WESTERN STATES CONTRACTING ALLIANCE
MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

Number B27158

This Agreement is made and entered into by Apple Inc., 1 Infinite Loop, 38-2CM, Cupertino, CA 95014 ("Contractor") and the State of Minnesota, Department of Administration ("State") on behalf of the State of Minnesota, participating members of the National Association of State Procurement officials (NASPO), members of the Western States Contracting Alliance (WSCA) and other authorized Purchasing Entities.

RECITALS

WHEREAS, the State has the need to purchase and the Contractor desire to sell; and,

WHEREAS, the State has the authority to offer contracts to CPV members of the State of Minnesota and to other states.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

INTENT AND PURPOSE

The intent and purpose of this Agreement is to establish a contractual relationship with equipment manufacturers to provide, warrant, and offer maintenance services on **ALL** products proposed in their response to the RFP issued by the State of Minnesota. Delivery, support, warranty, and maintenance may be provided by the Contractor using subcontractors. The Contractor agrees to take legal responsibility for the warranty and maintenance of all products furnished under this Agreement to the extent and as specified in Exhibit A attached hereto. The Contractor is responsible for the timeliness and quality of all services provided by individual subcontractors. Subcontractor participation will be governed by individual Participating Entities, who have the sole discretion to determine if they will accept services from a subcontractor.

Individual Purchasing Entities may enter in to lease agreements for the products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process, and if the Contractor submitted copies of its lease agreements with its response to the RFP. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. The agreements are located in Exhibit C, Value-Added Services.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage

(SANs, etc.) should not exceed $300,000 each. Desktop per unit/configuration costs should not exceed $100,000. Printers of all types and monitors per unit/configuration costs should not exceed $50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed $25,000 each, or $50,000. Contractors must be willing to comply with these restrictions by agreeing to supply products in those price ranges only. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum above these limits, with the prior approval of the WSCA Directors; or may set specific limits in a participating addendum below these limits.

Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the Agreement.

1. Definitions

"Announced Promotional Price" are prices offered nationally to specific categories of customers (Consumer, Business or government) for defined time periods under predefined terms and conditions.

"**Apple-branded product(s)"** or **"Apple Product(s)**" mean(s) and is limited to hardware, software, service, support, and training Products that are bearing the Apple Inc brand name and manufactured, distributed or licensed ("sold") under the Apple Inc. brand name, that the customer has paid to acquire (or license) from Apple for its own use but excluding any third party-branded hardware components, third party open source software or freeware and other third party branded Products.

"Consumables" those items that are required for the operation of the Equipment offered or supplied which are consumed over time with the purchaser's use of the equipment are included – printer cartridges, batteries, projector bulbs, etc. *Consumables such as magnetic media, paper and generally available office supplies are excluded.*

"Configuration" in most instances in this document means a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work.

"Contract" means a binding agreement for the procurement of items of tangible personal property or services. Contract and Master Price Agreement are used interchangeably in this document.

"Contractor" means the successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the manufacture of the equipment and warranty thereof. For the purposes of this Contract, the term Contractor and Contract Vendor are

synonymous.

"CPV Member" is any governmental unit having independent policy making and appropriating authority, that is a member of Minnesota's Cooperative Purchasing Venture (CPV) program.

"CPV Program." The Cooperative Purchasing Venture (CPV) program, as established by Minn. Stat. § 16C.03, subd. 10, authorizes the commissioner of Administration to "enter into a cooperative purchasing agreement for the provision of goods, services, and utilities with [governmental entities] ..., as described in section 471.59, subdivision 1." Based on this authority, the commissioner of Administration, through the Materials Management Division (MMD), enters into a joint powers agreement that designates MMD as the authorized purchasing agent for the governmental entity. It is not legal for governmental entities that are not members of the CPV program to purchase from a State contract. Vendors are free to respond to other solicitations with the same prices they offer under a contract, but that is not considered use of the "State contract price."

"Cumulative Volume Discount" means a contractual, cumulative, permanent volume discount based on dollars resulting from the cumulative purchases by all governmental purchasers for the duration of the Master Price Agreement. WSCA acknowledges that Contractor does not offer cumulative volume discounts under this Agreement.

"Documentation" refers to manuals, handbooks, and other publications listed in the PSS, or supplied with products listed in the PSS, or supplied in connection with services. Documentation may be provided on magnetic media or may be downloaded from the Contractor's web site.

"E-Rate" is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.

"Educational Discount Price" means the price as set forth on applicable Authorized Apple Education Price List in effect on the date an education or state/local government customer's order is accepted by Apple.

"Equipment" " means workstations, desktop, laptop (includes Tablet PC's), handheld (PDA) devices, projectors, servers, printers, monitors, computing hardware, including upgrade components such as memory, storage drives, and spare parts. AUDIO VISUAL PRODUCTS (cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item.

"FCC" means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.

"General Price Reduction Price" means the price offered to consumer, business or governmental purchasers at prices lower than PSS pricing. General price reduction prices will be reflected in the PSS as soon as practical.

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this Master Price Agreement, the Lead State is Minnesota.

"Mandatory" The terms "must" and "shall" identify a mandatory item or factor.

"Manufacturer" means a company that, as its primary business function, designs, assembles, owns the trademark, copyright, and/or patent and/or markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC's) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer's name(s) shall appear on the computer equipment for which it owns the trademark, copyright and/or patent. The Contractor(s) shall provide, or guarantee the provision of, the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

"Master Price Agreement" means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of the Contractor's products and/or services by Purchasing Entities. The "Master Price Agreement" is a permissive price agreement. In order for a Purchase Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.

"Materials Management Division" or "MMD" means the procurement official for the State of Minnesota or a designated representative.

"NASPO" means the National Association of State Procurement Officials

"Participating Addendum" or "Participating Addenda" means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision and other specific language or other requirements. Additional terms and conditions, including but not limited to payment terms, may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope or material terms of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One digitally formatted, executed copy of the Participating Addendum must be submitted to the WSCA/NASPO Contract Administrator PRIOR to any orders being processed.

"Participating State" or "Participating Entity" means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate, where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement.

"PDA" means a Personal Digital Assistant and refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA's usually can store phone numbers, appointments, and to-do lists. PDA's can have a small

keyboard, and/or have only a special pen that is used for input and output. The PDA can also have a wireless fax modem. Files can be created on a PDA which is later entered into a larger computer. NOTE: For this procurement, all Tablet PC's are NOT considered PDA's. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

"Peripherals" means any product that can be attached to, added within, or networked with personal computers or servers, including but not limited to storage, printers (including multifunction network printers), scanners, monitors, keyboards, projectors, uninterruptible power supplies and accessories. Software, as defined in the RFP, is not considered a peripheral. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the WSCA/NASPO Contract Administrator. AUDIO VISUAL PRODUCTS (cameras, televisions, whiteboards, etc.) are NOT included in the contract. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

"Permissive Price Agreement" means that placement of orders through the Price Agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the Price Agreement without using statutory or regulatory procedures (e.g., invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the Price Agreement as long as applicable procurement statutes and rules are followed.

"Per Transaction Multiple Unit Discount" means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity or multiple entities conducting a cooperative purchase.

"Political Subdivision" means local pubic governmental subdivisions of a state, as defined by that state's statutes, including instrumentalities and institutions thereof. Political subdivisions include cities, counties, courts, public schools and institutions of higher education.

"Price Agreement/Master Price Agreement" means an indefinite quantity contract that requires the Contractor to furnish products or services to a Purchasing Entity that issues a valid Purchase Order.

