

AMENDMENT ONE  
TO  
PARTICIPATING ADDENDUM  
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM  
Copiers & Managed Print Services  
Administered by the State of Colorado

MASTER AGREEMENT  
Master Agreement No: 140595  
Canon USA, Inc.

And  
State of Oklahoma by and through the Office of Management and Enterprise Services

(Oklahoma Contract No.: SW1034)

This First Amendment ("Amendment") to the Participating Addendum is entered into effective as of November 30, 2023 ("Effective Date"), by and between the State of Oklahoma by and through the Office of Management and Enterprise Services ("State") and Canon USA, Inc. ("Vendor").

**For good and valuable consideration, the parties agree as follows:**

- 1) The parties agree the following attachments are incorporated hereto:**  
**Attachment A: Canon Lease Agreement Terms and Conditions for the State of Oklahoma.**

The parties mutually agreed to amend the Master Canon Lease Agreement Terms and Conditions to remove Section 13 in its entirety and modify language in Section 8 to remove language allowing a lien by the vendor. Additionally, the parties mutually agree to use Attachment A for all future lease Agreements with the State.

Participating Entity: State of Oklahoma by and through the Office of Management and Enterprise Services	Contractor: Canon USA, Inc.
Signature:  <u>Joe McIntosh (Dec 13, 2023 17:13 CST)</u>	Signature:  <u>Mason Olds (Dec 12, 2023 10:47 EST)</u>
Name: Joe McIntosh	Name: Mason Olds
Title: CIO	Title: EVP
Date: Dec 13, 2023	Date: Dec 12, 2023

## **ATTACHMENT A, CANON LEASE AGREEMENT TERMS AND CONDITIONS FOR THE STATE OF OKLAHOMA**

**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. 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. Reserved.

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.









# SW1034 AMENDMENT ONE CANON CT113023

Final Audit Report

2023-12-13

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