therefore Corporation GmbH at Wiener Strasse 2/2, A-2340 Moedling, Austria.

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**9. TERMINATION.** This Agreement shall terminate automatically without notice to Customer upon failure to comply with any term or condition set herein or upon the termination of the license agreement for any Licensed Software. Upon such termination, Customer acknowledges that no refunds of any maintenance fees shall be made.

## ATTACHMENT H, SAMPLE UNIFLOW EULA

### NT-WARE END USER LICENSE AGREEMENT

Including provisions for Third Party Software

-MICROSOFT DATA ACCESS COMPONENTS 2.6 License  
-Provisions for Crystal Reports Runtime Software

### NT-WARE SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT

#### LICENSE CODE:

Important – Read the end user license agreement before using the license code to activate the software

### NT-WARE'S END USER LICENSE AGREEMENT

This NT-Ware License Agreement (this "License") is a legal agreement between Company (either an individual or an entity) and NT-Ware U.S.A., Inc. It applies to one or more of the following software items for which you have paid license fees: uniFLOW core and associated modules, and updates to any of the preceding items which are provided under the Maintenance and Support Agreement described in Section 6 below. If Company does not agree to the terms of this License, promptly return the entire package, of which this License is a part, to the place of purchase and Company's money will be refunded; otherwise, upon any act of acceptance or commencement of use of the Licensed Software, Company will be deemed to have accepted and agreed to these terms and conditions.

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**3. TERM.** This License is effective upon Company's purchase of the Package and will continue in effect until terminated either (a) by Company at any time by notifying NT-Ware in writing or (b) automatically, upon Company's failure to comply with any term or condition of this license, or (c) as provided by any equipment lease documents. Upon termination, Company agree to destroy all copies of the Licensed Software and Documentation in Company's possession and to remove all copies of the Licensed Software from the System, Client Computers and other storage devices.

**4. LIMITATION OF WARRANTIES.** Company assumes responsibility for the selection of the Licensed Software to achieve Company's intended results and for the installation and use of, and results obtained from, the Licensed Software. NT-Ware does not warrant that the functions contained in the Licensed Software will meet Company's requirements or that the operation of the Licensed Software will be uninterrupted or error free. The media, if any, on which the Licensed Software is recorded, are warranted against defective materials or workmanship under normal use for a period of 90 days from the date of original delivery. During such warranty period, defective media presented to a authorized office imaging retail dealer ("Dealer") of Canon U.S.A., Inc. ("Canon USA") and proven to be defective upon inspection will be exchanged for replacement media by NT-Ware. Replacement media will be warranted for the remainder of the original 90-day warranty period of the defective media. The limited warranty does not apply if the failure of the media resulted from accident, abuse or misapplication of the program. **NEITHER NT-WARE, ANY DEALER NOR CANON USA MAKES AND COMPANY RECEIVES NO EXPRESSED OR IMPLIED WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE LICENSED SOFTWARE OR THE DOCUMENTATION OR ANY ASSOCIATED HARDWARE THAT MAY BE SOLD WITH THE LICENSED SOFTWARE, ALL OF WHICH ARE PROVIDED "AS IS."**

**5. LIMITATION OF LIABILITY.** NEITHER NT-WARE, ANY DEALER NOR CANON USA SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) PERTAINING IN ANY WAY TO THE LICENSED SOFTWARE, THE DOCUMENTATION, OR ANY MEDIA, OR TO ANY OF NT-WARE'S OBLIGATIONS UNDER THIS LICENSE, EVEN IF NT-WARE, THE DEALER OR CANON USA HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. COMPANY ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR NT-WARE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF COMPANY'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY COMPANY TO DEALER OR CANON USA.

**6. SEPARATE AGREEMENT FOR SUPPORT OR MAINTENANCE.** This License does not include any support or maintenance for the Licensed Software, which is provided separately under the NT-Ware U.S.A., Inc. Licensed Software Support and Maintenance Agreement included in the Package ("Support Agreement"). If Company complies with the registration requirements of the Support Agreement as specified therein, Company will receive the first year of support and maintenance at no additional charge. Additional years of support and maintenance are available for purchase as described in the Support Agreement.

**7. GENERAL.** This License is the complete and exclusive statement of the agreement between Company and NT-Ware, and this License supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter of this License. This License shall be governed by the laws of the State of New York and of the United States of America. All questions concerning the terms and conditions of this License should be directed to NT-Ware in writing NT-Ware U.S.A., Inc., 105 Maxess Road, Suite 129 S, Melville, New York 11747.

**8. U.S. GOVERNMENT RESTRICTED RIGHTS.** The Licensed Software and the Documentation are provided subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Licensed Software with Restricted Rights. Use, duplication, or disclosure by the Government is set forth in clause of DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Licensed Software-Restricted Rights clause at 48 CFR 52.227-19, as applicable. The contractor/manufacturer is NT-Ware U.S.A., Inc., 105 Maxess Road, Suite 129 S, Melville, New York 11747.

Company acknowledge that Company have read all of the above terms and conditions, understand them, and agree to be bound by them. Company understand that Dealer is not NT-Ware's agent and is not authorized

to make any representations or warranties on NT-Ware's behalf nor to vary any of the terms or conditions of this License.

**9. THIRD PARTY SOFTWARE.** The Licenses Software uses certain additional 3rd party software components for certain functionalities. These software components are automatically installed with the Licensed Software but are separately licensed by the 3rd party licensors under the following terms. In addition to the terms above, Company acknowledges and agrees to these terms.

- MICROSOFT DATA ACCESS COMPONENTS 2.6 ("MDAC"): The MDAC are a software framework which is being used with uniFLOW for accessing SQL server and other data base systems. They are included with uniFLOW and are automatically installed during the uniFLOW installation process. Without them uniFLOW could not access these data bases.

### MICROSOFT CORPORATION END-USER LICENSE AGREEMENT MICROSOFT DATA ACCESS COMPONENTS 2.6

**IMPORTANT-READ CAREFULLY:** This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and Microsoft Corporation for the Microsoft software product identified above, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation ("Product"). An amendment or addendum to this EULA may accompany the Product. YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY INSTALLING, COPYING, OR OTHERWISE USING THE PRODUCT. IF YOU DO NOT AGREE, DO NOT INSTALL OR USE THE PRODUCT; YOU MAY RETURN IT TO YOUR PLACE OF PURCHASE FOR A FULL REFUND.

**1. GRANT OF LICENSE. Microsoft grants you the following rights provided that you comply with all terms and conditions of this EULA:**

- a. **Installation and Use.** You may install and use an unlimited number of copies of the Product only for your internal use on your premises. You may make an unlimited number of copies (either in hard copy or electronic form) of any electronic documents included with the Product only for your internal use on your premises.
- b. **Storage/Network Use.** You may also store or install a copy of the Product on a storage device, such as a network server, used only to install or run the Product on your other computers over an internal network.
- c. **Performance or Benchmark Testing.** You may not disclose the results of any benchmark test using the Product to any third party without Microsoft's prior written approval.
- d. **Application Development; Redistribution Rights.** You may use the Product to design, develop, and test your software application products that will add significant and primary functionality to the Product ("Application"). You have a royalty-free right to reproduce and distribute the Product, provided that you comply with the following:
  - i. **General Redistribution Requirements.** You will (a) redistribute, or have third parties redistribute, the Product in its entirety, in object code only, in a single executable file as provided by Microsoft (MDAC\_typ.exe), and only in conjunction with and as a part of an Application; (b) not use Microsoft's name, logo, or trademarks to market your Application without the prior written consent of Microsoft; (c) include a valid copyright notice with your Application; (d) include all copyright and trademark notices contained in the Product; (e) include a copy of this EULA with any Product you distribute; (f) indemnify, hold harmless, and defend Microsoft from and against any claims or lawsuits, including attorneys' fees, that arise or result from the use or distribution of your Application; and
  - ii. **Not permit further distribution of the Product by end users of your Application.** You may direct your Application end users who desire to obtain Product redistribution rights to: <http://www.microsoft.com/data/download.htm>. Microsoft reserves the right to delete the Product download and to change, move, or remove this web page at any time, at its sole option.(ii) **Reservation of Rights.** Microsoft reserves all rights not expressly granted to you in this EULA.

2. **ADDITIONAL SOFTWARE.** This EULA applies to updates or supplements to the original Product provided by Microsoft, unless we provide other terms along with the update or supplement.
3. **TRANSFER. Transfer to Third Party.** The initial user of the Product may make a one-time transfer of the Product to another end user. The transfer has to include all component parts, media, printed materials, this EULA, and if applicable, the Certificate of Authenticity. The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the transferred Product must agree to all the EULA terms. No Rental. You may not rent, lease, or lend the Product.
4. **LIMITATION ON REVERSE ENGINEERING, DECOMPIATION, AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Product, except and only to the extent that it is expressly permitted by applicable law notwithstanding this limitation.
5. **TERMINATION.** Without prejudice to any other rights, Microsoft may cancel this EULA if you do not abide by the terms and conditions of this EULA, in which case you must destroy all copies of the Product and all of its component parts.
6. **CONSENT TO USE OF DATA.** You agree that Microsoft and its affiliates may collect and use technical information you provide as a part of support services related to the Product. Microsoft agrees not to use this information in a form that personally identifies you.
7. **EXPORT RESTRICTIONS. Export-Restricted Encryption.** If the Product is identified as "North America Only Version," the following terms apply: The Product contains strong encryption and cannot be exported outside of the United States (including Puerto Rico, Guam and all other territories, dependencies and possessions of the United States) or Canada without a U.S. Commerce Department export license or an applicable license exception. You agree that you will not directly or indirectly export or re-export the Product (or portions thereof), other than to Canada, without first obtaining an export license or determining that a license exception is applicable. For additional information see <http://www.microsoft.com/exporting/>. **Exportable Encryption.** If the Product is not identified as "North America Only Version," the following terms apply: You agree that you will not export or re-export the Product (or portions thereof) to any country, person or entity subject to U.S. export restrictions. You specifically agree not to export or re-export the Product (or portions thereof): (i) to any country subject to a U.S. embargo or trade restriction; (ii) to any person or entity who you know or have reason to know will utilize the Product (or portions thereof) in the production of nuclear, chemical or biological weapons; or (iii) to any person or entity who has been denied export privileges by the U.S. government. For additional information see <http://www.microsoft.com/exporting/>.
8. **DISCLAIMER OF WARRANTIES.** To the maximum extent permitted by applicable law, Microsoft and its suppliers provide the Product and support services (if any) AS IS AND WITH ALL FAULTS, and hereby disclaim all other warranties and conditions, either express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the Product, and the provision of or failure to provide support services. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, AND CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THE PRODUCT.
9. **EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE PRODUCT, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS EULA, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF MICROSOFT OR ANY SUPPLIER, AND EVEN IF MICROSOFT OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
10. **LIMITATION OF LIABILITY AND REMEDIES.** Notwithstanding any damages that you might incur for any reason whatsoever (including, without limitation, all damages referenced above and all direct or general damages),

the entire liability of Microsoft and any of its suppliers under any provision of this EULA and your exclusive remedy for all of the foregoing shall be limited to the greater of the amount actually paid by you for the Product or U.S. \$5.00. The foregoing limitations, exclusions and disclaimers (including Sections 11 and 12 above) shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

**11. NOTE ON JAVA SUPPORT.** THE PRODUCT MAY CONTAIN SUPPORT FOR PROGRAMS WRITTEN IN JAVA. JAVA TECHNOLOGY IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF JAVA TECHNOLOGY COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. Sun Microsystems, Inc. has contractually obligated Microsoft to make this disclaimer.

**12. U.S. GOVERNMENT LICENSE RIGHTS.** All Product provided to the U.S Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All Product provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227.7013 (OCT 1988), as applicable.

**13. APPLICABLE LAW.** If you acquired this Product in the United States, this EULA is governed by the laws of the State of Washington. If you acquired this Product in Canada, unless expressly prohibited by local law, this EULA is governed by the laws in force in the Province of Ontario, Canada; and, in respect of any dispute which may arise hereunder, you consent to the jurisdiction of the federal and provincial courts sitting in Toronto, Ontario. If this Product was acquired outside the United States, then local law may apply.

**14. COPYRIGHT.** The Product is protected by copyright and other intellectual property laws and treaties. Microsoft or its suppliers own the title, copyright, and other intellectual property rights in the Product. The Product is licensed, not sold.

**15. ENTIRE AGREEMENT.** This EULA, including any addendum or amendment to this EULA which is included with the Product, are the entire agreement between you and Microsoft relating to the Product and the support services (if any), and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Product or any other subject matter covered by this EULA. To the extent the terms of any Microsoft policies or programs for support services conflict with the terms of this EULA, the terms of this EULA shall control.

- **CRYSTAL REPORTS FOR MICROSOFT VISUAL STUDIO 2005:** MS Visual Studio is a development environment that is being used by uniFLOW. Crystal Reports, which is integrated with MS Visual Studio, is being used by uniFLOW for generating printing reports, a core functionality of uniFLOW. Please also refer to <https://support.microsoft.com/en-us/kb/318102>. NT-ware as a developer is licensee of MS Visual Studio and of Business Object Software Limited ("Business Objects"), the supplier of Crystal Reports software. Business Objects permits NT-ware to sub-license certain Crystal Reports Runtime Software to uniFLOW End-Users. Similar to MDAC, Crystal Reports Runtime Software ("Runtime Software") is included with uniFLOW and is automatically installed during the normal installation process.