"Procurement Manager" means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.

"Product(s)" means personal computer Equipment, Peripherals, LAN hardware, pre-loaded Software, and Network Storage devices, but not related services. The Contractor(s) shall provide, or guarantee the provision of, the warranty service and maintenance for Equipment on a Master Price Agreement to the extent and as set forth in Exhibit A attached hereto as well as a Takeback Program.

"Products and Services Schedule Prices" or **"PSS"** refers to a complete list, grouped by major product and/or service categories, of the Products and services provided by the contractor that consists of an item number, item description and the Purchasing Entity's price for each Product or Service. All such Products and services shall be approved by the WSCA/NASPO Contract Administrator prior to being listed on a Contractor-supplied web site accessed via a URL. The Contractor(s) shall provide the warranty service and maintenance for all equipment listed on the PSS on a Master Price Agreement as well as a Takeback Program.

"Purchase Order" means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

"Purchasing Entity" means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or services described in this solicitation.

"**Refurbished Products**" are products that may have been powered on or used by another customer that have been fully retested, defective parts replaced, and repackaged to meet original factory specifications.

"Services" mean, collectively, the standard, price-listed service, support and/or training products sold under the Apple Inc brand name that WSCA or any Purchasing Entity has paid to acquire, but excluding general consulting and all forms of application development and programming services.

"Servicing Subcontractor/Subcontractor/Reseller Agent" means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided for in a Participating Addendum. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor's providing products and services, as well as warranty service and maintenance for equipment the subcontractor has provided on a Master Price Agreement as well as the Takeback Program.

"Standard Configurations" or **"Premium Savings Configurations"** means deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement only. Any entity, at any time, that commits to purchasing the standard configuration adopted by other Purchasing Entities shall receive the same price from the contract awardees. This specification includes a commitment to maintain and upgrade (keep pace with

the advance of technology) the standard configurations for a stated period of time or intervals.

"State Procurement Official" means the director of the central purchasing authority of a state.

"Storage Solution/Auxiliary Storage" means the technology and equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS) and Storage Area Networks (SAN). The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement to the extent and as set forth in Exhibit A as well as a Takeback Program.

"Takeback Program" means the Contractor's process for accepting the return of the equipment or other products at the end of life.

"Trade In" refers to the exchange of used Equipment for new Equipment at a price reduced by the value of the used Equipment.

"Travel" means expenses incurred by authorized personnel directly related to the performance of a Service. All such expenses shall be documented in a firm quotation for the Purchasing Entity prior to the issuance and acceptance of a Purchase Order. Travel expenses will be reimbursed in accordance with the purchasing entities allowances, if any, as outlined in the PA.

"Universal Resource Locator" or **"URL"** means a standardized addressing scheme for accessing hypertext documents and other services using the WWW browser.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

"WSCA/NASPO Contract Administrator" means the person or designee authorized by MMD to manage all actions related to the Master Price Agreements on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

2. Scope of Work

The Contractor, or its approved subcontractor, shall deliver computing system Products and services to Purchasing Entities in accordance with the terms of this agreement and acceptance of the applicable Purchase Order, in each case. This Agreement is a "Master Price Agreement". Accordingly, the Contractor shall provide Products or Services only upon the receipt and acceptance by Contractor of valid "Purchase Orders" issued by the Purchasing Entity. Purchase Orders may be issued to purchase licenses for software or to purchase Products listed on the Contractor's PSS. A Purchasing Entity may purchase any quantity of Products or Services listed in the Contractor's PSS at the prices in accordance with the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State/entity Participating Addendum.

The Contractor is required to provide and/or agree to take legal responsibility for the warranty and maintenance of all Equipment, including Peripherals to the extent and as set forth in Exhibit A attached hereto. The Contractor shall offer a Takeback Program for all Products covered by this Agreement.

3. Title Passage

The Contractor must pass title to any and all Products purchased under this Contract upon receipt of payment (without withholding, deduction or setoff) by the State for the applicable Products. This obligation on the part of the Contractor to transfer title to the Products purchased does not apply to intellectual property rights or proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensors, or to intellectual property rights in or to any unmodified commercial software that is available to the State on the open market. Contractor' and/or its subsidiaries', subcontractors' or licensors' ownership rights in the intellectual property and proprietary materials in and to the Products shall not be affected in any manner by this Agreement.

4. Permissive Price Agreement and Quantity Guarantee

This Agreement is not an exclusive agreement. Purchasing Entities may obtain computing system Products and services from other sources during the agreement term. The State of Minnesota, NASPO and WSCA make no express or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of Products or Services will be procured.

5. Order of Precedence

Each Purchase Order that is accepted by the Contractor shall become a part of the Agreement as to the Products and services listed on the Purchase Order only; provided that no additional terms or conditions in the accepted Purchase Order will be added to this Agreement as the result of the Contractor's acceptance of said Purchase Order. Notwithstanding anything to the contrary contained herein, in the event of any conflict among these documents that are included or referenced in the Agreement, the following order of precedence shall apply (listed in order of priority):

A. Terms and conditions of this Agreement, except to the extent a statutory requirement, imposed by the State law of a Participating Entity, requires a mandatory modification of a specific term of this Agreement to be included in that Participating Entity's Participating Addendum, in which case, the modification of that specific term and that term only shall prevail but all other unmodified terms of the Agreement shall remain controlling;

B. Exhibits and executed amendments to this Agreement;

C. Executed Participating Addenda;

D. The list of Products and Services contained in the purchase order;

E. Contractor's proposal including best and final offer; and

F. The request for proposals document.

6. Payment Provisions

All payments under this Agreement are subject to the following provisions:

A. Acceptance

A Purchasing Entity shall determine whether all Products and services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within fourteen (14) calendar days following delivery of Products or Services; failing which the Product or Service, as the case may be, shall be deemed accepted by the Purchasing Entity.

B. Payment of Invoice

Payments shall be submitted to the Contractor at the address shown on the invoice, as long as the Contractor has exercised due diligence in notifying the State of Minnesota and/or the Purchasing Entity of any changes to that address. Minn. Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. The parties interpret the statutory reference to undisputed invoice to be limited to the following: an undisputed invoice is an invoice for which the State and/or the applicable Purchasing Entity has not disputed the invoice in writing sent to the Contractor on the grounds of an invoice error within thirty (30) days from the invoice date That is, in order for the State or the applicable Purchasing Entity to dispute any invoice under this Agreement, such dispute must be made in writing to Contractor within thirty (30) days of the invoice date. Upon Contractor's receipt of such disputed invoice notice, Contractor will work to correct the applicable invoice error, provided that such dispute notice shall not relieve the State or the applicable Purchasing Entity from its payment obligations for the undisputed items on the invoice or for any disputed items that are ultimately corrected. The ordering entity is not required to pay the Contractor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. In addition, all goods and/or services provided must meet all terms, conditions, and specifications of the Contract and other ordering document and be accepted as satisfactory by the ordering entity before payment will be issued. Payments may be made via a Purchasing Entity's "Purchasing Card".

In the event an order is shipped incomplete (partial), the Purchasing Entity shall pay for each shipment as invoiced by the Contractor unless the Purchasing Entity has clearly specified "No Partial Shipments" on each Purchase Order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's federal and state tax identification numbers. If a Purchasing Entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the Contractor shall be reimbursed by the Purchasing Entity to the extent of any tax liability assessed.

