

**PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE and
NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS
MAIL ROOM EQUIPMENT, SERVICES AND SUPPORT
Administered by the State of Arizona (hereinafter "Lead State")**

MASTER PRICE AGREEMENT
Bell and Howell, LLC
ADSP011-00000411-2
(hereinafter "Contractor")

And

**STATE OF SOUTH CAROLINA, INFORMATION TECHNOLOGY MANAGEMENT OFFICE
(ITMO), a unit of South Carolina Budget and Control Board's
Division of the Procurement Services
(hereinafter "Participating State")**

1. Scope: This addendum covers the WSCA/NAPSO Mail Room Equipment, Services and Support contract lead by the State of Arizona for use by state agencies and other entities located in the Participating State/Entity authorized by that state's statutes to utilize state/entity contracts. Bell and Howell is authorized under this WSCA agreement to sell the following:

Please refer to Exhibit 1

This Addendum is between Contractor and all participating South Carolina public procurement units (as defined by S.C. Code Ann. § 11-35-4610(5), as amended) or governmental bodies (as defined by S.C. Code Ann. § 11-35-310(18), as amended)

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

3. Participating State Modifications or Additions to Master Price Agreement:

Changes:

Unless otherwise stated, terms used herein shall have the definitions assigned by Master Price Agreement ADSP011-00000411-2. ^{800 AP} NOTE: Any and all references of Arizona (AZ) are to be changed to read South Carolina (SC).

A. Definitions:

"ITMO" means the Information Technology Management Office established by South Carolina Code Section 11-35-820, as amended.

"SC Participant(s)" means all participating South Carolina public procurement units (as defined by S.C. Code Ann. § 11-35-4610(5), as amended) or governmental bodies (as defined by S.C. Code Ann. § 11-35-310(18), as amended).

B. This Addendum is a "Participating Addendum" as defined in the Master Price Agreement, forms a part of the Master Price Agreement, and supersedes the Master Price Agreement to the extent of any inconsistency. The terms and conditions of this Addendum apply only to the relationship between SC Participants and Contractor.

C. Pursuant to Section 11-35-4810, South Carolina public procurement units, both state and local (as defined by S.C. Code Ann. § 11-35-4610(5), as amended) are authorized to participate in cooperative purchasing.

D. Pursuant to Section 11-35-510 of the South Carolina Code of Laws, ITMO is authorized to act as the statutory procurement agent for every state governmental body (as defined by S.C. Code Ann. § 11-35-310(18), as amended). Consistent with its statutory authority, ITMO is acting solely in a representative capacity and on behalf of such state governmental bodies.

E. Participation by local public procurement units (as defined by S.C. Code Ann. § 11-35-4610(3), as amended) in the Master Price Agreement is optional. By submitting an order and receiving delivery of an item pursuant to the Master Price Agreement, a local public procurement unit manifests its intent to be and is bound by the Master Price Agreement, including this addendum, unless the local public procurement unit has entered into a separate Participating Addendum.

F. Each SC Participant's obligations and liabilities are independent of any other SC Participant's obligations and liabilities. SC Participants are not obligated for any order submitted by another SC Participant and do not incur any liability with regard to any other SC Participant. ITMO is acting solely on behalf of SC governmental bodies and bears no liability for any damages that any party may incur with regard to the Master Price Agreement.

G. South Carolina Prompt Payment Statute: The obligations of any SC Participant are governed by Section 11-35-45 of the South Carolina Code of Laws, if the participant is a "governmental body," as that term is defined in Section 11-35-310(18).

H. Vendor is registered with the South Carolina Secretary of State as an authorized South Carolina vendor. To the extent Vendor distributes its products to South Carolina governmental bodies through vendors instead of directly by Vendor; Vendor agrees that any such vendors shall be registered with the South Carolina Secretary of State as an authorized South Carolina vendor.

I. This Addendum, any order against the Master Price Agreement, and any dispute, claim, or controversy relating to the either shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina. Any claim by Contractor against any SC Participant shall be resolved by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that no act by a SC Participant shall constitute waiver of either the SC Participant's sovereign immunity or the SC Participant's immunity under the Eleventh Amendment of the United State's Constitution.

J. Tax Exempt: In order to exempt the State from the obligation to withhold taxes from payments due, Contractor shall, upon request by the State, register as required by South Carolina Code Section 12-8-550, as amended, and submit the appropriate form (Nonresident Taxpayer Registration Affidavit – Income Tax Withholding) in accordance with its instructions. The State is exempt from sales and use and personal property taxes.

K. Return Goods: When appropriate, Contractor will provide the State a Return Material Authorization (RMA) Number for returned equipment which includes, but is not limited to, software and its associated documentation. The contractor will provide instructions to the State for the proper implementation of the RMA.