The following are terms Company agrees to as a condition of its use of the Runtime Software:

The Runtime Software is licensed, not sold, to Company. Company may only use the Runtime Software in conjunction with uniFLOW. Accessing data that is not specifically created or used within the context of a uniFLOW is in violation of this license.

- o Company agrees not to alter disassemble, decompile, translate, adapt or reverse-engineer the Runtime Software or the report file (.RPT) format;
- o Company agrees not to distribute the Runtime Software with any general-purpose report writing, data analysis or report delivery product or any other product that performs the same or similar functions as Business Objects' product offerings;

- o Company agrees not to use the Runtime Software to create for distribution a product that is generally competitive with Business Objects' product offerings;
- o Company agrees not to use the Runtime Software to create for distribution a product that converts the report file (.RPT) format to an alternative report file format used by any general purpose report writing, data analysis or report delivery product that is not the property of Business Objects; and
- o Company agrees not to use the Runtime Software on a rental or timesharing basis or to operate a service bureau facility for the benefit of third parties.

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## **SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT**

This software support and maintenance agreement ("Agreement") by and between the company whose name and address appear in the registration described in Section 1 below ("Company") and NT-Ware U.S.A., Inc. a Delaware corporation ("NT-Ware"), sets forth the terms and conditions under which NT-Ware will furnish updates to and technical support for the licensed software products of NT-ware covered by this Agreement ("Licensed Software").

**1. ELIGIBILITY.** In order for Company to be eligible for maintenance and support services, Company must register online by completing the requested information when prompted during installation. Once Company activates the support services, NT-Ware's support and maintenance database will determine eligibility and the effective term (including the initial term and any extended terms purchased with the initial purchase of Licensed Software) and send confirmation to Company. In case an online registration is not possible, the registration may be completed via e-mail or by fax to the number listed in the registration procedure.

**2. TERM.** This Agreement shall commence on the date ("Commencement Date") which is the date of license of the Licensed Software. Unless terminated pursuant to Section 9 below, this Agreement shall be in effect for one (1) year from the Commencement Date, and is included at no additional charge in the price of the Licensed Software purchased from Canon U.S.A., Inc. ("Canon USA") or an authorized office imaging retail dealer of Canon USA ("Dealer"). At the time of original purchase or prior to the expiration of this one (1) year term, Company may purchase additional years of extended maintenance and support solely from Canon USA or a Dealer. Accordingly, depending on the purchase of extended support, the duration of support will be for a period of up to five (5) years from the date of license of the Licensed Software ("Support Term"). For current extended support prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. No matter when purchased, the term of extended maintenance and support starts upon the expiration date of the term that you have previously purchased. To ensure continued maintenance and support, the extension must be purchased by Company prior to the expiration of this Agreement. If additional Licensed Software is purchased, this may result in adjustment of the effective term for all supported Licensed Software. Customer may contact the purchase source for the Licensed Software (Canon USA or Dealer) for information about the effective term of support and

maintenance. Support outside the scope or term of this Agreement may be provided at the published rates of NT-Ware, Canon USA or its Dealers, as the case may be, for time and materials and with Company assuming all costs, including shipping.

**3. UPDATES TO LICENSED SOFTWARE.** During the Support Term NT-Ware will provide updates to the Licensed Software, including patches and new versions of the Licensed Software ("Updates") to Canon USA within 30 days of NT-Ware's commercial release of such Updates, and Canon USA will distribute such Updates to Dealers (or, where applicable, its direct purchasers). During the Support Term, Company is entitled to receive all commercially released Updates of the Licensed Software. Company may install any Update release itself or engage Canon USA or a Dealer to perform such installation for an agreed upon charge. NT-Ware reserves the right to discontinue support for connections to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Software, such as versions for new operating systems or which feature fundamentally new functionality, are not within the scope of this Agreement. Also, Updates that are patches will only be suitable and compatible with a version of Licensed Software that is not more than two (2) years from its release date (i.e., within a Mainstream Support Period as defined below). Any open source operating system software and certain other third party software components that are included in the Licensed Software will be supported solely to the extent that the relevant developer makes support available to NT-Ware, and NT-Ware reserves the right to replace such third party software at any time, including if technical updates or compatibility upgrades deemed necessary by NT-Ware are not forthcoming from any such developer. Any Updates or other modified version of the Licensed Software provided under this Agreement shall be subject to the same End-User License Agreement as is applicable to the Licensed Software, and shall be subject to its terms.

**4. OBTAINING TECHNICAL SUPPORT.** During the Support Term, Company shall contact the purchasing source (Dealer or Canon USA) for Level 1 support on a uniFLOW System. Level 1 support consists of providing help-line telephone assistance in operating the uniFLOW System and identifying service problems, escalating issues as needed to rectify such problems with bug fixes, if needed to remedy a problem, and maintaining a log of such problems to assist in tracking the same. If Company still requires technical support after Level 1 support has been provided by Dealer or Canon USA, as the case may be, then, at Company's request, Canon USA shall escalate the problem in coordination with NT-Ware. Company must specify a designated individual who will act for Company as the sole support liaison to Dealer or Canon USA. NT-ware will provide Level 3 support and bug fixes (if needed) only if, on the date of the support request, Company is running a version of Licensed Software that is no more than two (2) years from the release date of such version ("Mainstream Support Period"). If the Support Term is ongoing but Company requests support for a problem more than two (2), but less than seven (7) years from the release date of the Licensed Software version (the "Subsequent Support Period") hotfixes for bugs in such version are possible but not guaranteed, and any Update releases specifically for this version will further be provided at NT-ware's sole discretion based on common market demand. During the Support Period, the Mainstream Support Period will be refreshed whenever Company is running a version of the License Software that is within two (2) years of the version release date. Therefore, Company is advised to install promptly all Updates produced by NT-Ware under Section 3 and made available to Company by its Dealer or Canon USA under Section 3 to ensure that NT-Ware will optimally support Company's versions of the Licensed Products throughout the term of Company's purchased Support Period. In making a request for technical support, the Company representative must identify Company and provide the serial number(s) and release date of its version of the Licensed Software then running to define the support to which it is entitled.

**5. ASSIGNMENT.** NT-Ware will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. Company will not be entitled to assign this Agreement or any part thereof without the prior written consent of NT-Ware.

**6. LIMITATION OF LIABILITY.** NEITHER NT WARE, CANON USA, NOR ANY DEALER, SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) ARISING FROM THE MAINTENANCE AND SUPPORT OF THE NT-WARE SYSTEM, INCLUDING LICENSED SOFTWARE AND UPDATES THEREFOR, OR FROM ANY OF NT-WARE'S OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF NT-WARE, CANON USA OR DEALER HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. COMPANY ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR NT-WARE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF COMPANY'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY COMPANY TO DEALER OR CANON USA.

7. **GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which NT-Ware will produce Updates to be made available to Company through Canon USA and its Dealers with maintenance and certain technical support services for the uniFLOW System, including updates to Licensed Software. This Agreement supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New York. All questions concerning the terms and conditions of this Agreement should be directed to NT-Ware in writing to NT-Ware U.S.A., Inc. at 105 Maxess Road, Suite 129 S, Melville, New York 11747.

8. **U.S. GOVERNMENT RESTRICTED RIGHTS.** Any new releases, upgrades or versions of the Licensed Software are provided with Restricted Rights. Licensed Software provided under this agreement is "commercial computer software" as defined in DFARS 252.227-7014(a)(1)(June 1995) and accompanying Documentation is subject to Restricted Rights. Contracting Officer and Government End User agree to the inclusion of third party copyrighted computer software and documentation for all Licensed Software provided under this Agreement. Use, duplication, or disclosure by the Government is set forth in subparagraph (b)(3) of Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, DFARS 252.227-7014 (June 1995) or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at 48 CFR 52.227-19(June 1987), as applicable. Contractor/manufacturer is NT-Ware U.S.A., Inc., 105 Maxess Road, Suite 129 S, Melville, New York 11747.

Contracting Officer and Government End User acknowledge that they have read all of the above terms and conditions, understand them, agree to be bound by them and further that neither Canon USA nor Dealer is a NT-Ware's agent, nor are they authorized to make representations or warranties on NT-Ware's behalf, or to vary any of the terms or conditions of this Agreement.

9. **TERMINATION.** This Agreement shall terminate automatically without notice to Company upon failure to comply with any term or condition set herein or upon the termination of the license agreement for any Licensed Software. Upon such termination, Company acknowledges that no refunds of any maintenance fees shall be made.

**Registration Data:**

In order to activate your NT-Ware Software Maintenance and Support Agreement, you must register the Licensed Software covered by this Agreement by completing the requested information when prompted during installation. Be prepared to supply the following information:

COMPANY name/Technical Contact (Name and Title):

Post Office Address:

E-mail Address:

DEALER name:

[Licensed Software Serial Number – the 10 digit number after "S/N" that is located on the label of the software CD case.]

## ATTACHMENT A, CANON LEASE AGREEMENT TERMS AND CONDITIONS

CFS: Canon Financial Services, Inc., a New Jersey Corporation, with its place of business at 158 Gaither Drive, Suite 200, Mount Laurel, New Jersey 08054

CUSTOMER: political subdivision or agency or other Purchasing Entity under the applicable Participating Addendum

PRODUCTS: The Devices, Accessories, parts, software, and/or Supplies being leased by Customer under a Fair Market Value Lease, a \$1 Buyout Lease, a Straight Lease, or a Short-Term Lease, as specified in the applicable Order.

1. TERM OF LEASE: Each lease of Products under an Order shall be effective on and commence from the date the Products are delivered to Customer ("Commencement Date"), provided Customer executes CFS' form of acceptance ("Acceptance Certificate") or otherwise accepts the Products as specified herein. The term of each lease shall consist of the initial term specified in the applicable Order and any renewal term(s) if and as applicable. After acceptance of the Products, Customer shall have no right to revoke such acceptance or cancel the lease during the term thereof, except as set forth herein.

2. RENEWAL OF LEASE; RETURNS OR PURCHASES OF PRODUCTS; BUYOUT TO KEEP/RETURN: Leases shall not be subject to automatic renewals, except as hereafter provided. With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, Customer shall return the Products at the end of the initial lease term, or at the end of the Renewal Lease Term, or CFS may pick the Products up, without any further financial obligations to Customer.

FMV Leases: Upon expiration of the initial lease term, Customer may do one of the following:

- 1) Exercise its purchase option;
- 2) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer, Short-Term Leases excepted; or
- 3) Return the Products to CFS, or have CFS pick the Products up.

\$1 Buyout Leases: Upon the expiration of the initial lease term, CFS shall provide title to the Products to the Customer, or as otherwise determined in a Participating Addendum, and Customer shall not be subject to any additional expense in order to assume possession of the Products.

Straight Leases: Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

Short-Term Lease: Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the rental on a month to month basis, up to a total maximum term of 12 months, including the initial lease term; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

If Customer desires to exercise a purchase, renewal, or return of the Products, it shall give CFS at least thirty (30) days written notice prior to the expiration of such lease term. Notwithstanding anything to the contrary, if Customer fails to notify CFS of its intent with respect to the exercise of a purchase, renewal, or return of the Products, the initial lease term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged, unless otherwise specified in a Participating State or Entity's Participating Addendum.

Notwithstanding the foregoing, if Customer fails to notify CFS at least thirty (30) days prior to lease termination of a digital press Production Device and/or large format printer, then the lease will automatically renew on a month-to-month basis until Customer notifies CFS of its intent. In such a case, the automatic renewal term shall not exceed a maximum of 12 monthly payments. At which point in time, CFS will make arrangements to pick up the Equipment from Customer.

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

Product Payments for renewal terms shall never exceed Master Agreement pricing. If Customer enters into a renewal term, then the Product Payment will be subject to the lease rates listed in the most recent Price List(s) posted on the NASPO ValuePoint website.

Customers under FMV or \$1 Buyout Leases shall have a Buyout to Keep Option. Customers under FMV, \$1 Buyout or Straight Leases shall have a Buyout to Return Option. The Buyout to Keep Option price shall be the Remaining Lease Balance (as hereinafter defined). The Buyout to Return Option shall be the Remaining Lease Balance, less the Fair Market Value (as hereinafter defined). Customer must notify the CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Keep option on an FMV or \$1 Buyout Lease. Customer must notify CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Return option on an FMV, \$1 Buyout or Straight Lease, and return the Products to CFS in good working condition (ordinary wear and tear excepted).

3. **PAYMENTS:** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Products, or such later date as CFS may designate. The remaining payments (together with the first scheduled payment, the "Payments") will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order. The Payments are comprised of the principal and interest thereon. Customer's obligation to pay all amounts due for the lease of the Products shall be absolute and unconditional and is not subject to any abatements, set-off, defense or counterclaim for any reason whatsoever.

4. **APPLICATION OF PAYMENTS:** All Payments received by CFS from Customer under this Agreement will be applied to amounts due and payable hereunder chronologically, based on the date of the charge as shown on the invoice for each such amount, and among amounts having the same date in such order as CFS, in its discretion, may determine.