The State of Minnesota State agencies are subject to paying Minnesota

sales and use taxes. Taxes for State agencies will be paid directly to the Department of Revenue using Direct Pay Permit #1114.

D. Invoices

Invoices shall be submitted to the Purchasing Entity at the address shown on the Purchase Order. Invoices shall match the line items on the Purchase Order.

7. Agreement Term

Pursuant to Minnesota law, the term of this Agreement shall be effective upon the date of final execution by the State of Minnesota, through August 31, 2012. The Agreement may be mutually renewed for two (2) additional one-year terms, or one additional two-year term, unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the Agreement is terminated for either Convenience or Cause.

A. Termination

At any time, either party may terminate this agreement for its convenience, in whole or in part, by giving the other party (30) days written notice; provided, however, neither the State nor a Purchasing Entity has the right to terminate a specific purchase order for convenience after it has been issued if the Purchase Order has been accepted by Contractor. At any time, either party may terminate this Agreement in whole or in part, based upon a material breach of this Agreement, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. Any termination of this Agreement shall not relieve the State and/or the Purchasing Entity of their payment obligations under this Agreement and any Purchase Orders accepted and/or fulfilled.

B. A Purchasing Entity's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall retain its rights in all Products and services accepted prior to the effective termination date.

C. The Contractor's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall pay the Contractor all amounts due for Products and services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. Non-Appropriation

The terms of this Agreement and any purchase order issued for multiple years under this Agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Agreement or in any purchase order or other document, a Purchasing Entity may terminate its obligations under this Agreement, if sufficient appropriations are not made by the governing entity at a level sufficient to allow for payment of the goods or services due for multiple year agreements, or if operations of the paying entity are being discontinued. The Purchasing Entity's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

A Purchasing Entity shall provide sixty (60) days notice, if possible, of its intent to terminate for reason cited above. Such termination shall relieve the Purchasing Entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant Purchase Order.

10. Shipment and Risk of Loss

A. All deliveries shall be F.O.B. destination, prepaid and allowed, with all transportation and handling charges included in the price of the product and paid by the Contractor. If the Purchasing Entity provides the Contractor with specific shipping instructions, then the Contractor will be allowed to ship F.O.B. Destination, prepaid and added, with all transportation and handling charges paid for by the Contractor and added as a separate line item on the invoice to the Purchasing Entity. Responsibility and liability for loss or damage shall remain with the Contractor until delivery to the identified ship to address when responsibility shall pass to the Purchasing Entity.

B. Whenever a Purchasing Entity does not accept Products, and receives an RMA (Return Materials Authorization) from Contractor, that Purchasing entity shall return those Products to the Contractor, as well as all related documentation furnished by the Contractor. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the pick-up of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence of the Purchasing Entity.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, the Contractor shall make commercially reasonable efforts to ship all Products within 10 to 14 days after receipt of a purchase order, by a reliable and insured shipping company.

11. Warranties

A. The Contractor agrees to warrant and assume responsibility for the limited warranty to the extent and as set forth in Exhibit A, subject to Customer's applicable payment. Taking legal responsibility means that, solely for Apple-branded Product purchased by the Purchasing Entity, the Contractor must subject to the terms of the applicable limited warranty for Apple-branded product, provide warranty and, subject to Customer's applicable payment, maintenance call numbers, accept, process, and respond to those calls, and be legally liable

for and pay for those warranty and maintenance (under warranty) activities. Contractor warrants that:

1. The Apple-branded Product conforms to the specific technical information about the Apple-branded Products which is published in the Contractor's price lists provided under this Agreement.

2. Exhibit A contains the warranties in effect as of the date of this Agreement. The warranties will be limited in duration to the time period(s) provided in Exhibit A. The warranties will not apply to use of a Product other than as anticipated and intended by the Contractor, to a problem arising after changes or modifications to the Products or operating system by any party other than the Contractor (unless expressly authorized in writing by the Contractor), or the use of a Product in conjunction or combination with other products or software not authorized by the Contractor. The following is a list of the warranties attached as Exhibit A:

   a) AppleCare Protection Plan

   b) AppleOne (1) Year Limited Warranty – Worldwide Warranty Coverage, excluding the paragraph titled "Third Party Products"

   c) Third-Party Product Manufacturer Warranty Process

B. Contractor may modify the warranties described in Exhibit A from time to time with the prior written approval of the WSCA/NASPO Contract Administrator.

C. To the extent provided by the applicable original Manufacturer, warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products.

D. Disclaimer. Except as expressly set forth in this Agreement, and to the extent not prohibited by law, all Products and Services provided by or on behalf of Contractor in or in connection with this Agreement and any Participating Addendum are furnished on an "AS-IS" basis, without warranty of any kind, whether express, implied, statutory or otherwise especially as to quality, reliability timeliness, usefulness, sufficiency and accuracy. IN ADDITION, ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF CONDITION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISLAIMED BY CONTRACTOR AS TO THE PRODUCTS, SERVICES, MATERIALS, DOCUMENTS, INFORMATION AND LABOR FURNISHED BY CONTRACTOR PURSUANT TO THIS AGREEMENT AND ANY PARTICIPATING ADDENDUM. The sole remedy for issues concerning Products sold hereunder shall be those warranties expressly set forth in Exhibit A attached hereto, and Apple's standard Limited Warranty that accompanies each Apple Product.

E. The Contractor will provide the basic warranty listed for each product in its PSS. The warranties range from a one-year to a three-warranty, with the ability to purchase additional warranties available on the PSS at the time of purchase. All products listed will be EPEAT (bronze minimum) and Energy Star compliant, where applicable.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

A. Subject to the State's and the Purchasing Entities' compliance with the notice and defense requirements and exceptions set forth in this Section 12 below, the Contractor shall defend, at its own expense, any proceeding or action brought by a third party against the State or the Purchasing Entities who have executed a Participating Addendum under this Agreement, to the extent based on a third party claim that an Apple Product sold by the Contractor that the State or the applicable Purchasing Entity has paid to acquire under this Agreement or any Participating Addendum infringes any U.S. patent, copyright or trademark of a third party in the United States (an "IP Claim").

B. To qualify for such defense, the State or applicable Purchasing Entity shall:

1. Give the Contractor prompt written notice of any IP Claim, of which the State or Purchasing Entity becomes aware which may give rise to a right of defense or indemnification under this Section. Notice of any legal proceeding, by suit or otherwise, must be provided to Contractor within thirty (30) days from the State's or Purchasing Entity's first receipt or learning of the IP Claim, whichever is earlier;

2. Stipulate, in writing, that it will tender to the Contractor the sole control of the defense and settlement of the IP Claim and that control includes the right to take any and all actions necessary to completely and finally resolve the IP Claim by settlement or compromise; and

3. Upon acceptance of the tender, the State and Purchasing Entity (as applicable) will cooperate with the Contractor in a reasonable way to facilitate the defense and/or settlement of the IP Claim at Contractor's reasonable cost or expense.

4. If such a IP Claim is settled, to the extent permitted by law, the State and the Purchasing Entity will not publicize the settlement and will cooperate with Contractor so that Contractor can make every effort to ensure the settlement agreement contains a non-disclosure provision.

C. If any Apple Product becomes, or in the Contractor's opinion is likely to become the subject of any IP Claim, the Contractor may (but shall not be obligated to) at its sole option and expense:

1. Provide the State or the applicable Purchasing Entity the right to continue using the affected Apple Products;

2. Replace or modify the affected Apple Products so that it becomes non-infringing; or

3. Accept the return of the affected Apple Product and refund an amount equal to the five year depreciated value of the returned Apple Products, less the unpaid portion of the purchase price, shipping charges and any other amounts, which are due to the

contractor.

