

PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
DIGITAL PRINT/QUICK COPY
Administered by the State of Utah (hereinafter "Lead State")

MASTER PRICE AGREEMENT
OFFICEMAX, NORTH AMERICA, INC
Utah Contract Number: MA041
(Hereinafter "Contractor")

And

STATE OF SOUTH CAROLINA, INFORMATION TECHNOLOGY MANAGEMENT OFFICE (ITMO), a
unit of South Carolina Budget and Control Board's Division of Procurement Services
(hereinafter "Participating State")
SC Contract Number: 5000013278

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1. Scope: This addendum covers the Digital Print/Quick Copy contracts lead by the State of Utah 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.

2. Participation: Use of specific WSCA 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.

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 this 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.

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

(These modifications or additions apply only to actions and relationships within the Participating Entity)

Changes: Unless otherwise stated, terms used herein shall have the definition assigned by Master Price Agreement ADSPO11-00000411-2.

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 is not a mandatory contract. South Carolina (SC) participants have the right to use as they so desire.

C. 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.

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- D.** 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.
- E.** 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.
- F.** 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.
- G.** 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.
- H.** 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).
- I.** Vendor agrees to distribute its products to South Carolina governmental bodies through vendors registered with the South Carolina Secretary of State as an authorized South Carolina vendor.
- J.** 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 exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, 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.
- K.** Tax Exempt: In order to exempt the State from the obligation to withhold taxes from payments due, Contractor shall 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.
- L.** 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.

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Upon prior written request, the Contractor will make available to the State those records directly associated with Contractor's performance under the Addendum.

- M. Records Retention & Right to Audit:** The state shall have the right to audit the books and records of the contractor (but no more frequently than once a year during the term of this Addendum) 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 as it directly relates to contractor's performance of the contractual obligations. Pertaining to all audits, contractor shall make available to the state access to its computer files containing the history of contract performance and all other documents directly pertaining to contract performance. Notwithstanding the foregoing, in no event, will Contractor be obligated to disclose any confidential information not directly pertaining to its contractual obligations under this Addendum.
- N. Reports:** All contract holders will be required to process monthly usage reports in the SC format which will be provided. The monthly reports shall be submitted by the 15 fifteenth day of the month for the previous month's actual sales. If "No Sales" are achieved for a specific month, then "zero" MUST be reported for that specific month. **You are to contact J Lopez at 803-737-0283 for the Reporting Template Guide and format.** The State will work with each contract holder to ensure they understand how to process the reports. The Primary point of contact for reporting purposes is J Lopez, 803-737-0283, jlopez@itmo.sc.gov.
- O. Administrative Fee:** 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 one (1%) 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.
- P.** The Administrative Fee will be remitted monthly in the form of a check to:
The Information Technology Management Office
Attn: J Lopez, Reports Manager
1201 Main Street, Suite 600
Columbia, SC 29201
jlopez@mimo.sc.gov
- Reports MUST reference the SC Participating number 5000013278 to assure accurate accounting of purchases under this contract and reported administrative fees.** 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.
- Q. STATE REBATE:** In addition, to the 1% administrative fee, ss agreed by both parties, **OfficeMax will pay to each public procurement unit a seven percent (7%) annual rebate, in the form of a credit or check, on all Net Sales made.**

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- R. Contract Period:** The existing contract period for South Carolina is good until March 31, 2014 and may be renewed for two (2) additional 12-month terms. This Participating Addendum will automatically renew with the renewal of the State Of Utah Master Price Agreement State Cooperative Contract # M041. The maximum contract period for the WSCA contract runs from April 1, 2011 through March 31, 2016.
- S. Change in Contractor Representatives:** The Contractor will email the South Carolina point of contact within seven (7) business 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 arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part 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. Contractor's foregoing indemnity obligations shall not apply to any loss or damage arising out of the acts or omissions of the Indemnitees. 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

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including, but not restricted to "the hazard communication standard" OSHA CFR 1910.1200 (SCRR Article 1,71-1910.1200). Contractor agrees to take all necessary steps to ensure compliance with the requirements applicable to Contractor and the Services it provides.

- 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.
- 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:

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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.

4. Lease Agreements: Leasing is not applicable in the contract or this participating addendum.
5. Primary Contacts: The primary contact individuals for this participating addendum are as follows:

Lead State

Name	Mark Parry, Purchasing Agent
Address	Division of Purchasing & General Services Department of Administration 3140 State Office Building, Capitol Hill Salt Lake City, Utah 84114
Telephone	801-537-9243
Fax	
E-mail	mparry@utah.gov

Contractor

Name	Jennifer Nalepa
Address	3035 Graylyn Lakes Dr Aiken, SC 29803
Telephone	954-648-6029
Fax	
E-mail	jennifernalepa@officemax.com

Participating Entity

Name	Agnes Copeland or John Walker
Address	1201 Main St., Ste 600, Columbia, SC 29201
Telephone	803 896 0068 or 803 896 0670
Fax	803 896 0102
E-mail	acopela@itmo.sc.gov, jwalker@mimo.sc.gov

6. Subcontractors:

All OfficeMax dealers and resellers authorized in the State of South Carolina , as shown on the dedicated OfficeMax WSCA website, are approved to provide sales and service support to participants in the WSCA Master Price Agreement. The OfficeMax dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Price Agreement.

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7. Purchase Order Instructions:

All orders should contain the following (1) Mandatory Language "PO is subject to WSCA Contract # MA041 and SC Contract # 5000013278, (2) Your Name, Address, Contact, & Phone-Number (3) Purchase order amount.

Orders must be made out to OfficeMax.

8. STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012): Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the attached form.

9. Price Agreement Number:

All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 5000013278 and the Lead State price agreement number: MA041.

10. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009"

("ARRA"): If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or sub-grantee, but simply a provider of goods and related services.

This Participating Addendum and the Master Price Agreement number MA041 (administered by the State of Utah) 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

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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:	Contractor:
By: <i>Agnes P. Copeland</i>	By: <i>Greg Ransnow</i>
Name: <i>AGNES P. Copeland</i>	Name: <i>GREG RANSNOW</i>
Title: <i>PROCUREMENT MANAGER</i>	Title: <i>VICE PRESIDENT, SALES</i>
Date: <i>2/4/2013</i>	Date: <i>2/1/13</i>

[Additional signatures as required by Participating State]