5. **NO CFS WARRANTIES: CUSTOMER ACKNOWLEDGES THAT CFS IS NOT A MANUFACTURER, DEALER, OR SUPPLIER OF THE PRODUCTS. CUSTOMER AGREES**

THAT THE PRODUCTS ARE LEASED "AS IS" AND IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY CUSTOMER. CUSTOMER ACKNOWLEDGES THAT CFS HAS MADE NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SUITABILITY OR DURABILITY OF THE PRODUCTS, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Any warranty with respect to the Products made by the manufacturer, dealer, or supplier is separate from, and is not a part of, the lease of the Products and shall be for the benefit of CFS, Customer and CFS' successors or assignees, if any. So long as Customer is not in breach or default with respect to its lease, CFS assigns to Customer any warranties (including those agreed to between Customer and the manufacturer, dealer, or supplier) which CFS may have with respect to any item of the Products; provided that the scope and limitations of any such warranty shall be solely as set out in any agreement between Customer and such manufacturer, dealer, or supplier or as otherwise specified in warranty materials from such manufacturer, dealer, or supplier and shall not include any implied warranties arising solely from CFS' acquisition of the Products. CUSTOMER ACKNOWLEDGES THAT NEITHER THE SUPPLIER NOR ANY DEALER IS AUTHORIZED TO WAIVE OR ALTER ANY TERM OF THIS AGREEMENT OR ANY SCHEDULE, OR TO MAKE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THIS AGREEMENT OR THE PRODUCTS ON BEHALF OF CFS.

6. NON-APPROPRIATION OF FUNDS: The continuation of any lease agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. Customer may terminate any such lease agreement, and CFS waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Customer's funding sources are not available.

7. ACCEPTANCE; DELIVERY: Customer's acceptance of a Product as provided in the Master Agreement shall conclusively establish that the Equipment has been delivered to and accepted by Customer for all purposes of this Agreement and Customer may not for any reason revoke that acceptance.

8. LOCATION; LIENS; NAMES; OFFICES: Customer shall not move the Products from the location specified in the applicable Order except with the prior written consent of CFS. Customer shall keep the Products free and clear of all claims and liens other than those in favor of CFS. Customer's legal name (as set forth in its constituent documents filed with the appropriate governmental office or agency) is as set forth in the applicable Order. The chief executive office address of Customer is as set forth herein. Customer shall provide CFS with written notice at least thirty (30) days prior to any change of its legal name or chief executive office address, and shall execute and deliver to CFS such documents as required or appropriate.

9. WARRANTY OF BUSINESS PURPOSE; USE; PERSONAL PROPERTY; FINANCING STATEMENTS: Customer represents and warrants that the Products will not be used for personal, family, or household purposes. Customer shall comply with all laws and regulations relating to the use and maintenance of the Products. Customer shall put the Products only to the use contemplated by the manufacturer or developer. The Products shall remain personal property regardless of whether it becomes affixed to real property or permanently rests upon any real property or any improvement to real property. Customer authorizes CFS (and any third party filing service designated by CFS) to execute and file (a) financing statements evidencing

the interest of CFS in the Products (including forms containing a broader description of the Equipment than the description set forth herein), (b) continuation statements in respect thereof, and (c) amendments thereto, and Customer irrevocably waives any right to notice thereof.

10. INDEMNITY: Customer shall reimburse CFS for and defend CFS against any claim for losses or injury caused by the Products. This Section shall survive termination of the lease.

11. MAINTENANCE; ALTERATIONS: Customer shall at all times maintain and keep in effect a service contract, through one of Contractor's Authorized Dealers under the Master Agreement or by other contractual arrangements, to keep and maintain the Equipment in good working order and to supply and install all replacement parts and accessories when required to maintain the Equipment in good working condition. Customer shall not, without the prior written consent of CFS, make any changes or substitutions to the Equipment. Any and all replacement parts, accessories, authorized changes to and/or substitutions for the Equipment shall become part of the Equipment and subject to the terms of this Agreement.

12. TAXES; OTHER FEES AND CHARGES: CUSTOMER SHALL PAY AND DISCHARGE WHEN DUE ALL LICENSE AND REGISTRATION FEES, ASSESSMENTS, SALES, USE AND OTHER TAXES, AND OTHER EXPENSES AND CHARGES, together with any applicable penalties, interest, and administrative fees now or at any time imposed upon any Products, the Payments, or Customer's performance or non-performance of its obligations hereunder, whether payable by or assessed to CFS or Customer. If Customer fails to pay any such fees, assessments, taxes, expenses or charges as required hereunder, CFS shall have the right but not the obligation to pay those fees, assessments, taxes, expenses and charges, and Customer shall promptly reimburse CFS, upon demand, for all such payments made plus administrative fees and costs, if any. Notwithstanding the generality of the foregoing, Customer shall not be liable for property taxes, which shall be the sole responsibility of CFS.

13. INSURANCE: Customer, at its sole cost and expense, shall, during the term hereof including all renewals and extensions, obtain, maintain and pay for (a) insurance against the loss, theft, or damage to the Equipment for the full replacement value thereof, and (b) comprehensive public liability and property damage insurance. All such insurance shall provide for a deductible not exceeding \$5,000 and be in form and amount, and with companies satisfactory to CFS. Each insurer providing such insurance shall name CFS as additional insured and loss payee and provide CFS thirty (30) days' written notice before the policy in question shall be materially altered or canceled. Customer shall pay the premiums for such insurance, shall be responsible for all deductible portions thereof, and shall deliver certificates or other evidence of insurance to CFS. The proceeds of such insurance, at the option of CFS, shall be applied to (a) replace or repair the Equipment, or (b) pay CFS the "Remaining Lease Balance," which shall be the sum of: (i) all amounts then owed by Customer to CFS under the lease; plus (ii) the present value of all remaining Payments for the full term of the lease; plus (iii) except in the case of \$1 Buyout Leases, the Fair Market Value of the Products (as defined herein); plus (iv) any applicable taxes, and any expenses, charges or fees which may be payable as otherwise provided herein or in the Master Agreement or the applicable Participating Addendum. For purposes of determining present value, Payments shall be discounted at three percent (3%) per year. Customer hereby appoints CFS as Customer's attorney-in-fact solely to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for any loss or damage to Equipment under any such insurance policy. If within ten (10) days after CFS' request, Customer fails to deliver satisfactory evidence of such insurance to CFS, then CFS shall have the right, but not the obligation, to obtain insurance covering CFS' interests in the Equipment, and add the costs of acquiring and maintaining such insurance, and an

administrative fee, to the amounts due from Customer with respect to the lease. CFS and any of its affiliates may make a profit on the foregoing.

14. **LOSS; DAMAGE:** Customer assumes and shall bear the entire risk of loss, theft of, or damage to the Products from any cause whatsoever, effective upon delivery to the Customer, except that Customer shall be relieved of all risks of loss or damage to the Products during periods of transportation and de-installation. No such loss, theft or damage shall relieve Customer of any obligation with respect to its lease of the Products. If any Equipment is lost or stolen, Customer, at the option of CFS, will (a) replace the same with like equipment in a condition acceptable to CFS and convey clear title to such equipment to CFS (and such equipment will become "Equipment" and be subject to the terms of this Agreement), or (b) pay CFS the Remaining Lease Balance. Upon CFS' receipt of the Remaining Lease Balance, CFS shall transfer the applicable Equipment to Customer "AS-IS, WHERE-IS" without any representation or warranty whatsoever, except for title, and this Agreement shall terminate with respect to such Equipment.

15. **DEFAULT:** Each of the following is a "default" under these lease terms:

- i) Customer fails to pay any Payment within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
- ii) Any representation or warranty made by Customer in these lease terms or in the Master Agreement is false or incorrect and Customer does not perform any of its obligations under these lease terms or in the Master Agreement, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after CFS has notified Customer;
- iii) Customer or any guarantor makes an assignment for the benefit of creditors;
- iv) Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
- i) Customer stops doing business as a going concern or transfers all or substantially all of Customer's assets.

16. **REMEDIES:** If Customer defaults on a lease, then CFS, in addition to, or in lieu of, the remedies set forth in the Master Agreement, and Participating Addendum, may do one or more of the following:

- i) Cancel or terminate the Order;
- ii) Require Customer to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to the Remaining Lease Balance.

17. **EXPENSES OF ENFORCEMENT:** Customer shall reimburse CFS for all of its out-of-pocket costs and expenses incurred in exercising any of its rights or remedies hereunder or in enforcing any of the terms of this Agreement, including, without limitation, reasonable fees and expenses of attorneys and collection agencies, whether or not suit is brought. If CFS should bring court action, Customer and CFS agree that attorney's fees equal to twenty-five percent (25%) of the total amount sought by CFS shall be deemed reasonable for purposes of this Agreement.

18. **ASSIGNMENT:** (i) Customer has no right to sell, transfer, encumber, sublet or assign the Product or any lease agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld). (ii) CFS may not sell or assign any portion of CFS' interests in

the Products or any Order for leases, without notice to Customer even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as CFS assigns to them, but none of CFS' obligations (CFS will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Customer may have against CFS.

19. DATA: Customer acknowledges that the hard drive(s) on the Equipment, including attached devices, may retain images, content or other data that Customer may store for purposes of normal operation of the Equipment ("Data"). Customer acknowledges that CFS is not storing Data on behalf of Customer and that exposure or access to the Data by CFS, if any, is purely incidental to the services performed by CFS. CFS does not have an obligation to erase or overwrite Data upon Customer's return of the Products to CFS. Customer shall indemnify CFS, its subsidiaries, directors, officers, employees and agents from and against any and all costs, expenses, liabilities, claims, damages, losses, judgments or fees (including reasonable attorneys' fees) arising or related to the storage, transmission or destruction of the Data. This section survives termination or expiration of the lease term under the applicable Order. The terms of this section are without limitation of Contractor's obligations with respect to Data under the Master Agreement, the applicable Participating Addendum, and the applicable Order.

20. MAXIMUM INTEREST; RECHARACTERIZED AGREEMENT: No Payment is intended to exceed the maximum amount of interest permitted to be charged or collected by applicable laws, and any such excess Payment will be applied to payments due under the applicable Order, in inverse order of maturity, and thereafter shall be refunded. If the lease under any Order is characterized as a conditional sale or loan, Customer hereby grants to CFS, its successors and assigns, a security interest in the Products to secure payment and performance of Customer's obligations under such Order.

21. UCC-ARTICLE 2A: CUSTOMER ACKNOWLEDGES AND AGREES THAT EACH ORDER IS INTENDED AS A "FINANCE LEASE" AS THAT TERM IS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE ("UCC 2A") AND THAT CFS IS ENTITLED TO ALL BENEFITS, PRIVILEGES, AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE. CUSTOMER WAIVES ITS RIGHTS AS A LESSEE UNDER UCC 2A SECTIONS 508-522.

22. WAIVER OF OFFSET: Each Order shall be a net lease. If the Products are not properly installed, do not operate as represented or warranted, or are unsatisfactory for any reason, Customer shall make such claim solely against the supplier, dealer, or manufacturer. Customer waives any and all existing and future claims and offsets against any Payments or other charges due under each Order, and unconditionally agrees to pay such Payments and other charges, regardless of any offset or claim which may be asserted by Customer or on its behalf.

23. AUTHORITY AND AUTHORIZATION: Customer represents and agrees that (a) Customer is a state or a political subdivision or agency of a state or other eligible Purchasing Entity under the applicable Participating Addendum; (b) that entering into and performance of each Order is authorized under Customer's state laws and Constitution and does not violate or contradict any judgment, law, order, or regulation, or cause any default under any agreement to which Customer is party; and (c) Customer has complied with any bidding requirements and, where necessary, has properly presented each Order for approval and adoption as a valid obligation on Customer's part. Upon request, Customer agrees to provide CFS with an opinion of counsel as to clauses (a) through (c) above, an incumbency certificate, and other documents that CFS may request, with all such documents being in a form satisfactory to CFS.

24. GOVERNMENT USE: Customer agrees that the use of the Products are essential for Customer's proper, efficient and economic operation, Customer will be the only entity to use the Products during the term of the applicable Order and Customer will use the Products only for Customer's governmental purposes. Upon request, Customer agrees to provide CFS with an essential use letter in a form satisfactory to CFS as to the preceding sentence.

## ATTACHMENT B, CANON MAINTENANCE TERMS AND CONDITIONS

This document includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as "You" herein).

### 1. Maintenance.

- 1.1 Authorized Dealer shall provide all routine preventive maintenance and emergency service necessary to keep the Equipment in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (a) You shall give Authorized Dealer reasonable and safe access to the Equipment to perform on-site service. Authorized Dealer may terminate its maintenance obligations on any Equipment you relocate to a site outside Authorized Dealer's service territory. If, in Authorized Dealer's opinion, any Equipment cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer may, at its option, (i) substitute comparable Equipment or (ii) cancel any balance of the term of the Maintenance Agreement as to such Equipment and refund the unearned portion of any prepaid charges hereunder. Parts or Equipment replaced or removed by Authorized Dealer in connection with maintenance services will become the property of Authorized Dealer and you disclaim any interest therein.
  - (b) Installation/Implementation of software Products may be at an additional charge, and may be conditioned on a separate statement of work or other document covering the scope and schedule of installation/implementation, configuration options, responsibilities of each party, and other matters, which shall govern as to the matters covered therein. Additional charges may apply for work beyond the initial scope described in such separate document.
  - (c) Support for software Products is provided directly by the respective developers thereof and as set forth in each developer's applicable separate support contract, and is not provided by Authorized Dealer under the Maintenance Agreement except as expressly provided herein. Support for software Products may require separate purchase by you of a support contract. The terms of support contracts for software Products are available from the developers, or will be provided to you by Authorized Dealer upon request.
  - (d) Authorized Dealer shall make available to you from time to time software patches and any updates for software Products and Embedded Software, but only if such patches and updates are provided to Authorized Dealer by the developers of such software Products and Embedded Software. New releases (upgrades) of software Products, and installation/implementation thereof, shall be chargeable to you. You are not required to use Authorized Dealer for installation software patches, updates or upgrades, but if installation is done by anyone other than Authorized Dealer, Authorized Dealer shall have no responsibility for any performance or other issues that may result from such installation.
  - (e) Authorized Dealer shall also use reasonable efforts to provide Level 1 support for the software Products (for all software Products for which separately-priced support contracts are available, Level 1 support shall be provided only if and so long as the support contract for such software Product from the developer has been purchased and remains in effect). Level 1 support consists of (i) providing help-line telephone assistance in operating the software Product and identifying service problems and attempting to troubleshoot any such problems in the software Product; (ii) escalating operating problems to the available developer of the software Product as needed to rectify such problems, including facilitating contact between you and the developer of the software Product as necessary; and (iii) maintaining a log of such problems to assist in tracking the same.