D. The Contractor's obligation under this Section will be void as to any Apple Products modified by the State or any Purchasing Entity or any of their respective contractors or agents to the extent such modification is the cause of the IP Claim.

E. Notwithstanding anything to the contrary contained herein, the State and all Purchasing Entities agree that the Contractor has no obligation for any IP Claims by this Section 12 arising out of or resulting from:

1. The Contractor's compliance with the State's or any Purchasing Entity's (or by a third party on the State's or Purchasing Entity's behalf) designs, specifications, or instructions;
2. The Contractor's use of technical information or technology provided by the State or any Purchasing Entity;
3. Product Modification to any Apple Product;
4. Combination, operation or use of any Apple Product with non-Apple Products or other programs, devices, data Products or documentation;
5. Use of any Apple Product consisting of software in a manner not authorized under the applicable Apple end user license agreement ("EULA"); or
6. Export, distribution, or resale of any Apple Product.

F. THE FOREGOING SHALL CONSTITUTE THE STATE'S AND EACH AND EVERY PURCHASING ENTITY'S SOLE REMEDY AND CONTRACTOR'S SOLE AND EXCLUSIVE LIABILITY FOR ALL IP CLAIMS.

13. Price Guarantees

The Purchasing Entities shall pay the lower of the prices contained in the PSS or an Announced Promotion Price, Educational Discount Price, General Price Reduction price, Trade-In price, Standard Configuration price or Per Transaction Multiple Unit Discount. Only General Price Reduction price decreases will apply to all subsequent Purchase Orders accepted by Contractor after the date of the issuance of the General Price Reduction prices.

The initial base-line, Cumulative, and Per Transaction Multiple Unit Discounts shall be submitted by the Contractor in a format agreeable to both parties prior to signing the Agreement. Once a cumulative volume has been reached, the increased price discount will apply to all future orders, until the next level of cumulative volume is reached. Contractor does not offer cumulative pricing discounts under this Agreement.

14. Product and Service Schedule

The Contractor agrees to maintain the PSS in accordance with the following provisions:

A. The PSS prices for Products and services will conform to the discount

levels on file with WSCA/NASPO Contract Administrator for the following Products:

Band 1 – Servers
Band 2 – Workstations
Band 3 – Printers
Band 4 – Storage Solutions
Band 5 – PDA
Band 6 – Instructional Packages
Band 7 – Monitors
Operating Systems
Local Area Network Devices
LCD Projectors

B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the WSCA/NASPO Contract Administrator. The Contractor agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.

C. The Contractor may make model changes; add new Products, and Product upgrades or Services to the PSS in accordance with Item 15 Product Substitutions, below. The pricing for these changes shall incorporate, to the extent possible, comparable discount levels approved by the WSCA/NASPO Contract Administrator for similar Products or Services.

D. The Contractor agrees to delete obsolete and discontinued Products from the PSS on a timely basis.

E. The Contractor shall maintain the PSS on a Contractor supplied Internet web site.

F. Prices shall be as set forth on the applicable Authorized Apple Education Price List in effect on the date Purchaser's order is accepted by Apple. Prices include standard freight and insurance using an Apple-selected carrier. All applicable local sales or use taxes, duties and other imposts, if any, due on account of purchases hereunder shall be paid by Purchaser. Proof of tax-exempt status must be on file at Apple's Support Center for any order to be treated as a tax-exempt transaction.

15. Product Substitutions

A. Substitution of units/configurations

MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting contracts. Substitution of different units and configurations will be permitted with the prior written approval of the WSCA/NASPO Contract Administrator, such approval to be provided to the Contractor within ten

(10) business days from receipt of notice that a unit or configuration will be substituted. This substitution is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA/NASPO Contract Administrator.

B. Addition of units/configurations

MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units may be permitted, with the prior approval of the WSCA/NASPO Contract Administrator and the WSCA Directors, such approval to be provided to the Contractor within forty-five (45) business days from receipt of notice that a unit or configuration will be added. The addition of new, emerging units and configurations is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA Directors.

16. Technical Support

The Contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to Purchasing Entity personnel who wish to obtain competent technical assistance regarding the installation or operation of Products supplied by the Contractor during a product warranty period or during a support agreement.

17. Takeback and Other Environmental Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in the following paragraphs.

A. Takeback/Recycling of CPUs, servers, monitors, flat panel displays, notebook computers, and printers. Costs are listed on the web site.

B. Environment: Compliance with the following standards: Blue Angel, EcoLogo, Energy Star, EPEAT (by level), Green Guard, Nordic Swan, and TCO.

C. Product labeling of compliance with Items B & C above, as well as a identification of such information on the web site.

18. Product Delivery

Contractor agrees to make commercially reasonable efforts to deliver Products to Purchasing Entities within 10 to 14 days after acceptance of a valid Purchase Order, or in accordance with the schedule in the Purchasing Entity's Purchase Order.

19. Force Majeure

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, civil unrest, labor disturbance, riot, acts of government, its agencies or officers, any order, regulation, ruling or action of any labor union affecting Contractor or the industry in which it is engaged, other industry-wide constraints, including but not limited to delays in the delivery of materials or supplies or other catastrophes (e.g., fire, earthquake, floods, etc.)

beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

20. Records and Audit

Per Minn. Stat. § 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees, agents, or subcontractors relevant to the Contract or transaction must be made available and subject to examination by the contracting agency or its agents, the Legislative Audit and/or the State Auditor for a minimum of six years after the end of the Contract or transaction.

Unless otherwise required by other than Minnesota Purchasing Entity governing law, such records relevant to other Purchasing Entity transactions shall be subject to examination by appropriate government authorities for a period of three years from the date of acceptance of the Purchase Order.

WSCA/NASPO will use best efforts to provide at least ten (10) days prior written notice of any audit contemplated by this Section 20.

21. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not employees of the State of Minnesota or of any participating entity. The Contractor has no authorization, express or implied to bind the Lead State, NASPO, WSCA or any participating entity to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the Lead State, NASPO, WSCA, or participating entity, except as expressly set forth herein. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lead State or Participating Entity as a result of this Agreement.

22. Use of Servicing Subcontractors

The Contractor may subcontract services and purchase order fulfillment and/or support in accordance with the following paragraphs. However, the Contractor shall remain solely responsible for the performance of this Agreement.

A. Reseller Agent, Service Provider or Servicing Subcontractors shall be identified individually or by class in the applicable Participating Addendum, or as noted in the Participating Addendum on the Purchasing Entities extranet site. The ordering and payment process for Products or Services shall be defined in the Participating Addendum.

23. Payments to Subcontractors

The parties agree that this Section 23 applies solely to Services (excluding deliveries) performed by Contractor's subcontractors in Minnesota under Purchase Orders issued by the State of Minnesota and accepted by Contractor pursuant to this Agreement, but not otherwise. In the event that the Purchasing Entity is the State of Minnesota and, in that event, the Contractor hires

subcontractors to perform Services for the State of Minnesota under this Contract and such services are performed in Minnesota, the Contractor understands that in accordance with Minn. Stat. § 16A.1245 the Contractor shall, within ten (10) days of the Contractor's receipt of payment from the State, pay all subcontractors and suppliers having an interest in the Contract their share of the payment for undisputed services provided by the subcontractors or suppliers. The Contractor is required to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of $100 or more will be $10. For an unpaid balance of less than $100, the amount will be the actual penalty due. A subcontract that takes civil action against the Contractor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Contract. In the event the Contractor fails to make timely payments to a subcontractor, the State may, at its sole option and discretion, pay a subcontractor or supplier any amounts due from the Contractor and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor or supplier, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor or supplier. If there are not remaining outstanding payments to the Contractor, the State shall have no obligation to pay or to see to the payment of money to a subcontractor except as may otherwise be required by law.