L. Products and Services **NOT** provided by this Participating Addendum: Authorized purchasers of SC Participants may purchase, and Contractor may supply, "Services" only as defined herein. For the purposes of this agreement, "Services" includes only those Services directly related to the installation and configuration of the equipment and **operating** software i.e. Microsoft, Windows, etc., to allow the equipment to function in accordance with the manufacturer's specifications and those services related to maintenance of the equipment either to fulfill the Contractor's warranty or any services related to the routine maintenance of the equipment or service. "Services" **do not include** Professional Services for custom application design, or development, or other professional consulting services unrelated to the installation and/or configuration of equipment and/or software authorized under the Addendum. **The purchase of software is not allowed under this contract except the operating software at time of purchase.**

Other items excluded from being purchased from this contract are as follows:

Application Software (The State of South Carolina has a separate contract for Application Software.)

Consulting Services,

Design Services,

IT Temporary Professional Services, (The State of SC has a separate State Term Contract)

Middleware

Printers (The State of SC has a separate State Term Contract)

M. Item Substitution: No Substitutes will be allowed on Purchase Orders received from South Carolina Participants without written permission from the issuing procurement unit.

N. Reports: All contract holders will be required to process monthly usage reports. The monthly reports shall be submitted by the 15th fifteenth day of the month for the previous month's actual sales. If "No Sales" are achieved for a specific month, then "zero" 0 must be reported for that specific month.

The report will capture the following information: Contractor Name Reporting, Contract Number, Agency, PO Num/Invoice Num, PO Date/Inv Date, Reseller, Manufacturer, Major End-Item Description, Model No, Serial No, Beginning Meter Reading, Ending Meter Reading, Meter Read Total, Part Number, Part Description, Qty, Unit Price, Total Completed PO/Invoice, and Admin Fee, are required to meet the needs of the State's reporting requirements. "The Reporting Template Guide" and the "Reporting Template" is being

provided for your reference under Attachment A. The State will work with each contract holder to ensure they understand how to process reports. The Primary Point of contact for reporting purposes is Jay Lopez, 803-737-0283, jlopez@itmo.sc.gov.

Periodic failure to provide this report by the 15th of every month may result in taking the contract link down from the website and/or termination of the contract. Consistent failure to meet this requirement will result in termination of the contract.

O. **Contract History:** The State of South Carolina has an auditing requirement for the retention of contract history. The retention for the contract history is three (3) years after the expiration date of the contract. Upon prior written request, the Contractor will make available to the State those records directly associated with Contractor's performance under the Addendum.

P. **Records Retention & Right to Audit:** The state shall have the right to audit the books and records of the Contractor as they pertain to this contract, both independent of, and pursuant to, S.C. Code Section 11-35-2220. Such books and records shall be maintained for a period of three (3) years from the date of final payment under the contract. The State may conduct, or have conducted, performance audits of the Contractor. The state may conduct, or have conducted, audits of specific requirements of this bid as determined necessary by the State. Pertaining to all audits, Contractor shall make available to the State access to its computer files containing the history of this contract's performance and all other documents related to the audit. Additionally, any software used by the Contractor shall be made available for auditing purposes at no cost to the state.

Q. **Administrative Fee - Maintenance, Service, and Meter Rental:** The Information Technology Management Office (ITMO) issues and maintains State term contracts for the benefit of governmental entities within the State of South Carolina. In order to maintain and enhance the quality and quantity of its State term contracts an administrative fee of three-quarters (.75%) of the total actual sales will be assessed of each contractor. Total actual sales will be equal to gross sales less return goods and taxes as stated on the invoice.

Whether mail equipment is purchased directly from Contractor or leased through the South Carolina Leasing Hardware State Term Contract under option CC, Contractor will be responsible for submitting the administrative fee of .75 % for providing maintenance, service, and/or meter rental services for either option. The Administrative Fee will be remitted monthly in the form of a check to:

**The Information Technology Management Office
Attn: Jay Lopez, Reports Manager
1201 Main Street, Suite 600
Columbia, SC 29201**

Each remittance will include the period covered and the contract number. The monthly administrative fee shall be submitted by the last business day of the month for the previous month's actual sales.

R. **Contract Period:** The Contract Period for South Carolina is good until October 12, 2013 and may be renewed for an additional three one-year renewals. The maximum contract period for the WSCA contract runs from 05/06/2012 through 10/12/2016.

S. Change in Contractor Representatives: The Contractor will email the South Carolina point of contact within seven (7) days of any change of contract contacts and contact information.

T. Purchasing Card: South Carolina has entered into an agreement for a Visa Card to provide the State with purchasing card services. The purchasing card allows state agencies to make authorized purchases from a vendor without the requirement to issue a purchase order. Purchasing cards are issued to select employees authorized to purchase for the agency. Cardholders can make purchases directly from any vendor that accepts the purchasing card. State Agencies may request authorization from the Materials Management Officer, Mr. Voight Shealy, to use the purchasing card to pay for the purchase of goods and services from these state term contracts otherwise the purchasing card can only be used for goods approved by the State and the maximum purchase per transaction is \$2,500.