- 1.2** For Equipment under NASPO ValuePoint Groups A & C, the meter shall record a quantity of 2 impressions for any image produced on 11"x17" media.
- 1.3** In the event your toner usage exceeds by more than 10% the published manufacturer specifications for conventional office image coverage, as determined by Authorized Dealer, Authorized Dealer may invoice you for such excess, provided that Authorized Dealer shall not invoice you for excess toner usage as aforementioned unless and until Authorized Dealer has first notified you of the excess toner usage, and until you and Authorized Dealer have consulted in good faith in an attempt to identify the reason(s) for the excess toner usage and you have had a reasonable opportunity, if practicable, to rectify the excess toner usage. You may purchase additional toner from Authorized Dealer if required during the term of the Maintenance Agreement.
- 1.4** You shall bear all risk of loss, theft or damage to unused consumables, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of the Maintenance Agreement.
- 1.5** Unless otherwise indicated, you authorize Authorized Dealer to use networked features of the Equipment including imageWARE to receive software updates, activate features/new licenses and transmit use and service data accumulated by the Equipment over your network by means of an HTTPS protocol and to store, analyze and use such data for purposes related to servicing the Equipment, providing reports and product improvement. You agree to provide meter readings to Authorized Dealer, in accordance with a meter read option made available by Authorized Dealer. Authorized Dealer may change your meter read options from time to time upon 60-day notice. If Authorized Dealer does not receive timely meter readings from you, you agree to pay invoices that reflect Authorized Dealer's estimates of meter readings. Authorized Dealer reserves the right to verify the accuracy of any meter readings from time to time, and to invoice you for any shortfall in the invoice for the next periodic billing cycle.
- 2. Non-Covered Service.** The following services, and any other work beyond the scope of this Agreement are not included within Maintenance: (a) replacement of any consumable supply item not provided as part of toner inclusive service identified on the face page, including, without limitation, paper, toner, ink, waste containers, fuser oil, staples, other media, print heads and puncher dies; (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Equipment; the use of parts, supplies or software which are not supplied by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; use of the Equipment with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions; (c) de-installation, re-installation or relocation of Equipment; (d) repairs to or realignment of Equipment, and related training, necessitated by changes you made to your system configuration or network environment; (e) work which you request to be performed outside of Authorized Dealer's regular business hours; or (f) repair of network/system connection device.
- 3. Term and Renewal of Maintenance Agreement.** For leased Equipment, the term of the Maintenance Agreement therefor shall be equal to the term of the lease. For purchased Equipment, the term of the Maintenance Agreement shall be as specified on the related Order (provided, that it may not exceed 60 months on Group A, Group B, Group D, Group E and Group F Devices and 84 months on Group C Devices). Maintenance Agreements shall not be subject to automatic renewal; if you desire to renew a Maintenance Agreement, the pricing during the renewal term shall be as determined pursuant to the Master Agreement.
- 4. Limited Warranty.** All Equipment is provided with a manufacturer's end user limited warranty from Canon USA, Inc. Authorized Dealer is an authorized Canon service dealer and provides warranty service under the Canon USA limited warranties. All other Products are provided subject to such end user warranties and license terms as are provided by the manufacturer or developer as packaged or

otherwise provided with the Listed Items. Authorized Dealer shall upon your request provide to you copies of all such end user warranties and license. SUCH WARRANTIES, TOGETHER WITH WARRANTIES AS PROVIDED IN THE MASTER AGREEMENT AND THE APPLICBLE PARTICIPATING ADDENDUM, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE USE OR PERFORMANCE OF THE PRODUCTS, AND ALL SUCH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. YOU EXPRESSLY ACKNOWLEDGE THAT SUCH WARRANTIES DO NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE PRODUCTS.

5. **LIMITATION OF LIABILITY.** NEITHER AUTHORIZED DEALER NOR CONTRACTOR SHALL BE LIABLE FOR EXPENDITURES FOR SUBSTITUTE EQUIPMENT OR SERVICES, LOSS OF REVENUE OR PROFIT, LOSS, CORRUPTION OR RELEASE OF DATA, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, STORAGE CHARGES OR INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED AND EVEN IF AUTHORIZED DEALER OR CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## ATTACHMENT C, CANON SAMPLE MPS AGREEMENT TERMS AND CONDITIONS

1. **TERM.** The Managed Print Services (“MPS”) shall begin on the Start Date and continue for the initial term specified above.
2. **CHARGES.** Authorized Dealer agrees that pricing shall remain firm for the initial terms of the Maintenance Agreement. Upon expiration of the initial contract term, or during any renewal period, Dealer reserves the right to increase the pricing upon thirty (30) days prior written notice, based on any changes to the fleet, or services being delivered, provided these changes are outside the scope of the original statement of work, and provided the pricing does not exceed Master Agreement pricing. If you have selected the Fleet Coverage Plan, the Base Charge, Covered Images and Per Image Charges noted above shall apply to all of the Equipment on the Schedule. If you have selected the Per Unit Coverage Plan, the Base Charge, Covered Images and the Per Image Charges for each unit shall be reflected on the Schedule.
3. **PRIOR ASSESSMENT.** As part of an initial assessment, Authorized Dealer has performed a network and system discovery analysis of your IT environment in which services are to be rendered under this Agreement. Additionally, as part of the initial assessment, Authorized Dealer has used certain discovery tools to identify the components and conditions of your IT environment.
4. **COVERED PRINTERS.** This agreement is intended to provide services for your entire fleet of printers; however, certain models of printers may not be eligible for services under this contract due to age, geographic location or other reasons determined by Authorized Dealer. At Authorized Dealer’s discretion, the ineligible printers may be placed under a “Standard Plan” and identified on the associated schedule (“Schedule B”) and shall only receive toner cartridges and monitoring services. The “Premier” scope of services as defined in Paragraph 7 covers only the printers identified on the associated schedule (“Schedule A” or “Schedule A-MICR”). The parties may agree to add or remove printers from time to time during the Term by mutual execution of an Authorized Dealer MPS Change Order. Customer shall provide Authorized Dealer a standard device configuration sheet showing the start meter reading of the added printer(s) as of the start date of this contract. Otherwise, Authorized Dealer may compute a start reading for the printer(s) utilizing the current meter reading and subtracting an estimated monthly volume per printer, as determined by Authorized Dealer. In the event Customer acquires additional devices subsequent to the start date of this Agreement, the start meter shall be zero. If the quantity of printers changes during the Term from the original quantity listed on Schedule A, Schedule A-MICR or Schedule B, Authorized Dealer reserves the right to adjust the pricing accordingly.
5. **YOUR RESPONSIBILITIES. As a condition precedent to Authorized Dealer’s duties:**
  - (a) The Printers shall meet the “Fit for Service” requirements outlined in the MPS Customer Expectation Document (CED) and shall be in good working condition on the Start Date (as determined solely by Authorized Dealer in its reasonable discretion.)
  - (b) You shall provide Authorized Dealer with an accurate location and printed configuration page for each printer placed under this Agreement. You shall notify Authorized Dealer if you relocate any printers from the address indicated on Schedule A, A-MICR, B or any related Change Order.
  - (c) You shall use only Authorized Dealer-approved parts and supplies for the Printers.
  - (d) You shall have proper electrical and network connections, install, and use Authorized Dealer approved surge protector where appropriate.
  - (e) You shall provide a Key Operator responsible for designated duties in the operator’s manual and insure that the proper supplies are being installed and/or used correctly with the printers.
  - (f) You are solely responsible for security of your electronic and other data.
  - (g) You must install and keep the Data Collection Agent (“DCA”) installed on your network for networked devices and locally for non-networked devices throughout the Term of this Agreement. If the DCA does not communicate with Authorized Dealer, you agree to provide manual meter readings upon request.

- (h) You agree that Authorized Dealer may use estimated meter readings if it does not receive timely meter reading on any Printers covered by this Agreement.
- (i) You shall utilize the Authorized Dealer ordering procedures for adding or deleting printers and ordering Toner Cartridges. You acknowledge that Authorized Dealer will not deliver services or toner for printers not listed on Schedule A, Schedule A-MICR, Schedule B or any related Change Order until you complete the proper ordering procedure to add the printer to the Agreement.
- (j) You shall provide timely meter readings for any printer not connected to the DCA for any reason.

#### **ADDITIONAL TERMS AND CONDITIONS**

#### **6. AUTHORIZED DEALER RESPONSIBILITIES**

- (a) Authorized Dealer may tag each Printer initially listed on Schedule A, Schedule A-MICR or Schedule B with an Authorized Dealer Service tag indicating serial # and Authorized Dealer contact information.
- (b) Printers listed on Schedule A, A-MICR and B are provided replenishment of Original Equipment Manufacturer ("OEM") or 3rd Party manufactured toner cartridges, as indicated on Page 1, for exclusive use with the Printers specified on Schedule A, A-MICR and B. The pricing in this agreement is based upon 5% toner coverage for black & white and 20% for color letter size pages. You agree that Authorized Dealer may invoice you for excess usage in the event your actual toner usage exceeds these assumptions by more than 10%. Excess toner charges shall be computed using the expected print volume ("EPV") minus the actual print volume reported. The EPV = actual number of cartridges shipped x the toner yield per cartridge x 90%. You shall bear all risk of loss, theft or damage to unused toner cartridges provided to you under this Agreement, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of this Agreement.
- (c) Authorized Dealer may perform an initial walkthrough of Customer locations covered under this Agreement. Customer shall identify each networked and non-networked device to be covered under this agreement. Authorized Dealer will deliver, install, configure and test its network Data Collection Agent ("DCA") with your IT staff assistance. Authorized Dealer will provide all technical support, updates and maintenance for the DCA.
- (d) You acknowledge that Authorized Dealer's ability to deliver the services is dependent upon your full and timely cooperation with Authorized Dealer, as well as the accuracy and completeness of the information provided by you to Authorized Dealer. If, during the initial three (3) months of the Term, the assumptions used to develop the pricing and any related Statement of Work is found to be incorrect or misstated, the parties agree to meet and in good faith negotiate equitable changes in the scope of work and associated charges. You agree to follow the detailed operational procedures and program guidelines, which are explained in the MPS Customer Expectation Document, which you hereby acknowledge, receipt of at the time of executing this agreement.

#### **7. SERVICES. YOU SHALL RECEIVE THE SERVICES DESCRIBED IN THIS PARAGRAPH 7 ONLY FOR THE EQUIPMENT LISTED ON A SCHEDULE A, SCHEDULE A-MICR, CHANGE ORDER FORM A, OR CHANGE ORDER FORM A-MICR . SUCH SERVICES ARE SUBJECT TO THE EXCLUSIONS HERINAFTER DESCRIBED.**

#### **8. COVERED SERVICES**

- (a) Authorized Dealer shall provide all routine preventive maintenance, maintenance kits and emergency service necessary to keep the Printers in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (b) You shall afford Authorized Dealer full, free and safe access to the Printers to perform on-site service. Authorized Dealer may terminate its maintenance obligations as to any Printers if you relocate it to a site outside Authorized Dealer's authorized service territory. If, in Authorized Dealer's opinion, any Printers cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer shall, at its option, either (i) substitute

comparable Printers or (ii) cancel the balance of any remaining term of this Agreement as to such Printers and refund the unearned portion of any prepaid charges hereunder. Parts replaced or removed by Authorized Dealer in connection with maintenance services hereunder shall become the property of Authorized Dealer and you disclaim any interest therein.