The Contractor shall ensure that the subcontractor transfers all intellectual or industrial property rights, including but not limited to any copyright it may have in the work performed under this Contract, consistent with the intellectual property rights and ownership sections of this Contract. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Contract, the State may acquire such rights directly from the subcontractor. Any and all costs associated with such a direct transfer may be deducted from any amount due the Contractor.

24. Indemnification, Hold Harmless and Limitation of Liability

A. Personal Injury/Tangible Property Damage Indemnification.

1. Subject to the exceptions in Section 24 (A)(3) below and the State's and the Purchasing Entity's(ies') compliance with the notice and defense provisions in Section 24 (A)(2) below, the Contractor shall indemnify, defend and hold harmless the State and the Purchasing Entities from third party claims for personal injury, death, or tangible property damage suffered by such third party and caused by the negligence, gross negligence or willful misconduct of the Contractor during the course of Contractor's performance of the Agreement (a "PI Claim"). This clause shall not be construed to bar any legal remedies the Contractor may have with respect to the State's or Purchasing Entities' failure to fulfill its or their obligations pursuant to the Agreement or any Participating Addendum.

2. To qualify for such defense, the State and Purchasing Entities (as applicable) shall promptly notify Contractor of any PI Claim of which the State and the

Purchasing Entity(ies) become aware which may give rise to a right of defense or indemnification pursuant to this Section. Notice of any PI Claim that is a legal proceeding, by suit or otherwise, must be provided to Contractor within thirty (30) days of the State's and the Purchasing Entity(ies) first learning of such proceeding. Notice must include an offer to tender the sole control of the defense of the PI Claim to Contractor. Contractor, if it accepts such tender, may take over sole control of the defense of the PI Claim. That control includes the right to take any and all actions necessary to completely and finally resolve the PI Claim by settlement or compromise. Upon acceptance of tender, the State and Purchasing Entity(ies) will cooperate with Contractor with respect to such defense and settlement. If a PI Claim is settled and to the extent permitted by law, the State and the Purchasing Entities will not publicize the settlement.

3. Notwithstanding anything to the contrary contained herein, the State and all Purchasing Entities agree that the Contractor has no obligation for any PI Claim covered by this Section 24 arising out of or resulting from the State's, Purchasing Entities' or any of their respective employees', contractors' or agents' acts of negligence or misconduct.

4. THE FOREGOING SHALL CONSTITUTE THE STATE'S AND EACH AND EVERY PURCHASING ENTITIES' SOLE REMEDY AND CONTRACTOR'S SOLE AND EXCLUSIVE LIABILITY FOR ALL PI CLAIMS.

B. Limitation of Liability.

1. Notwithstanding anything to the contrary to which any or all of the parties may otherwise agree, except for those direct damages resulting from: only those PI Claims as defined and covered by the indemnity set forth in Section 24(A)(1) that are caused by the gross negligence or willful misconduct of Contractor (but not caused by acts of negligence) and subject to the conditions and exceptions in the subsections of Section 24(A), IP Claims as defined and covered by Section 12(A) above (subject to the conditions and exceptions in the subsections of Section 12) and the State's and Purchasing Entities' respective payment obligations hereunder and/or pursuant to any Participating Addenda (as applicable), the parties agree that the Contractor's, its principals' subcontractors', members', agents' and employees (collectively "Contractor Parties") maximum aggregate liability to the State, all Participating Entities and all Purchasing Entities, as well as any and all parties claiming through the State or any Purchasing Entity or Participating Entity for all direct damages resulting from, arising out of or relating to this Agreement and all Participating Addenda, the Products used by the State or any Purchasing Entity or Participating Entity and the Services performed under this Agreement and pursuant to any Participating Addendum however caused and whether arising under contract, warranty, tort (including negligence), strict liability, statute or any other theory of liability shall not exceed five million U.S. dollars ($5,000,000) in the aggregate. The limits set forth in this Section will apply whether or not a party has been advised to the possibility of such damages.

2. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT, WHETHER AS A RESULT OR BREACH OF CONTRACT, TORT, STRICT LIABILITY, STATUTE OR OTHERWISE, SHALL CONTRACTOR OR ANY OF THE CONTRACTOR PARTIES BE LIABLE TO THE STATE, THE

PURCHASING ENTITIES, THE PARTICIPATING ENTITIES (OR ANY PARTY CLAIMING THROUGH THE STATE OR ANY PURCHASING ENTITY OR PARTICIPATING ENTITY) FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, CLAIMS FOR LOST BUSINESS PROFITS OR REVENUE, LOSS OF DATA, INTERRUPTION IN USE, UNAVAILABILITY OF DATA, OR THE COST OF THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES) OR FOR PUNITIVE OR EXEMPLARY DAMAGES HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR ANY OTHER THEORY OF LIABILITY.

3. THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE THE STATES' AND EACH AND EVERY PURCHASING ENTITY'S AND PARTICIPATING ENTITY'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIMS AGAINST CONTRACTOR OR ANY OF THE CONTRACTOR PARTIES UNDER OR RELATED TO THIS AGREEMENT AND ALL PARTICIPATING ADDENDA. THE PARTIES FURTHER AGREE THAT THE LIABILITY CAP SET FORTH IN SUBSECTION 24(B)(1) SHALL NOT BE APPLIED CUMULATIVELY OR ON A PER CLAIM BASIS AND NOTHING SHALL BE CONSTRUED SO AS TO ENLARGE THAT AGGREGATE LIMIT.

4. THE PARTIES AGREE THAT THE FOREGOING SECTIONS REGARDING WARRANTY, INDEMNITY AND LIMITATIONS OF LIABILITY REPRESENT THE BASIS OF THE BARGAIN AND A FAIR ALLOCATION OF RISK BETWEEN THE PARTIES WITHOUT WHICH THEY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

25. Amendments

Contract amendments shall be negotiated by the State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. This Agreement shall be amended only by written instrument executed by the parties. An approved Contract amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

Unless specifically modified in a writing that references this Agreement and that is signed by authorized representatives of the State and Contractor, this Agreement, together with the End User License Agreements accompanying each Apple-branded Product, incorporates all of the agreements of the parties concerning the subject matter of this Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. Severability

If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, by a court of competent jurisdiction then both the State and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of

performance, it shall not be affected by such declaration or finding and shall be fully performed.

28. Enforcement of Agreement/Waivers

A. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written consent of the parties. Forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party. Until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the other party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

B. Waiver of any breach of any provision of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

C. Neither party's failure to exercise any of its rights under this Contract will constitute or be deemed a waiver or forfeiture of those rights.

29. Web Site Maintenance

A. The Contractor agrees to maintain and support an Internet website linked to the State's administration website for access to the PSS, service selection assistance, problem resolution assistance, billing concerns, configuration assistance, Product descriptions, Product specifications and other aids described in the RFP, and/or in accordance with instructions provided by the WSCA/NASPO Contract Administrator. The Contractor agrees that the approved PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.