U. Indemnification – Third Party Claims (NOV 2011): Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property to the extent arising out of goods or services acquired hereunder or caused in whole by any act or omission of Contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is a proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

V. Protection of Human Health & the Environment: The State of South Carolina requires all contractual activities to be in compliance with local, state, and federal mandates concerning "protection of human health and the environment". Any contractor doing business with the State will be required to document compliance and to specify prudent practices used by the contractor to address applicable mandates including, but not restricted to "the hazard communication standard" OSHA CFR 1910.1200 (SCRR Article 1,71-1910.1200). By submission of this bid, the vendor agrees to take all necessary steps to ensure compliance with these requirements.

W. TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006): Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will

be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term. The effective date of such cancellation shall be the last day of the period for which funds were appropriated.

X. Insolvency: This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

Y. Manual Orders: For those procurement units that do not have or do not use electronic ordering, the Contractor agrees to input/key orders received via mail or fax into their order processing system.

Z. TAXES (JAN 2006): Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to Contractor, Contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the Contractor. [07-7A080-1]

AA. Income Tax Credit for State Contractors Having Subcontracts with MINORITY Firms: TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498.

BB. Acceptance of Offerors 10% Below Price (JAN 2006): If the state is offered the exact same item on the exact same terms and conditions as those provided under this contract by a vendor other than the Contractor (the "alternate vendor") for a price that is at least ten

percent less than the contract price, the State may purchase those items from the alternate vendor if the Contractor does not agree to meet the offered price. Any acquisition pursuant to this clause must be documented by the Procurement Officer in sufficient detail to satisfy the requirements of an external audit. [07-7B010-1]

CC. Lease Agreements: Any/all leasing will be handled through the South Carolina Leasing Hardware State Term Contract. Contract information can be found at: http://procurement.sc.gov/webfiles/IT_CONTR/Hardware_Leasing.pdf. The primary contact for this contract is:

Debbie Lemmon
 Information Technology Management Office
 1201 Main Street, Suite 601
 Columbia, South Carolina 29201
 Phone: (803) 896- 5236
 Fax: (803) 737-0102
 E-mail: dlemmon@itmo.sc.gov

DD. Primary Contacts: The primary contact individual for this participating addendum are as follows (or their named successors):

Lead State

Name	Terri Johnson, Senior Procurement Officer
Address	Arizona DOA-SPO, 100 N. 15 th Ave, Suite 201, Phoenix, AZ 85007
Telephone	602-542-5511
Fax	602-542-5508
E-mail	Terri.johnson@azdoa.gov

Contractor

Name	Marjorie McDermott, National Sales Director, Government Accounts
Address	3791 S Alston Ave., Durham, NC 27713
Telephone	801-930-5402
Fax	866-593-1694
E-mail	marjorie.mcdermott@bhemail.com

Participating Entity

Name	John L. Walker, CPPO CPPB- Procurement Officer
Address	Information Technology Management Office, 1201 Main St, Suite 601, Columbia
Telephone	803-896-0670
Fax	803-737-0102
E-mail	jwalker@mimo.sc.gov

Please note: Bell and Howell, LLC has no dealers – sales and services provided by BH employees.

FF. Purchase Order Instructions:

All orders should contain the following (1) Mandatory Language "PO is subject to WSCA/NASPO Contract # ADSP011-00000411-2" (2) Your Name, Address, Contact, & Phone-Number.

Orders can be made out to **Bell and Howell, LLC**.

GG. Price Agreement Number:

All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 5000012614 and the Lead State price agreement number: ADSP011-00000411-2.

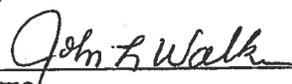
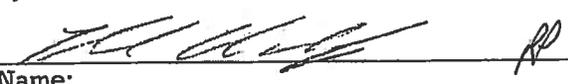
HH. Individual Customer:

Each State agency and political subdivision, as a Participating Entity, that purchases products/services will be treated as if they were Individual Customers. Except to the extent modified by a Participating Addendum, each agency and political subdivision will be responsible to follow the terms and conditions of the Master Agreement; and they will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each agency and political subdivision will be responsible for their own charges, fees, and liabilities. Each agency and political subdivision will have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor will apply the charges to each Participating Entity individually.

II. Evaluation Equipment: To the extent Vendor wishes to allow the use of any equipment for the purposes of evaluation prior to purchase, Vendor and the Participating shall mutually agree on the scope of any such evaluation at such time. Purchases of the equipment shall comply with the terms of the Master Price Agreement and Participating Addendum.

This Participating Addendum and the Master Price Agreement number ADSP0---00000411-2 (administered by the State of Arizona) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

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

Participating State: State of South Carolina	Contractor: Bell and Howell, LLC.
By: 	By: 
Name: John L. Walker, CPPO, CPPB	Name: Richard Paske Jr.
Title: Procurement Manager	Title: Director, Project Management
Date: <u>5/2/2012</u>	Date: <u>05/01/2012</u>