- 9. NON-COVERED SERVICE.** You acknowledge that Authorized Dealer shall not have obligations related to i) overhauls and/or reconditioning of printers; ii) printer user errors; (iii) the alteration, modification or customization of any software controlling, used by, installed on or embedded in the Printers; (iv) the service or repair of devices, accessories, power, data or communication lines or other instruments which are external to or otherwise not a component part of the Printers; (v) hard drive removal or (vi) supplying external communications or data transfer lines, paper or other throughput, staples, cassettes, exit trays or other like items or supplies (other than toner cartridges as defined in section 3 ) used or consumed in the normal operations of the Printers ("Excluded Items"). The following services, and any other work beyond the scope of this Agreement, shall be invoiced in accordance with Canon's then current contract pricing:
- (a) replacement of any consumable supply item other than toner;
  - (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Printers; the use of parts, supplies or software which are not supplied by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; transportation of the Printers; accident; use of the Printers with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions;
  - (c) re-installation or relocation of Printers;
  - (d) repairs to or realignment of Printers, and related training, necessitated by changes you made to your system configuration or network environment;
  - (e) repairs or service required because of inadequate operation of the Printers (e.g., Authorized Dealer technician is dispatched to rectify a problem described in the operator manual); and
  - (f) work that you request to be performed outside of Authorized Dealer's regular business hours.
- 10. DATA.** You acknowledge that the hard drive(s) on the Equipment may retain images, content or other data that you may store for purposes of normal operation of the Equipment ("Data"). You acknowledge that Authorized Dealer is not storing Data on your behalf and that exposure or access to the Data by Authorized Dealer, if any, is purely incidental to the services performed by Authorized Dealer. You are solely responsible for the Data. The Canon branded Equipment contains various security features that you can utilize. Upon your request, Authorized Dealer will work with you to provide information regarding your options and offer services to assist you. Please note that Canon offers basic data security options free of charge; however, other optional services may have an additional cost associated. The terms of this Section shall solely govern as to Data, notwithstanding that any provisions of this Agreement or any separate confidentiality or data security or other agreement now or hereafter entered into between you and Authorized Dealer could be construed to apply to Data.
- 11. TERMINATION.** Either party may terminate this Agreement, with or without cause, by providing thirty (30) days written notice to the other party.

## ATTACHMENT D, CANON SAMPLE MPS CUSTOMER EXPECTATIONS DOCUMENT

1. **Introduction.** This Customer Expectation Document is designed to provide details related to the Canon Managed Print Services (“MPS”) Program and to answer commonly asked questions. The terms and conditions of the MPS program can be found in the associated Managed Print Services Agreement.
2. **Program Objectives.** The MPS program is designed to help organizations achieve business efficiencies and cost savings through better management and administration of print environments. Our unique consulting process contemplates collaboration with our customers to identify areas for print optimization, increased productivity and cost savings. Critical to this process is the availability of print volume data from all sources within the print enterprise. The success of the program is dependent on uninterrupted communication with the printers or alternative sources of data capture in order for Authorized Dealer to perform the services and provide accurate and timely billing under the agreement.
3. **Initial Contract Set-up**
  - a) **Start Date.** The contract becomes effective approximately 10 days after the Customer executes the MPS Agreement accompanied by a complete listing of the covered Printers on Schedule A and Schedule B, if applicable. This allows Authorized Dealer ample time to prepare its systems to accept customer calls and begin to provide services.
  - b) **Initial Printer Listing.** Schedule A and B contain all relevant information on each printer initially covered under the MPS Agreement. Printers listed in Schedule B will only be eligible for toner fulfillment and monitoring services. The Customer is responsible for discovering and identifying the required information for all printers to be covered under this agreement. Although Authorized Dealer software tools may help discover devices based on detection of activity, idle units and units with no network connection may not be detected during this discovery process. In the event a customer identifies additional equipment which was mistakenly excluded from the original schedules, additional printers can be added using the Change Order form along with a printed configuration page for each printer added and made retroactive to the start date. Customers who call for services or toner for units not yet added to the contract may be told their printer is not covered since it will not appear in the Authorized Dealer system.
  - c) **“Fit for Service” Requirements.** Prior to the start of the contract, the following must be confirmed:
    - i. Each printer must have a minimum of 25% toner remaining in the cartridge;
    - ii. Each printer must have a minimum of 25% life remaining for other consumable maintenance items (fuser kit, maintenance kit, drums);
    - iii. Any printer displaying a service or supplies alert (error codes, low consumables, etc.) or demonstrating a technical or performance issue (regardless of alert status) must have the condition corrected;
    - iv. Any printer with an image quality issue must have the condition corrected; and
    - v. Any printer inadvertently placed on an MPS contract that does not meet “Fit for Service” requirements, must have the issues promptly remediated or the Printer must be removed from the MPS contract.
  - d) Customers can contact Authorized Dealer Customer Service (see Section 5 below) to purchase the required consumable items (toner cartridge, maintenance kit, fuser kit, drum, etc.) and/or request a service call to remediate technical issues, so the printer can be added to an MPS contract.
  - e) **Tagging.** Each printer initially covered under the agreement may be tagged with an Authorized Dealer Service tag by an Authorized Dealer representative. The tag includes the serial # of the printer, the phone # for service and supplies and other relevant information. The tag should not

be removed from the printer during the term of the agreement. Authorized Dealer may mail tags to the customer for placement on the printers for machine additions or remote locations during the term of the contract.

- f) **Installation of DCA Software.** Authorized Dealer will work with the Customer's IT staff to perform the initial installation of the Data Collection Agent ("DCA") software for networked devices. Additionally, Authorized Dealer may assist the Customer's IT staff to push the local client version of the DCA software for use with any non-networked printers. It is the Customer's responsibility to keep the DCA installed during the term including any reinstallation that may be required because of change in the Customer's infrastructure or environment.

#### 4. Ordering Procedures

- a) **Toner.** Printer toner cartridges may be ordered from Authorized Dealer by either calling Customer Service or by placing an on-line order (if applicable). Customers who wish to use on-line ordering must first register through Authorized Dealer's on-line customer portal. Customers will be asked to provide the related serial # or asset tag# located on the asset tag placed on the printer. The maximum toner order is limited to one (1) cartridge per serial#. Authorized Dealer Reserves the right to limit toner shipments based upon print volume/utilization. Canon's Managed Print Services program does not contemplate the provision of "shelf stock" at Customer locations. Customers that require extra toner stored onsite may purchase shelf stock by contacting Customer Service (see Section 5 below).
- b) **Service Calls.** Requests for repair may be placed by either calling Authorized Dealer's Dispatch Center or by placing a service request on-line within the Authorized Dealer's on-line customer portal (if applicable).
- c) **Add/Remove.** Additions or deletions of printers covered under the MPS Agreement are made by executing and submitting an MPS Change Order form indicating the pertinent information on the specific units being added or removed from the agreement or submitting such request on-line within the customer portal (if applicable). Additionally, Customers must provide a printed configuration page from each added or removed unit that provides Authorized Dealer necessary meter, quality and other information necessary to make the change effective. Please note that changes to the printer fleet configuration may impact the price per copy reflected in the contract on a prospective basis.

#### 5. Customer Service.

For any questions or contract changes, please reference the following contact information:

Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

- 6. **Relocations.** If Customers relocate any printers under the agreement, they must promptly notify Authorized Dealer in order to change the location information in the Authorized Dealer database. Customers are responsible for de-installing and reinstalling all relocated printers including installation of the DCA in order to keep the printers communicating with Authorized Dealer. Please note that printers relocated outside of Authorized Dealer's Servicing geography may not be eligible to be covered under this agreement.
- 7. **Meter Collection.** The MPS program is designed to automatically collect periodic meter readings from the printers covered under this agreement using the DCA software program. The DCA program is initially installed on the Customer network for connectivity to networked printing devices. A local DCA program must be installed on individual networked computers in order to communicate with non-networked printers. It is extremely important to keep the DCA software connected in order for Authorized Dealer to capture information in order to provide the services under the MPS Agreement. Customers are responsible to maintain this critical connection that may require reinstallation of the local DCA software when upgrading, replacing or repairing related computers.
- 8. **Fixed Volume.** If Authorized Dealer does not receive timely meter readings from the DCA software or alternatively from the Customer through other means of communication, Authorized Dealer will

estimate the usage on the related devices utilizing predetermined average monthly volume information, which are based on Authorized Dealer standard usage rates by model.

- 9. Toner Usage Reconciliation.** The MPS program includes replenishment of toner cartridges based upon toner page coverage of 5% for black toner and 20% for color toner. Customers who print images with more toner average coverage should expect to pay additional charges. Toner usage reconciliation is done separately for black toner, color toner, and MICR toner. Please see the reconciliation example below:

Toner Manufacturer Yield per Cartridge	3,000
# of Cartridges shipped to Customer*	<u>x 10</u>
Manufacturer Expected Print Volume	30,000
Extra 10% provided by Authorized Dealer	<u>3,000</u>
Authorized Dealer Expected Print Volume	27,000
Actual Print Volume	<u>25,500</u>
Volume Reconciliation	1,500
Price per Page	<u>x \$ .0200</u>
Toner Usage Reconciliation Charge	\$30.00

\* **Note 1:** Certain cartridges for the same models may contain different manufacturer yields.

\* **Note 2:** Cartridge yield associated with "Unused Toner Cartridges" (see definition in Section 12 below) purchased from Authorized Dealer for purposes of "shelf stock" may be considered during toner reconciliation, when the Actual Print Volume exceeds the Authorized Dealer Expected Print Volume.

- 10. Quarterly Review Process.** Customers are entitled to a quarterly review discussion to review expectations, charges, print volume data and recommendations for further optimization of the print environment.

**11. Renewal and End of Term Process**

- a) The MPS agreement will not automatically renew. If the Customer wishes to renew, then Authorized Dealer shall promptly provide a renewal quote for the renewal period. Upon mutual agreement, a new agreement shall be executed for the renewal term.
- b) If the Customer does not choose to renew, the Customer may return unused toner cartridges within 30 days of the end of term and Authorized Dealer will adjust the # of cartridges shipped for computing the final toner reconciliation described above.
- c) Customers must contact Authorized Dealer's Customer Service to obtain return instructions and return authorization # prior to mailing the returned supplies back to Authorized Dealer. In the event Authorized Dealer is unable to obtain a final meter reading from the DCA or other reasonable means, Authorized Dealer will estimate the final meter reading using customer volume history or utilizing the Authorized Dealer standard usage rates by model.

- 12. Unused Toner Cartridges.** Unused toner cartridges are defined as the original items shipped to Customers, which:

- a) were provided to the Customer by Authorized Dealer;
- b) are in the original box, which is unopened and undamaged;
- c) the contents (toner cartridges) are sealed and undamaged; and
- d) are deemed resalable, in Authorized Dealer's sole discretion.

- 13. Restocking Fee.** A restocking fee of 10 percent (10%) of the MSRP value shall be charged for all unused toner cartridges returned to Authorized Dealer, unless the returned cartridge is deemed defective or the restocking fee is prohibited by law.

- 14. Toner Availability.** Authorized Dealer shall use commercially reasonable efforts to procure toner cartridges for the printer(s) covered by the MPS contract. In the event OEM toner is no longer readily available (discontinued by the manufacturer, restricted distribution, exhausted inventory, etc.) Authorized Dealer shall, at its option, either (i) substitute OEM cartridges with compatible (3rd party)

toner cartridges, or (ii) substitute comparable printer(s) at your expense, or (iii) cancel the balance of any remaining term of the MPS contract for the affected printer(s) and refund the unearned portion of any prepaid charges associated with the printer(s).

## ARTICLE II

### **DCA Software & Technical Requirements**

Authorized Dealer must utilize data collection software to provide services under this agreement. Authorized Dealer is responsible to maintain the software, provide updates when necessary, and assist with the initial installation as necessary. The detailed technical information with respect to the Data Collection Agent (DCA) is as follows:

The DCA collects usage data on Products from predefined Management Information Bases (MIBs), using Simple Network Management Protocol (SNMP). For greater security, the DCA initiates communication solely with the Authorized Dealer Data Repository. Communication sessions are conducted via HTTPS (port 443), the universal standard in secure transactions. The DCA sends and receives data in a single hourly session.

Authorized Dealer does not provide root access or local edit access to the DCA and Authorized Dealer does not permit scripts to be run against the DCA.

Customers must provide the following technical information in conjunction with the implementation of the Canon Managed Print Services program. This information is required specifically for the expressed purposes of configuration and implementation of the DCA. Requirements and details below may be subject to change based on modifications to the existing software or a change to the DCA software being utilized.

### **INFORMATION**

#### **DCA Server (must be able to access all subnets with devices under contract)**

Hostname

IP Address

Default Gateway

Fully Qualified Domain Name

DNS Server (primary and secondary)

Subnet Mask

#### **Network**

Subnet Range(s)

#### **Proxy (if applicable)**

Proxy Name

Port Number

Username / Password (if required)

#### **SNMP**

Public (READ)

Any non-public SNMP community strings

### **CONFIGURATION**

In addition to the information above to function properly, the DCA requires the following network configuration

Port 80 TCP (outbound access)

Port 443 TCP (outbound access)

SNMP (access to all subnets with devices on contract) Port 161 UDP (access to all subnets with devices on contract)

### **ADDITIONAL PORTS REQUIRED FOR MDS CLOUD CC AGENT**

- Port 427 UDP (outbound access)
- Port 47545 UDP (outbound access) (Canon Devices)
- Port 47546 TCP (outbound access) (Canon Devices)
- Port 9007 TCP (outbound access) (Canon Devices)
- Port 50700 UDP (inbound access) (Canon Device event notifications)

- Port 11427 UDP (inbound access) (Canon Device power status notifications)
- Port 44301 TCP (inbound access) (Open CC Agent dashboard on network)

### **HARDWARE**

Hardware: Non-dedicated server powered on 24 hours a day, 7 days a week

Network Card: 100mbit or higher

RAM 512 MB or higher

Internet connected browser

### **ADDITIONAL HARDWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Dual Core CPU 2.0GHz or faster
- RAM 4GB or more Recommended 8GB or more
- Available Storage 8GB or more Recommended 35GB or more

### **SOFTWARE**

Computers where the DCA will be installed must meet the following software requirements:

Windows 7, 8, 10, Server 2008 R2, Server 2012, Server 2016 or higher and .NET Framework 3.5 SP1

Including .NET 3.0 and 2.0 Feature enabled

Virtualization software support: The following virtualization software will support the installation:

Microsoft Virtual Server 2005

VMware GSX

### **ADDITIONAL SOFTWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Virtual Environments:

VMware vSphere v6.0/v6.5

Microsoft Hyper-V: Windows Server 2008 R2/Server 2012/Server 2012 R2

- .NET Framework 4.5.2 or higher: <https://www.microsoft.com/en-US/download/details.aspx?id=42643>
- IIS 10.0 Express: <https://www.microsoft.com/en-us/download/details.aspx?id=48264>
- SQL Server Express 2014 SP2 or higher: <https://www.microsoft.com/en-US/download/details.aspx?id=53167>

### **COLLECTION INTERVALS FOR MDS CLOUD CC AGENT**

- Errors and alerts – Every 5 minutes while not in sleep mode
- Consumable Supplies (Toner & Paper levels) – Every 60 minutes while not in sleep mode
- Counters – Every 8 hours

### **DATA TRANSMISSION**

The DCA transmits small amounts of data to the central server. This data includes only statistical and alert condition information. NO IMAGE DATA IS TRANSMITTED. The following data estimates are provided to assist in the assessment of network impact.