B. The Contractor agrees to maintain and support Participating State and Entity Internet websites for access to the specific Participating Entity PSS, as well as all other items listed in Item 29A. above. The website shall have the ability to hold quotes for 45 days, as well as the ability to change the quote.

C. The Contractor may provide electronic commerce assistance for the electronic submission of Purchase Orders, purchase order tracking and reports.

D. Apple agrees to maintain the functionalities of the existing WSCA custom store and that Apple shall notify the WSCA/NASPO Contract Administrator of any changes to the existing store. Any such change shall be mutually agreeable.

30. Equal Opportunity Compliance

The Contractor agrees to abide by all applicable laws, regulations, and executive

orders pertaining to equal employment opportunity, including federal laws and the laws of the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

The Contractor certifies that it will remain in compliance with Minn. Stat. § 363.073 during the life of the Contract.

31. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against this Agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's state. Venue for any claim, dispute or action concerning the construction and effect of this Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against a Participating Addendum or shall be in the Purchasing Entity's state.

32. Change in Contractor Representatives

Contractor shall appoint a primary representative to work with the WSCA/NASPO Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the WSCA/NASPO Contract Administrator of changes in any Contractor key personnel, in writing, and in advance if possible. The State reserves the right to require a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the State, adequately serving the needs of the Lead State and the Participating Entities.

33. Release

Subject to the limitations of liability contained in this Agreement, upon the Lead State's and all Participating Entities' respective final payment to Contractor of all amounts due under this Agreement and all Participating Addenda, Contractor releases the Lead State and the applicable Participating Entities who signed such Participating Addenda, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement except those arising under any surviving provisions identified in Section 41 of this Agreement.

Subject to the limitations of liability contained in this Agreement, WSCA, the Lead State and all Participating Entities who signed any Participating Addenda release Contractor and its employees, officers, subcontractors and agents from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement or the Participating Addenda, except those arising under any surviving provisions identified in Section 41 of this Agreement.

Each party agrees not to purport to bind the other party to any obligation, unless such party has express written authority to do so, and then only within the strict

limits of such authority.

34. Data Practices

A. The parties agree that solely to the extent that the Purchasing Entity is a state agency of the State of Minnesota, but not otherwise, the Contractor and the State must comply, in that event, with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (and where applicable, if the state contracting party is part of the judicial branch of the State of Minnesota, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State to the Contractor and all data provided to the State of Minnesota by the Contractor.

B. In the event that the Purchasing Entity is a state agency of the State of Minnesota and the Contractor receives a request from the State of Minnesota to release the data referred to in this article, the Contractor must promptly notify the State. In that event, the State of Minnesota will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data referred to in this article by either the Contractor or the State.

C. Notwithstanding the foregoing, the parties agree that Contractor has no obligation for compliance with the Minnesota Government Data Practices Act or any other applicable law with respect to any data included in the memory or hard drive of any computer equipment or other Products provided by the State for trade-in, destruction or recycling.

35. Organizational Conflicts of Interest

A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are not relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- the Contractor has an unfair competitive advantage.

B. The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the

award of the Contract and did not disclose the conflict to the WSCA/NASPO Contract Administrator, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "WSCA/NASPO Contract Administrator" modified appropriately to preserve the State's rights.

36. Replacement Parts

The Contractor may request that you replace defective parts with new or refurbished user installable parts that it provides in fulfillment of its warranty obligation. A replacement product or part, including a user-installable part that has been installed in accordance with instructions provided by Contractor, assumes the remaining warranty of the original product, or ninety (90) days from the date of replacement or repair, whichever provides longer warranty coverage.

37. FCC Certification

The Contractor agrees that Equipment supplied by the Contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination of this Agreement for cause.

38. Site Preparation

A Purchasing Entity shall prepare and maintain its site in accordance with written instructions furnished by the Contractor prior to the scheduled delivery date of any Products and shall bear the costs associated with the site preparation.

39. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. Such consent shall not be unreasonably withheld, conditioned, or delayed and the State will use its best efforts to provide such consent no more than fifteen (15) days from the date of Contractor's request. The Contractor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of this Contract. Upon any assignment, transfer or disposition of this Agreement to which the State consents, Contractor shall have no further liability or obligation of any kind whatsoever under this Agreement and the State and all Participating Entities shall exclusively rely upon the assignee for any and all obligations of Contractor that were so assigned. Notwithstanding the foregoing, the Contractor may assign the right to invoice, collect and/or receive payments in accordance with specific provisions stated in a Participating Addendum without seeking consent.

40. WSCA/NASPO Contract Administrator

The State shall appoint an WSCA/NASPO Contract Administrator whose duties shall include but not be limited to the following:

A. The WSCA/NASPO Contract Administrator may provide instructions concerning the contents of the Contractor's website.

B. The WSCA/NASPO Contract Administrator will facilitate dispute resolution between the Contractor and Purchasing Entities. Unresolved disputes

shall be presented to the State for resolution.

C. The WSCA/NASPO Contract Administrator shall promote and support the use of this Agreement by NASPO members and other Participating Entities.

D. The WSCA/NASPO Contract Administrator shall advise the State regarding the Contractor's performance under the terms and conditions of this Agreement.

E. The WSCA/NASPO Contract Administrator shall receive and approve quarterly price agreement utilization reports and the administration fee payments.

F. The WSCA/NASPO Contract Administrator shall periodically verify the Product and Service prices in the PSS conform to the Contractor's price and other guarantees. The WSCA/NASPO Contract Administrator may require the Contractor to perform web site audits to accomplish this task.

G. The WSCA/NASPO Contract Administrator shall conduct annual Contractor performance reviews.

H. The WSCA/NASPO Contract Administrator shall maintain an Agreement administration website containing timely and accurate information.

41. Survival

The following respective rights and duties of the State, Purchasing Entities and Contractor will survive the expiration or termination of the resulting Contract. These rights and duties are those set forth under: Paragraph 1 Definitions, Paragraph 6. Payment; Paragraph 11.D, Disclaimer; Paragraph 12. Patent, Copyright, Trademark and Trade Secret Indemnification; Paragraph 20. Records and Audit (solely for a period of six years following termination or expiration); Paragraph 24. Personal Injury/Tangible Property Indemnification, Hold Harmless, and Limitation of Liability; Paragraph 26. Scope of Agreement; Paragraph 31, Governing Law; Paragraph 33. Release; Paragraph 34. Data Practices; Paragraph 41. Survival; Paragraph 49. Ownership; and Paragraph 52. Right to Publish.

42. Succession

This Agreement shall be entered into and be binding upon the successors and assigns of the parties.

43. Notification

A. If one party is required to give notice to the other under the Contract, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices shall be addressed as follows:

To MMD:

Department of Administration
Materials Management Division
Bernadette Kopischke, CPPB
Acquisitions Supervisor
50 Sherburne Avenue
112 State Administration Building
St. Paul, MN 55155
Fax: 651.297.3996
Email: bernie.kopischke@state.mn.us

44. Reporting and Fees

A. Administration Reporting and Fees

1. The Contractor agrees to provide monthly utilization reports to the WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract Administrator by the 15th of the month following the end of the previous month. (Ex. Purchases during January are reported by the 15th of February; purchases made during February are reported by the 15th of March; etc.). The report shall be in the format developed by the Lead State and supplied to the Contractor.

2. The Contractor agrees to provide quarterly Administrative Fee check payable to WSCA/NASPO for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period. The form to be submitted with the check, as well as the mailing address, has been supplied to the Contractor. Payment shall be made in accordance with the following schedule:

Period End	Fee Due
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

3. The Contractor agrees to include all Reseller Agent sales in the monthly utilization reports described above. In addition, the Contractor agrees to provide a supplemental Reseller Agent utilization report of the net sales for the period subtotaled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.