DCA scan, blank IP: 5.2KB

DCA scan, 1 printer: 7.2KB

DCA scan, 1 printer, 254 local IP addresses: 96KB

DCA scan, network of 15 printers, 254 local IP addresses: 125KB

## **ATTACHMENT E, DIGITAL PRESS PRODUCTION AND LARGE FORMAT EQUIPMENT MASTER SERVICES AGREEMENT TERMS AND CONDITIONS**

**This Attachment includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as “Customer” herein) for Océ Production Equipment and Large Format Equipment (referred to as “Equipment” herein). In the event of a conflict between the Canon Maintenance Terms and Conditions set forth in Attachment B and the terms and conditions in this Attachment E, the terms and conditions in this Attachment E shall govern.**

### **1. Installation and Site Preparation**

**1.1** Authorized Dealer shall install the Equipment at the location identified on the applicable Schedule ("Equipment Location"). Installation shall be deemed complete when the Equipment has been installed and is ready for commercial operation. Customer shall furnish a suitable installation site in accordance with Authorized Dealer's power, environmental, and other requirements. All site preparation, including appropriate space requirements, electrical wiring, air conditioning, required venting or special duct work and necessary permits or approvals, is Customer's responsibility.

**1.2** For Software installed at a Customer location, installation shall be determined complete when the Software has been installed and is ready for commercial operation. For all of the Software, installation shall be deemed complete when Customer is provided instructions on how to access and/or download the Software.

### **2. Supplies**

Customer is entitled to the amount of toner/supplies which, on average, covers six percent (6%) of the letter size media unless another coverage rate is specified in an Order. Unless otherwise agreed to in an Order, for cutsheet color products, Customer is entitled to the amount of toner/supplies which, on average, covers ten percent (10%) of the letter size media per color (black counts as a color). Unless specifically agreed to in an Order, supplies do not include staples. Reconciliation for overuse of toner/supplies shall be invoiced to and paid by Customer at the rates in effect at the time of such reconciliation, and will be calculated based on coverage/use.

### **3. Maintenance**

**3.1** Equipment Support: Authorized Dealer shall provide Customer: (a) Authorized Dealer's standard preventive maintenance services ("PM's"), including labor and replacement parts to be provided Monday – Friday during Authorized Dealer's standard business hours (the length and frequency of periods of time required for preventive maintenance will be determined by Authorized Dealer); (b) corrective maintenance coverage as indicated on the applicable Schedule, including labor and replacement parts (service on Authorized Dealer holidays is available with advance notice to Authorized Dealer and Authorized Dealer shall bill Customer at its then current hourly rates for holiday service) provided that repairs can be performed in the field; and (c) engineering changes, including safety changes, deemed necessary by Authorized Dealer. Preventive maintenance includes testing, adjusting, cleaning and replacement of components scheduled in accordance with the Equipment service specifications. PM's performed on weekends, holidays or between 5PM and 8:00AM (at Customer's request) will be billed at Authorized Dealer's holiday rates according to the Master Agreement Price Lists. If Customer refuses to permit installation of a safety change or removes one already installed, Authorized Dealer may discontinue maintenance support services for all Equipment until the hazard has been corrected. All defective parts removed during maintenance shall become the property of Authorized Dealer. Parts used for repair may be used or remanufactured in accordance with manufacturer's specifications. The Equipment may contain software that allows Authorized Dealer to access the Equipment remotely ("Remote Software"). In such cases, Customer authorizes Authorized Dealer to use the Remote Software to (i) receive software updates and transmit use and service data accumulated by the Equipment over Customer's network by means of an HTTPS (or other) protocol and (ii) store and

analyze such data solely for Authorized Dealer's own purposes related to servicing the Equipment and for product improvement.

**3.2** Customer shall: (a) provide Authorized Dealer full, free and safe access, subject to Customer's safety and security regulations, to the Equipment for performance of maintenance as deemed necessary by Authorized Dealer; (b) allow Authorized Dealer to store reasonable quantities of maintenance equipment and/or parts on Customer's premises; (c) provide a suitable environment for the Equipment in accordance with manufacturer's environmental requirements; and (d) inform Authorized Dealer promptly of any operating problems

**3.3** Remote Help Desk Support (applicable to cut sheet printers and Software under 5x8 service coverage)

If Customer purchases "Remote Help Desk Support", then the following terms are applicable:

- (a) Authorized Dealer provides Remote Help Desk Support via telephone, to access Authorized Dealer Support Specialists for operator questions, installation support, explanation of maintained software features and functionality, network connectivity questions, and other support issues ("Remote Support"). Remote Support is available Monday – Friday 8:00AM to 8:00PM EST, excluding holidays. By purchasing Remote Support, Customer has unlimited access to the help desk.
  
- (b) Authorized Dealer will provide Remote Support to those Customer employees who have been issued an ID code providing email/telephone access to the Authorized Dealer Software Support Center. Customer shall be responsible for controlling ID code access and for any unauthorized use of ID codes. ID codes are non-transferable.

**3.4** Services for Additional Charge

- (a) The services listed in this Section are not included as part of Authorized Dealer's remedial or preventive maintenance services: Services for repair of Equipment (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers) or replacement of parts (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers ) caused or made necessary, in Authorized Dealer's reasonable discretion, in whole or in part, by: (i) Customer's failure to continually provide a suitable environment in accordance with Authorized Dealer's requirements; (ii) neglect, misuse, or use of the Equipment for purposes other than for which it was designed, or failure to operate the Equipment in accordance with Authorized Dealer's or manufacturer's operating instructions or within manufacturer's specifications; (iii) accident, disaster, including effects of water, wind, lightning, or transportation; terrorism, vandalism or burglary; (d) alterations of Equipment, including any deviation from Equipment design, unless previously authorized in writing by Authorized Dealer; (iv) attachment(s) to the Equipment, including connection of devices not supplied by Authorized Dealer, which cause the Equipment to malfunction, unless previously authorized in writing by Authorized Dealer; (v) Customer's failure to perform or its failure to correctly perform the normal duties of Customer's operators; (vi) the use of any non-Authorized Dealer parts, toner, developer or inks; (vii) the use of forms not in compliance with Authorized Dealer's paper specifications; (viii) maintenance or repair services performed by Customer or a third party without written authorization from Authorized Dealer; or (ix) pre or post processing Equipment disconnected from the printing system to which it was originally installed unless previously authorized in writing by Authorized Dealer. If in Authorized Dealer's reasonable discretion, Equipment has been rendered un-repairable, then Authorized Dealer may refuse to render services under this Agreement and may terminate the appropriate Schedule.
  
- (b) If repairs or replacements as set forth above are needed due to the causes listed in (a) above, Authorized Dealer's prices to provide any such repair or replacement will: (i) use the published hourly Master Agreement service rates and minimum charges for the service time, which includes travel and waiting time; (ii) use the current parts and material prices; and (iii)

travel expenses. All repairs will be governed by the terms of this Agreement, however, Authorized Dealer reserves the right to decline to perform such services.

- (c)** Authorized Dealer may withdraw any item of Equipment from maintenance coverage (i) if such Equipment has been removed from the Equipment Location and Authorized Dealer does not offer maintenance services at the new Equipment location; or (ii) if Authorized Dealer declares end of life for such Equipment, and then only with at least ninety (90) days prior written notice. Customer shall pay monthly service charges up to the date of termination. For any prepaid amounts, Authorized Dealer shall refund or credit the pro rata amount of the remaining term from the effective date of termination.

## ATTACHMENT F, SAMPLE ECOPY EULA

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P/N: 73-00521  
December, 2009

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You assume responsibility for the selection of the Software to achieve your intended results and for the installation and use of, and results obtained from, the Software. Nuance does not warrant that the functions contained in the Software will meet your requirements or that the operation of the Software will be uninterrupted or error free. The media, if any, on which the Software is recorded are warranted against defective materials or workmanship under normal use for a period of 90 days from the date of original delivery. During such warranty period, defective media

presented to an authorized imaging retail dealer (“Dealer”) of Canon U.S.A, Inc. (“Canon USA”) and proven to be defective upon inspection will be exchanged for replacement media by Nuance. Replacement media will be warranted for the remainder of the original 90-day warranty period of the defective media. The limited warranty does not apply if the failure of the media resulted from accident, abuse or misapplication of the Software. EXCEPT AS PROVIDED ABOVE WITH RESPECT TO MEDIA, NEITHER NUANCE, ITS SUPPLIERS, CANON USA NOR ANY DEALER MAKES AND YOU RECEIVE NO EXPRESSED OR IMPLIED WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SOFTWARE, THE DOCUMENTATION, OR ANY MEDIA, ALL OF WHICH ARE PROVIDED “AS IS”.

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#### **6. SEPARATE AGREEMENT FOR MAINTENANCE AND SUPPORT.**

This License does not include any maintenance or support for the Software, which is provided separately under the optional Nuance, Inc. Software Maintenance and Support Agreement (“Maintenance Agreement”). If under a Maintenance Agreement you receive Software labeled as an update, you must be properly licensed for the original Software to be eligible for the

update. An update replaces and/or supplements the product that formed the basis for your eligibility for the update. You may use the resulting updated Software provided under a Maintenance Agreement only in accordance with the terms of this License Agreement.

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## **8. U.S. GOVERNMENT RESTRICTED RIGHTS.**

The Software and the Documentation are provided with Restricted Rights. Use, duplication, or disclosure by the Government is set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause of DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software -Restricted Rights clause at 48 CFR 52.227-19, as applicable. The contractor/manufacturer is Nuance Communications, Inc., One Wayside Drive, Burlington. MA 01803 USA.

## **9. TRADEMARKS.**

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**THIS NUANCE eCOPY MAINTENANCE AND SUPPORT AGREEMENT APPLIES ONLY TO M&S OR EXTENDED M&S THAT WAS PURCHASED ON OR AFTER SEPTEMBER 6, 2010. FOR M&S OR EXTENDED M&S PURCHASED PRIOR TO SEPTEMBER 6, 2010, PLEASE SEE THE MAINTENANCE AND SUPPORT INSERT THAT ACCOMPANIED THE LICENSED PRODUCT.**

**NUANCE COMMUNICATIONS, INC. SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT**

**THIS AGREEMENT**, by and between the end user entity whose name and address is entered during the online registration process described in Section 1 below (“**you**”) and Nuance Communications, Inc. (“**Nuance**”), sets forth the terms and conditions under which Nuance will furnish updates to and technical support for the following licensed software: eCopy ShareScan® software, eCopy PaperWorks™ software, eCopy Business Automation Services™ software, and the Nuance-developed Connector software that you have licensed from Nuance (“**Licensed Products**”) and are specified in the website through which you obtained your Licensed Product (“**Download Site**”). **IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, THEN DO NOT REGISTER WITH NUANCE, AND NOTIFY THE ENTITY FROM WHOM YOU PURCHASED AND THE FEE THAT YOU PAID WILL BE REFUNDED. If you or a third party acting on your instructions registers with Nuance, then you will be deemed to have accepted and agreed to this Agreement.**

- 1. ELIGIBILITY.** In order for Nuance to provide you with M&S, or with any extension of M&S, you must register online by following the instructions at [www.eCopy.com/registration](http://www.eCopy.com/registration). PLEASE BE AWARE THAT IF YOU DO NOT REGISTER YOU WILL BE UNABLE TO ACCESS THE M&S SERVICES THAT YOU HAVE PURCHASED.
- 2. TERM.** Unless terminated pursuant to Section 10 below, this Agreement shall be in effect for the period of time listed in the Download Site that begins on the start date of the license of the related Licensed Product(s) for which you have purchased M&S from Canon U.S.A., Inc. (“**Canon USA**”) or from an authorized office imaging retail dealer of Canon USA (“**Dealer**”). This Agreement will be extended upon your purchase of extended M&S solely from Canon USA or a Dealer. The period of extended M&S

will be described in an Extension Certificate provided by Canon USA or a Dealer. No matter when purchased, the term of extended M&S starts upon the expiration of the prior M&S term. For current extended M&S prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. To ensure continued support, extended M&S should be purchased by you prior to the expiration of this Agreement.