4. The Contractor agrees to provide with the utilization report the environmental information shown in the report format provided; as well as a supplemental report of the number and type of units taken back in a format to be mutually agreed to.

5. The utilization reports shall be submitted to the WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract

Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.

6. If requested by the WSCA/NASPO Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on mutually agreed magnetic media in a mutually agreed format. Such request shall not exceed twelve per year.

7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.

8. The WSCA/NASPO Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in to the Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no affect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.

2. Purchasing Entities will be encouraged to use the reporting format developed by the lead State for their reporting needs. However, the Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery methods of the report. Methods of delivery may include direct access to Internet or other databases.

3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

45. Default and Remedies

A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:

1. A material breach of any term or condition of this Agreement.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any Purchase Order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages, but any liability for such damages shall be subject to the limitations set forth in 24 (b) of this Agreement.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

1. Exercise any remedy provided by law or equity, subject to the limitations set forth in Section24 (B) of this Agreement;

2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;

3. Impose liquidated damages, as specified in a Participating Addendum;

4. In the case of material default by the Contractor that is not cured within ninety (90) days, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations.

5. Charge the defaulting Contractor the full increase in cost and administrative handling to purchase the product or service from another Contractor.

D. The MMD reserves the right, upon approval of the WSCA Directors, to develop and implement a step-by-step process to deal with Contractor failure to perform issues.

46. Audits

A. Website Pricing Audit

The Contractor agrees to assist the WSCA/NASPO Contract Administrator or designee with web site Product and pricing audits based on the requirements described in the Vendor Mandatory meeting presentation. The Contractor performs a price audit once a month or when product refreshes are made, whichever comes first.

1. The product audit will closely monitor the products and services listed on the website to insure they comply with the approved products and services. The addition of products or services not approved by the WSCA/NASPO Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.

B. Sales Audit

The Contractor further agrees to provide sales audit reports based on the formulas described in the Vendor Mandatory meeting presentation. These presentations were held the week of March 30-April 3, 2009.

C. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

47. Extensions

If specifically authorized by provision in a Participating Addendum, Contractor

may, at the sole discretion of Contractor and in compliance with the laws of the Participating State, offer Products and services to non-profit organizations, private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the governmental entity has no liability whatsoever concerning payment for products or services.

48. Sovereign Immunity

The State does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

49. Ownership

A. Nothing in this Agreement shall be construed as transferring any right, title or interest in Contractor's, the State's or, any Purchasing Entity's, or their respective subcontractors' confidential information, pre-existing intellectual property assets, trademarks, copyrights, intellectual property rights or other proprietary interests.

B. The State and each Purchasing Entity acknowledge that Products often contain not only hardware but also software, including but not limited to operating systems and applications. Such software may be included in ROMs or other semiconductor chips embedded in hardware, or it may be contained separately on disks or on other media. Such software is proprietary, is copyrighted, and may also contain valuable trade secrets and be protected by patents. Accordingly, the State and each Purchasing Entity who executes a Participating Addendum under this Agreement, each as an end user, is licensed to use any software contained in such Products, subject to the terms of the license accompanying the Products, if any, and the applicable patent, trademark, copyright, and other intellectual property, federal and state laws of the United States.

C. Unless the State or a Purchasing Entity who executes a Participating Addendum under this Agreement has obtained Apple's prior written consent, the State and each Purchasing Entity, in addition to any obligations or restrictions set forth in any license which may accompany a Product, shall not copy the software, except to back up or for archival purposes, and the State and each Purchasing Entity shall promptly affix to any such copy the same proprietary and copyrights notices as were affixed to the original. Purchaser shall not disassemble, decompile, reverse engineer, copy, modify, create derivative works thereof, or otherwise change any of the software or its form.

D. The State and each Purchasing Entity who executes a Participating Addendum under this Agreement acknowledge and agree that all Apple Products consisting of software are subject to and governed by the terms of the applicable Apple end user license agreement to which the State and each Purchasing Entity must comply.

50. Prohibition Against Gratuities

A. The State may, by written notice to the Contractor, terminate the right of

the Contractor to proceed under this Contract if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Contract, or securing favorable treatment with respect to the award or amendment of this Contract, or the making of any determinations with respect to the performance of this Contract.

B. The Contractor certifies that no elected or appointed official or employee of the State has benefited or will benefit financially or materially from this Contract. This Contract may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

51. Antitrust

Solely to the extent required by Minnesota state law, the Contractor shall assign to the State those claims for overcharges as to goods and/or services provided under this Agreement that result from antitrust violations committed by Contractor which arise during the term hereof under antitrust laws of the United States and the antitrust laws of the State.

52. Right to Publish

A. Any publicity given to the program, publications or services provided resulting from the Contract, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the WSCA/NASPO Contract Administrator.

B. The Contractor shall not make any representations of the State's opinion or position as to the quality or effectiveness of the Products and/or Services that are the subject of this Contract without the prior written consent of the WSCA/NASPO Contract Administrator, which shall not be unreasonably withheld or delayed.

C. "Representations" as set forth in 52 B above, includes any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices. However, Contractor may include references to the State, WSCA and the Purchasing Entities among the Contractor's list of customers.

53. Performance While Dispute is Pending

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Contract that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Contract, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure

to proceed shall be borne by the responsible party.

54. Hazardous Substances

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity, upon request, with Material Safety Data Sheets regarding those substances (including mercury).

55. Customer Satisfaction/Complaint Resolution

A. The Contractor's process for resolving complaints concerning products, support, and billing problems is attached as **Exhibit B.**

B. The Contractor will survey its customers in each Participating State approximately two (2) months prior to the annual meeting with the Contract Administrator using, at a minimum, the survey questions provided by the State.

56. Value Added Services

The Contractor is expected to provide such services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**.

57. E-Rate Program

The Contractor's E-Rate identification number is 143004358. The complete list of Apple E-Rate products is available on the USAC Schools and Libraries website. Not all products listed on the USAC website are available under this Agreement.

The Contractor shall make every effort to continue its involvement in this program and to add products as applicable.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by the State of Minnesota Commissioner of Administration, below.

1. APPLE INC.

The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions,

By:

Title: DIRECTOR, WORLDWIDE BIDS & CONTRACTS MGMT.

Date: 8/17/09

By:

Title:

Date:

2. MATERIALS MANAGEMENT DIVISION

In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke

Title: Acquisitions Supervisor

Date: 8/18/09

3. COMMISSIONER OF ADMINISTRATION

Or delegated representative.

By: Brenda Mellard

Date: 8/18/09

EXHIBIT A – ADDITIONAL WARRANTIES

This Exhibit A is incorporated into the attached Master Price Agreement and made a part thereof. Capitalized terms used and not defined herein are as defined in the Agreement.

Notwithstanding anything in the Agreement to the contrary, the following are the sole and exclusive warranty obligations of Contractor under the Agreement:

AppleCare Protection Plan for Apple Products- which shall reside at the following urls:
http://www.apple.com/support/products/proplan.html
http://images.apple.com/legal/applecare/docs/AppleCare_Protect_Plan_NA_en.pdf

Apple One (1) Year Limited Warranty – Worldwide Warranty Coverage for Apple Products– which shall reside at the following url:
http://images.apple.com/legal/warranty/docs/cpuwarranty.pdf

Third Party Product Warranty terms and process

All Products, other than Apple-branded Products (referred to as "Third Party Products"), are sold under the Agreement and all Participating Addenda "as is" and without warranty or support from the Contractor. Third Party Products may be accompanied by a manufacturer's warranty, as more particularly provided in any warranty documentation that accompanies such Third Party Products. To the extent an applicable manufacturer's warranty provides for standard limited warranty support by that manufacturer for the Third Party Products then Apple will provide the following during the initial term of this Agreement:

a) an initial response to standard manufacturer warranty service calls for such Third Party Products at 1-800-MY-APPLE, that includes the following:

i) where available, a telephone number to WSCA/NASPO members provided by the applicable Third Party Product manufacturers for general warranty assistance so that the WSCA/NASPO member may contact the applicable Third Party Product manufacturer directly, and
ii) if requested by the WSCA/NASPO member, dial that telephone number for general warranty assistance and transfer the WSCA/NASPO member to the applicable Third Party Product manufacturer or their service provider.

In addition, subject to the foregoing, when a WSCA/NASPO customer directly contacts their Apple Account Executive, the Apple Account Executive will also follow the above steps (i) and (ii).

In the event the Third Party Product manufacturer fails to honor its standard product warranty, Apple's sole responsibility will be to use its commercially reasonable efforts to provide only those services as defined in the Third Party Product manufacturer's warranty instrument for the Third Party Product at issue, at Apple's discretion, during the life of the manufacturer's original warranty and subject to all terms, conditions and exclusions in that instrument.

Apple is not responsible for information supplied or not provided by the manufacturers of Third Party Products. The foregoing obligations on Apple's part shall automatically terminate upon the earlier of: (1) the expiration or termination of this Agreement or the applicable Participating Addendum; or (2) the expiration or termination of the manufacturer's warranty for the particular Third Party Product.

EXHIBIT B – COMPLAINT RESOLUTION

EXHIBIT B • COMPLAINT RESOLUTION FOR APPLE-BRANDED PRODUCT ONLY

A. Service/Billing

For customer service or billing inquiries, customers may:

1. Contact an Apple representative at 1-(800) 800·2775. Hours of operation are Monday - Friday, 7:30am 6pm CST, or

2. Notify the Contractor via e-mail at an address to be agreed to between the State and the Contractor, or

3. Notify the Contractor via a web site address to be agreed to between the State and the Contractor.

B. Equipment

1. Defective Items
In the event a product defect is found, customers will call Apple Technical Support at 1-800-500-7078. Such a defect, if any, is covered under the terms of the product's warranty and the Contractor is responsible for working with the manufacturer on behalf of the Purchasing Entity to resolve the problem.

2. Products That Are Inoperable When Delivered
For any product that is wholly inoperable when delivered, customers will call Apple Tech Support at 1-800-500-7078 within thirty days of the invoice date. Apple Tech Support will determine if it is appropriate to offer the following options:

• Replacement: The same product that was ordered will be shipped at Apple's expense. A Sales Support Representative will contact the customer within 24 hours with the replacement product delivery time, and the process to return the inoperable product.

• Service: The product may be repaired; however, once serviced the product is no longer eligible for replacement. Product must be deemed inoperable upon receipt by Apple Tech Support within thirty days of the invoice date in order to receive a replacement unit.

3. Products Lost Or Damaged In Transit
For products shipped pursuant to Apple's standard practices in all but the last week of every Apple fiscal quarter, Apple will issue credits or replace products returned due to damage in transit or that are lost in transit.

When not shipping products pursuant to Apple's standard practices but instead shipping via a carrier selected by Purchaser, Apple will not issue credits or provide replacement products for products returned due to damage in transit or that is lost in transit.

4. Claims & Payment Process
For all product damaged or lost in transit in any week of the quarter, Purchaser must notify an Apple Sales Support Operations ("SSO") representative at 1-800-800-2775 within ten (10) business days from receipt of receiving damaged products, a short shipment, or not receiving

an expected order.

For product shipped during weeks 1 through 12 of Apple's fiscal quarters, Apple will either issue a credit or replace product damaged or lost in transit and place claims and/or tracers on behalf of the Purchaser. Apple will issue a credit or ship replacement product to the Purchaser upon receipt of the damaged product or confirmation of the lost product.

For product shipped during week 13 during Apple's fiscal quarters, Apple will prepare and file a claim with the third party insurance carrier with the Purchaser listed as the loss payee. Once the insurance requirements are satisfied, the Purchaser will receive a check from the insurance carrier for the purchase price of the product rather than receiving replacement product or credit from Apple. Or, instead of receiving the check from the insurance carrier, the Purchaser can elect to assign insurance proceeds resulting from lost or damaged product to Apple and Apple will credit the Purchaser's account for the amount of the insurance proceeds. The Customer will need to place a new order for replacement product. Apple believes the insurance policy claim limits will be adequate to cover any losses incurred by Purchaser. However, Apple will not be liable in the event the entire claim is not covered for any reason, including exceeding the claim limits. Title and risk of loss to returned product will pass to the insurance company upon shipment to Apple by Purchaser.

C. Escalation Process

Apple provides resources for customer escalations and resolution through various groups as listed below. Procedures for addressing and resolving customer problems and complaints vary depending on the nature of the issue. Apple's support metrics include same day or next day resolution for most issues.

1. Education Support 1-800-800-APPL (1-800-800-2775)

Provides sales, service and technical support for Apple education customers. Representatives are available to assist customers Monday through Friday from 7am to 8pm CST and 8am to 8pm CST on Saturday and Sunday. Customers may select from the following options when you call. Please be prepared to provide your product serial number or agreement number.

- Option 1 - If You Know your Party's Extension
- Option 2 - Pricing and Product Information I Proposals and Quotations
- Option 3 - Technical Support
- Option 4 - Questions about an Existing Order
- Option 5 - Seminar Registration

2. Consumer/Business Support 1-800-APL-CARE (1-800-275-2273)

Provides complimentary telephone support when your product is within its 90-day complimentary support period or covered by an AppleCare Protection Plan. Otherwise, per incident support may be purchased. Representatives are available to assist you 7 days a week from 8am to 8pm CST. You may select from the following options when you call. Please be prepared to provide your product serial number or agreement number.

- Option 1 - Technical Support
- Option 2 - Automated Repair Status
- Option 3. AppleCare Protection Plan Sales and Administration
- Option 4 - Find an Authorized Reseller or Service Provider

3. Service Provider Support 1-877-576-2775

Provides custom support for Apple Authorized Service Providers and Self-Servicing Customers with a valid service account number. Representatives are available to assist you Monday through Friday from 8am to 7pm CST. You may select from the following options when you call.

Please be prepared to provide your service account number.
- Option 1 - Service Provider Administrative Support
- Option 2 - Technical Service Provider Support
- Option 3 - Dispatch Repairs or FIP Orders
- Option 4 - GSX Support

4. Apple Customer Relations (800) 767-2775
The team addresses moderately complex issues escalated by other support groups within Apple.

5. Corporate Executive Relations (ER) (800) 767-2775
The essential link between Apple customers and Apple's executive team, Public Relations, Investor Relations, Apple Legal, and the Senior Director of Customer Care in solving complex, sensitive issues.

EXHIBIT C – VALUE ADDED SERVICES

Apple will provide no Value Added Services.

LEASING Individual Participating Entities may enter in to lease agreements for the products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without conducting or undergoing a competitive process. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. A sample agreement can be found at Apple's WSCA-approved website.