- 3. AUTOMATIC COMMENCEMENT.** Notwithstanding Section 2 above, the term of M&S will commence automatically no later than 180 days after Nuance ships the Licensed Product or any Extension Certificate.
- 4. UPDATES TO LICENSED PRODUCTS.** During the effective term of this Agreement, Nuance shall make available all updates to the Licensed Products to you within 30 days of Nuance’s commercial release of such updates and you may download and install one copy of each update for each Licensed Product. If the “eCopy ShareScan® Suite™” Licensed Product is covered by this Agreement, then as part of your M&S you are entitled to receive one copy of each Nuance-developed Connector software product made generally available during the term of this Agreement, which will be licensed to you under the same license agreement that governs the eCopy ShareScan Suite Licensed Product. Nuance reserves the right to discontinue support for Nuance-developed Connectors to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Products, such as versions for new operating systems, are not within the scope of this Agreement. Any operating system software from Microsoft® Licensing Inc. or its affiliates (“**Microsoft**”) that has been pre-loaded on the eCopy ScanStation System will be supported by Microsoft in accordance with the license agreement accompanying such operating system software.

**5. TECHNICAL SUPPORT.** You shall first contact Dealer for Level 1 support on the Licensed Products. Level 1 support consists of providing help-line telephone assistance in operating the Licensed Products and identifying service problems facilitating contact between you and Nuance to rectify such problems and maintaining a log of such problems to assist in tracking the same. If you still require technical support after Dealer has provided Level 1 support, then you shall have access to Nuance technical support as escalated through Dealer during the term of this Agreement. You must specify a designated individual who will act for you as the sole support liaison to Dealer. You shall have access to telephone, e-mail, or web based support during the term of this Agreement. You can contact Technical Support online at [www.askecopy.com](http://www.askecopy.com). Nuance will support the current Major Release (and related Point Releases) and the most recent prior Major Release (and all related Point Releases), as defined below. For example, if the last five releases were 4.3, 5.0, 5.1, 6.0, and 6.1, Nuance would support 5.0, 5.1, 6.0., and 6.1, but not 4.3. "Major Releases" and "Point Releases" are software releases for a Licensed Product which is commercially available and marketed to the public. Therefore, you are advised to install promptly all updates made available to you by Nuance under Section 4 to ensure that Nuance will support your versions of the Licensed Products throughout the term of this Agreement and any Extension Certificate.

**6. Additional M&S Offerings**

- (a) On-Demand Online Training** – Access to online library of best practices, "how-to" and "what's new" videos related to Licensed Product installation;
- (b) eCopy User Group** - Membership to eCopy's User Group allows you to connect with other licensees of the Licensed Product to share experiences, feedback and recommend enhancements to the Licensed Product. Membership includes access to periodic webinars, electronic newsletters and access to Premium Knowledge Base Articles.
- (c) Remote Technical Diagnostics** – Communicate with live technical support resources to remotely troubleshoot performance and configuration issues;

- (d) License Key replacement** – Upon your request, a replacement license key can be issued to replace a lost or corrupt license key at no additional cost to you;
- (e) Designated Contacts** – During the term of M&S, you may designate two primary individuals (each a "Technical Contact") to serve as the liaison between you, the Dealer, Canon USA and Nuance support personnel. Your designated Technical Contact shall be the sole liaison between you, the Dealer, Canon USA and Nuance for M&S. To avoid interruptions in services, notify Dealer, Canon USA and Nuance whenever your Technical Contact responsibilities are transferred to another individual.
- (f) Connector Migration Support** – With respect to Connectors delivered to you by Nuance at the time the Licensed Product is delivered ("Core Connector"), Nuance will, at no additional cost, provide up to four (4) hours of technical support for issues encountered with the Core Connectors when moving the Licensed Product to hardware not supplied by Nuance or when upgrading the Licensed Product from a prior version of the Licensed Product; provided (a) the upgrade is from the immediately prior version of the Licensed Product (i.e. from V4.x to V5.x, not V3.x to V5.x); (b) you have registered the Licensed Product in accordance with Section 1, (c) you request such Connector Migration Support no more than once in any twelve month period during the Term and (d) you schedule Connector Migration Support via your Dealer during Nuance's normal business hours.

**7. ASSIGNMENT.** Nuance will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. You will not be entitled to assign this Agreement or any part thereof without the prior written consent of Nuance.

**8. NEITHER Nuance, ITS SUPPLIERS, CANON USA NOR ANY DEALER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA OR LOST PROFITS) ARISING FROM THE**

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9. **GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which Nuance will provide you with M&S for the eCopy ScanStation System, including updates to Licensed Products. This Agreement supersedes any prior proposal, agreement, or communication; oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New Hampshire and of the United States of America. All questions concerning the terms and conditions of this M&S Agreement should be directed to Nuance in writing to Legal Department, Nuance Communications, Inc.-Corporate Offices, One Wayside Road, Burlington, MA 01803, USA.

**10. U.S. GOVERNMENT RESTRICTED RIGHTS.**

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11. **TERMINATION.** This Agreement shall terminate automatically without notice to you upon failure to comply with any term or condition of this Agreement or upon the termination of the license agreement for any Licensed Product. Upon such termination, you acknowledge that no refunds of any maintenance fees shall be made.

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P/N: 73-00518

## ATTACHMENT G, SAMPLE THEREFORE EULA

THEREFORE END USER LICENSE AGREEMENT – valid only in the United States of America  
Therefore License Agreement

This Therefore License Agreement (this “License”) is a legal agreement between you, the Customer (either an individual or an entity) and Therefore Corporation GmbH, Wiener Strasse 2/2, A-2340 Moedling, Austria, incorporated in Moedling, registered at the Court of Wiener Neustadt under FN 237129 w (“Therefore Corporation”). It applies to one or more of the following software items for which you have paid license fees and completed required license purchase documents: THEREFORE and associated modules and updates to any of the preceding items which are provided under the Maintenance and Support Agreement described in Section 6 below (“Licensed Software”). If Customer does not agree to the terms of this License, do not use the Licensed Software associated with this License and go to the place of purchase, where any portion of the license fees paid will be refunded; if Licensed Software is used, Customer will be deemed to have accepted and agreed to these terms and conditions.

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**3. TERM.** This License is effective upon Customer’s acceptance of it and will continue in effect until terminated either (a) by Customer at any time by notifying Therefore Corporation in writing or (b) automatically, upon Customer’s failure to comply with any term or condition of this license or to pay license fees when due. Upon termination, Customer agrees to destroy all copies of the Licensed

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**4. LIMITATION OF WARRANTIES.** Customer assumes responsibility for the selection of the Licensed Software to achieve Customer's intended results and for the installation and use of, and results obtained from, the Licensed Software. Therefore Corporation does not warrant that the functions contained in the Licensed Software will meet Customer's requirements or that the operation of the Licensed Software will be uninterrupted or error free. NEITHER THEREFORE, ANY DEALER NOR CANON USA MAKES AND CUSTOMER RECEIVES NO EXPRESSED OR IMPLIED WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE LICENSED SOFTWARE OR THE DOCUMENTATION OR ANY ASSOCIATED HARDWARE THAT MAY BE SOLD WITH THE LICENSED SOFTWARE, ALL OF WHICH ARE PROVIDED "AS IS."

**5. LIMITATION OF LIABILITY.** NEITHER THEREFORE, ANY DEALER NOR CANON USA SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) PERTAINING IN ANY WAY TO THE LICENSED SOFTWARE, THE DOCUMENTATION, OR ANY STORAGE MEDIA, OR TO ANY OF THEREFORE'S OBLIGATIONS UNDER THIS LICENSE, EVEN IF THEREFORE, THE DEALER OR CANON USA HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. CUSTOMER ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR THEREFORE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF CUSTOMER'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO DEALER OR CANON USA.

**6. REQUIREMENTS; DATABASE SOFTWARE.** Customer is responsible for (i) acquiring, all hardware necessary to implement and operate the Licensed Software, including devices that meet the minimum memory, processor speed or type or other requirements published from time to time by Therefore Corporation or by the licensor of any third party software that is part of the Package; (ii) implementing not less than industry standard security procedures for privacy and other data protection required by law or good practices; and (iii) implementing adequate data back-up and disaster recovery procedures. The Licensed Software also requires database software. When Customer downloads the Licensed Software, the download routine checks for the presence of a database program that meets the database software requirements published from time to time by Therefore Corporation. If no database software is present, the download routine will supply a copy of Microsoft SQL Server 2005 Express. This copy is made available by Therefore Corporation pursuant to the attached Microsoft Corporation End-User License Agreement, which includes a right for Therefore Corporation to copy and distribute the object code form of the software, subject to certain requirements. In particular, Customer must agree to terms that protect this Microsoft software at least as much as the terms of the attached Microsoft Corporation End-User License Agreement. Accordingly, as part of this agreement for Licensed Software, as to the Microsoft SQL Server 2005 Express software, Customer agrees that the license terms of Sections 3 through 13 of the attached Microsoft Corporation End-User License Agreement and any other applicable terms of that agreement that protect the Microsoft SQL Server 2005 Express software made available to Customer shall govern in place of terms of this agreement that address the same subject; provided that, if this agreement has more protective terms, then those more protective terms shall govern. Microsoft is not granting Customer directly a license. However, warranty disclaimers and limits and limitations of liability set forth in the attached Microsoft Corporation End- User License Agreement shall protect Microsoft, as a third party beneficiary, and also protect Therefore Corporation and Canon USA and its dealers.

**7. SEPARATE AGREEMENT FOR SUPPORT OR MAINTENANCE.** This License does not include any support or maintenance for the Licensed Software, which is provided separately under

the Therefore Licensed Software Support and Maintenance Agreement included in the Package ("Support Agreement"). If Customer complies with the registration requirements of the Support Agreement as specified therein, Customer will receive the first year of support and maintenance at no additional charge. Additional years of support and maintenance are available for purchase as described in the Support Agreement.

**8. GENERAL.** This License is the complete and exclusive statement of the agreement between Customer and Therefore Corporation, and this License supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter of this License. This License shall be governed by the laws of the State of New York and of the United States of America. All questions concerning the terms and conditions of this License should be directed in writing to Therefore Corporation GmbH, Wiener Strasse 2/2, A-2340 Moedling, Austria.

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Customer acknowledges that Customer has read all of the above terms and conditions, understands them, and agree to be bound by them. Customer understands that Canon USA is not and Dealer is not Therefore Corporation's agent and is neither authorized to make any representations or warranties on Therefore Corporation's behalf nor to vary any of the terms or conditions of this License.

## **SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT**

This software support and maintenance agreement ("Agreement") by and between the Customer whose name and address appear in the registration described in Section 1 below ("Customer") and Therefore Corporation GmbH ("Therefore Corporation"), sets forth the terms and conditions under which Therefore Corporation will furnish updates to and technical support for the licensed software products listed on this Agreement ("Licensed Software").

**1. ELIGIBILITY.** In order for Customer to be eligible for maintenance and support services, Customer must register online by completing the requested information when prompted during installation. Once Customer activates the support services, Therefore Corporation's support and maintenance database will determine eligibility and the effective term (including the initial term and any extended terms purchased with the initial purchase of Licensed Software) and send confirmation to Customer. In case an online registration is not possible, the registration may be completed via e-mail to the e-mail address displayed in the registration procedure.

**2. TERM.** This Agreement shall commence on the date ("Commencement Date") which is the initial date of license of the Licensed Software. Unless terminated pursuant to Section 9 below, this Agreement shall be in effect for one (1) year from the Commencement Date, and is included at no additional charge in the price of the Licensed Software purchased from Canon U.S.A., Inc. ("Canon USA") or an authorized office imaging retail dealer of Canon USA ("Dealer"). At the original purchase or prior to the expiration of this one (1) year term, Customer may purchase extended maintenance and support solely from Canon USA or a Dealer. For current extended support prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. No matter when purchased, the term of extended maintenance and support starts upon the expiration date of

the term that you have previously purchased. To ensure continued maintenance and support, the extension must be purchased by Customer prior to the expiration of this Agreement. If additional Licensed Software is purchased, this may result in adjustment of the effective term for all supported Licensed Software. Customer may contact the purchase source for the Licensed Software (Canon USA or Dealer) for information about the effective term of support and maintenance. Support outside the scope or term of this Agreement may be provided at the published rates of Therefore Corporation, Canon USA or its Dealers, as the case may be, for time and materials and with Customer assuming all costs, including shipping.

**3. UPDATES TO LICENSED SOFTWARE.** During the effective term of this Agreement Therefore Corporation will provide updates to the Licensed Software from time to time as these become available. Therefore will distribute such Updates (a) by on-line download offered to Customer's support liaison designated under this Agreement, or, (b) upon written request of Customer's support liaison and payment of the costs of media and shipping, by delivery of Licensed Software in suitable tangible media, in each case after Customer's provision of license serial number or other required license and support entitlement verification. Therefore Corporation reserves the right to discontinue support for connections to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Software, such as versions for new operating systems or which feature new functionality, are not within the scope of this Agreement. Any open source software and certain other third party software components that are included in the Licensed Software will be supported solely to the extent that the relevant developer makes support available to Therefore Corporation, and Therefore Corporation reserves the right to replace such third party software at any time, including if technical updates or compatibility upgrades deemed necessary by Therefore Corporation are not forthcoming from any such developer. Any updates or modified version of the Licensed Software provided under this Agreement shall be subject to the same End-User License Agreement as is applicable to the Licensed Software, and shall be subject to its terms.

**4. OBTAINING TECHNICAL SUPPORT.** Customer shall contact the purchasing source (Dealer or Canon USA) for Level 1 support on Licensed Software. Level 1 support consists of providing help-line telephone assistance in operating Licensed Software and identifying service problems, escalating issues as needed to rectify such problems and maintaining a log of such problems to assist in tracking the same. If Customer still requires technical support after Level 1 support has been provided by Dealer or Canon USA, as the case may be, then, at Customer's request, Canon USA shall escalate the issue in coordination with Therefore Corporation. Customer must specify a designated individual who will act for Customer as the sole support liaison to Dealer or Canon USA. Therefore Corporation will support every software release for the Licensed Software for a period of time of at least eighteen (18) months. Thus, Customer is advised to install promptly all updates produced by Therefore Corporation under Section 3 and made available to Customer by its Dealer or Canon USA under Section 3 to ensure that Therefore Corporation will support Customer's versions of the Licensed Software throughout the term of this Agreement and any extension of this Agreement. In making a request for technical support, the Customer representative must identify Customer and provide (where applicable) the serial number(s) of its Licensed Software to ensure that it is entitled to support.

**5. ASSIGNMENT.** Therefore Corporation is entitled to assign, sub-contract or sub-let this Agreement or any part thereof. Customer is not entitled to assign this Agreement or any part thereof without the prior written consent of Therefore Corporation.

**6. LIMITATION OF LIABILITY.** NEITHER THEREFORE, CANON USA NOR ANY DEALER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) ARISING FROM THE MAINTENANCE AND SUPPORT OF THE THEREFORE SYSTEM, INCLUDING LICENSED SOFTWARE AND UPDATES THEREFOR, OR FROM ANY OF THEREFORE'S OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF THEREFORE, CANON USA OR DEALER HAS BEEN MADE AWARE OF THE POSSIBILITY OF

SUCH LOSSES OR DAMAGES. CUSTOMER ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR THEREFORE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF CUSTOMER'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO DEALER OR CANON USA.

**7. GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which Therefore Corporation will produce Updates to be made available to Customer through Canon USA and its Dealers with maintenance and certain technical support services for Licensed Software, including updates to Licensed Software. This Agreement supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New York. All questions concerning the terms and conditions of this Agreement should be directed in writing to Therefore Corporation GmbH at Wiener Strasse 2/2, A-2340 Moedling, Austria.

**8. U.S. GOVERNMENT RESTRICTED RIGHTS.** Any new releases, upgrades or versions of the Licensed Software are provided to any Government licensee with Restricted Rights. Licensed Software provided under this Agreement is "commercial computer software" as defined in DFARS 252.227-7014(a)(1)(June 1995) and accompanying Documentation is subject to Restricted Rights. Contracting Officer and Government End User agree to the inclusion of third party copyrighted computer software and documentation for all Licensed Software provided under this Agreement. Use, duplication, or disclosure by the Government is set forth in subparagraph (b)(3) of Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, DFARS 252.227-7014 (June 1995) or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at 48 CFR 52.227-19(June 1987), as applicable. Contractor/manufacturer is Therefore Corporation GmbH, Wiener Strasse 2/2, A-2340 Moedling, Austria. Contracting Officer and Government End User acknowledge that they have read all of the above terms and conditions, understand them, agree to be bound by them and further that neither Canon USA nor Dealer is a Therefore Corporation's agent, nor are they authorized to make representations or warranties on Therefore Corporation's behalf, or to vary any of the terms or conditions of this Agreement.

**9. TERMINATION.** This Agreement shall terminate automatically without notice to Customer upon failure to comply with any term or condition set herein or upon the termination of the license agreement for any Licensed Software. Upon such termination, Customer acknowledges that no refunds of any maintenance fees shall be made.

## ATTACHMENT H, SAMPLE UNIFLOW EULA

### NT-WARE END USER LICENSE AGREEMENT

Including provisions for Third Party Software

- MICROSOFT DATA ACCESS COMPONENTS 2.6 License
- Provisions for Crystal Reports Runtime Software

### NT-WARE SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT

#### **LICENSE CODE:**

Important – Read the end user license agreement before using the license code to activate the software

### NT-WARE'S END USER LICENSE AGREEMENT

This NT-Ware License Agreement (this "License") is a legal agreement between Company (either an individual or an entity) and NT-Ware U.S.A., Inc. It applies to one or more of the following software items for which you have paid license fees: uniFLOW core and associated modules, and updates to any of the preceding items which are provided under the Maintenance and Support Agreement described in Section 6 below. If Company does not agree to the terms of this License, promptly return the entire package, of which this License is a part, to the place of purchase and Company's money will be refunded; otherwise, upon any act of acceptance or commencement of use of the Licensed Software, Company will be deemed to have accepted and agreed to these terms and conditions.

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Company acknowledge that Company have read all of the above terms and conditions, understand them, and agree to be bound by them. Company understand that Dealer is not NT-Ware's agent and is not authorized to make any representations or warranties on NT-Ware's behalf nor to vary any of the terms or conditions of this License.

**9. THIRD PARTY SOFTWARE.** The Licenses Software uses certain additional 3rd party software components for certain functionalities. These software components are automatically installed with the Licensed Software but are separately licensed by the 3rd party licensors under the following terms. In addition to the terms above, Company acknowledges and agrees to these terms.

- MICROSOFT DATA ACCESS COMPONENTS 2.6 ("MDAC"): The MDAC are a software framework which is being used with uniFLOW for accessing SQL server and other data base systems. They are included with uniFLOW and are automatically installed during the uniFLOW installation process. Without them uniFLOW could not access these data bases.

## MICROSOFT CORPORATION END-USER LICENSE AGREEMENT **MICROSOFT DATA ACCESS COMPONENTS 2.6**

IMPORTANT-READ CAREFULLY: This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and Microsoft Corporation for the Microsoft software product identified above, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation ("Product"). An amendment or addendum to this EULA may accompany the Product. YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY INSTALLING, COPYING, OR OTHERWISE USING THE PRODUCT. IF YOU DO NOT AGREE, DO NOT INSTALL OR USE THE PRODUCT; YOU MAY RETURN IT TO YOUR PLACE OF PURCHASE FOR A FULL REFUND.

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- **CRYSTAL REPORTS FOR MICROSOFT VISUAL STUDIO 2005:** MS Visual Studio is a development environment that is being used by uniFLOW. Crystal Reports, which is integrated with MS Visual Studio, is being used by uniFLOW for generating printing reports, a core functionality of uniFLOW. Please also refer to <https://support.microsoft.com/en-us/kb/318102>. NT-ware as a developer is licensee of MS Visual Studio and of Business Object Software Limited ("Business Objects"), the supplier of Crystal Reports software. Business Objects permits NT-ware to sub-license certain Crystal Reports Runtime Software to uniFLOW End-Users. Similar to MDAC, Crystal Reports Runtime Software ("Runtime Software") is included with uniFLOW and is automatically installed during the normal installation process.

The following are terms Company agrees to as a condition of its use of the Runtime Software:

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**1. ELIGIBILITY.** In order for Company to be eligible for maintenance and support services, Company must register online by completing the requested information when prompted during installation. Once Company activates the support services, NT-Ware's support and maintenance database will determine eligibility and the effective term (including the initial term and any extended terms purchased with the initial purchase of Licensed Software) and send confirmation to Company. In case an online registration is not possible, the registration may be completed via e-mail or by fax to the number listed in the registration procedure.

**2. TERM.** This Agreement shall commence on the date ("Commencement Date") which is the date of license of the Licensed Software. Unless terminated pursuant to Section 9 below, this Agreement shall be in effect for one (1) year from the Commencement Date, and is included at no additional charge in the price of the Licensed Software purchased from Canon U.S.A., Inc. ("Canon USA") or an authorized office imaging retail dealer of Canon USA ("Dealer"). At the time of original purchase or prior to the expiration of this one (1) year term, Company may purchase additional years of extended maintenance and support solely from Canon USA or a Dealer. Accordingly, depending on the purchase of extended support, the duration of support will be for a period of up to five (5) years from the date of license of the Licensed Software ("Support Term"). For current extended support prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. No matter when purchased, the term of extended maintenance and support starts upon the expiration date of the term that you have previously purchased. To ensure continued maintenance and support, the extension must be purchased by Company prior to the expiration of this Agreement. If additional Licensed Software is purchased, this may result in adjustment of the effective term for all supported Licensed Software. Customer may contact the purchase source for the Licensed Software (Canon USA or Dealer) for information about the effective term of support and maintenance. Support outside the scope or term of this Agreement may be provided at the published rates of NT-Ware, Canon USA or its Dealers, as the case may be, for time and materials and with Company assuming all costs, including shipping.

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Company is entitled to receive all commercially released Updates of the Licensed Software. Company may install any Update release itself or engage Canon USA or a Dealer to perform such installation for an agreed upon charge. NT-Ware reserves the right to discontinue support for connections to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Software, such as versions for new operating systems or which feature fundamentally new functionality, are not within the scope of this Agreement. Also, Updates that are patches will only be suitable and compatible with a version of Licensed Software that is not more than two (2) years from its release date (i.e., within a Mainstream Support Period as defined below). Any open source operating system software and certain other third party software components that are included in the Licensed Software will be supported solely to the extent that the relevant developer makes support available to NT-Ware, and NT-Ware reserves the right to replace such third party software at any time, including if technical updates or compatibility upgrades deemed necessary by NT-Ware are not forthcoming from any such developer. Any Updates or other modified version of the Licensed Software provided under this Agreement shall be subject to the same End-User License Agreement as is applicable to the Licensed Software, and shall be subject to its terms.

**4. OBTAINING TECHNICAL SUPPORT.** During the Support Term, Company shall contact the purchasing source (Dealer or Canon USA) for Level 1 support on a uniFLOW System. Level 1 support consists of providing help-line telephone assistance in operating the uniFLOW System and identifying service problems, escalating issues as needed to rectify such problems with bug fixes, if needed to remedy a problem, and maintaining a log of such problems to assist in tracking the same. If Company still requires technical support after Level 1 support has been provided by Dealer or Canon USA, as the case may be, then, at Company's request, Canon USA shall escalate the problem in coordination with NT-Ware. Company must specify a designated individual who will act for Company as the sole support liaison to Dealer or Canon USA. NT-ware will provide Level 3 support and bug fixes (if needed) only if, on the date of the support request, Company is running a version of Licensed Software that is no more than two (2) years from the release date of such version ("Mainstream Support Period"). If the Support Term is ongoing but Company requests support for a problem more than two (2), but less than seven (7) years from the release date of the Licensed Software version (the "Subsequent Support Period") hotfixes for bugs in such version are possible but not guaranteed, and any Update releases specifically for this version will further be provided at NT-ware's sole discretion based on common market demand. During the Support Period, the Mainstream Support Period will be refreshed whenever Company is running a version of the License Software that is within two (2) years of the version release date. Therefore, Company is advised to install promptly all Updates produced by NT-Ware under Section 3 and made available to Company by its Dealer or Canon USA under Section 3 to ensure that NT-Ware will optimally support Company's versions of the Licensed Products throughout the term of Company's purchased Support Period. In making a request for technical support, the Company representative must identify Company and provide the serial number(s) and release date of its version of the Licensed Software then running to define the support to which it is entitled.

**5. ASSIGNMENT.** NT-Ware will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. Company will not be entitled to assign this Agreement or any part thereof without the prior written consent of NT-Ware.

**6. LIMITATION OF LIABILITY.** NEITHER NT WARE, CANON USA, NOR ANY DEALER, SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) ARISING FROM THE MAINTENANCE AND SUPPORT OF THE NT-WARE SYSTEM, INCLUDING LICENSED SOFTWARE AND UPDATES THEREFOR, OR FROM ANY OF NT-WARE'S OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF NT-WARE, CANON USA OR DEALER HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. COMPANY ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR NT-WARE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF COMPANY'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR

STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY COMPANY TO DEALER OR CANON USA.

**7. GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which NT-Ware will produce Updates to be made available to Company through Canon USA and its Dealers with maintenance and certain technical support services for the uniFLOW System, including updates to Licensed Software. This Agreement supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New York. All questions concerning the terms and conditions of this Agreement should be directed to NT-Ware in writing to NT-Ware U.S.A., Inc. at 105 Maxess Road, Suite 129 S, Melville, New York 11747.

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Contracting Officer and Government End User acknowledge that they have read all of the above terms and conditions, understand them, agree to be bound by them and further that neither Canon USA nor Dealer is a NT-Ware's agent, nor are they authorized to make representations or warranties on NT-Ware's behalf, or to vary any of the terms or conditions of this Agreement.

**9. TERMINATION.** This Agreement shall terminate automatically without notice to Company upon failure to comply with any term or condition set herein or upon the termination of the license agreement for any Licensed Software. Upon such termination, Company acknowledges that no refunds of any maintenance fees shall be made.

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COMPANY name/Technical Contact (Name and Title):

Post Office Address:

E-mail Address:

DEALER name:

[Licensed Software Serial Number – the 10 digit number after "S/N" that is located on the label of the software CD case.]