STATE OF IOWA
MASTER AGREEMENT

EFFECTIVE BEGIN DATE: 01-01-2005
EXPIRATION DATE: 08-31-2009

BUYER : ASHLEY SUPER
ashley.super@iowa.gov
515-281-7073

FOB

PAYMENT TERMS (%): **DAYS:**

VENDOR:

Dell Marketing Lp
PO Box 802816

Chicago, IL 60680-2816
USA

VENDOR CONTACT:

Jeanne Tajchman
PHONE: 402-896-8266 **EXT:**
EMAIL: jeanne_tajchman@dell.com
VENDOR #: 74261680503

DESCRIPTION OF ITEMS CONTRACTED

COMPUTERS, ACCESSORIES AND SUPPLIES Replaces CT92-00151
Dell E-Store:

http://www1.us.dell.com/content/default.aspx?c=us&cs=RC983951&l=en&s=slg

Reference:
http://www.mmd.admin.state.mn.us/wsca/2004-2009%20contracts.htm

Steve M. Wong, Account Executive
Office: 636-273-1628
Steve_M_Wong@Dell.com

Justin A. Hansen, Inside Sales Rep
Phone: 800-999-3355, Ext. 726-8394
FAX: 512 283-8421
JUSTIN_A_HANSEN@DELL.COM
Please note the ôA.ö is very important since there are two Justin Hansens at Dell.

RENEWAL PERIODS
FROM 09-01-2009 **TO** 08-31-2010
FROM 09-02-2010 **TO** 09-01-2011

THRESHOLDS
MINIMUM ORDER AMOUNT:
MAXIMUM ORDER AMOUNT:
NOT TO EXCEED AMOUNT:

AUTHORIZED DEPARTMENT
ALL
SUB Political Sub-divisions

TOTAL **$0.00**

VENDOR: _____

APPROVED BY: _____

THIS MA IS SUBJECT TO THE TERMS AND CONDITIONS ATTACHED HERETO. PLEASE SEE ATTACHMENTS FOR FURTHER DESCRIPTIONS.

STATE OF IOWA
MASTER AGREEMENT

LINE NO.	QUANTITY / SERVICE DATES	UNIT	COMMODITY / DESCRIPTION	UNIT COST / PRICE OF SERVICE
1	0.00000		204	$0.000000
				$0.000000
			COMPUTER HARDWARE AND PERIPHERALS FOR MICROCOMPUTERS Dept 0747 PO Box 120001 Dallas Tx 75312-0999 Fax Purchase Orders to 800-433-9527.	
2	0.00000		206	$0.000000
				$0.000000
			COMPUTER HARDWARE AND PERIPHERALS FOR MINI AND MAIN FRAME CO Dept 0747 PO Box 120001 Dallas Tx 75312-0999 Fax Purchase Orders to 800-433-9527.	
3	0.00000		207	$0.000000
				$0.000000
			COMPUTER ACCESSORIES AND SUPPLIES Dept 0747 PO Box 120001 Dallas Tx 75312-0999 Fax Purchase Orders to 800-433-9527.	
4	0.00000		91828	$0.000000
				$0.000000
			Computer Hardware Consulting Dept 0747 PO Box 120001 Dallas Tx 75312-0999 Fax Purchase Orders to 800-433-9527.	

TERMS AND CONDITIONS

Incorporation
The Request for Proposal and/or bid documents for this project and the vendor's proposal in response to the RFP or Bid together with any clarifications, attachments, appendices, or amendments of the State or the Vendor are incorporated into this Contract by reference as if fully set forth in this Contract.

Remedies upon Default
In any case where the vendor has failed to deliver or has delivered non-conforming goods and/or services, the State shall provide a cure notice. The notice to cure shall state the maximum length of time the vendor has to cure. If after the time period stated in the notice to cure has passed, the vendor continues to be in default, the State may procure goods and/or services in substitution from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The State's Attorney General shall be requested to make collection from the defaulting vendor.

Force Majeure
Force majeure includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party affected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. These provisions of force majeure also apply to subcontractors or suppliers of the Vendor. Force majeure does not include financial difficulties of the Vendor or any associated company of the Vendor, or claims or court orders that restrict the Vendor's ability to deliver the goods or services contemplated by this Agreement. Neither the Vendor nor the State shall be liable to the other for any delay or failure of performance of this Agreement caused by a force majeure, and not as a result of the fault or negligence of a party.

Subcontractors
The successful vendor shall be responsible for all acts and performance of any subcontractor or secondary supplier that the successful vendor may engage for the completion of any contract with the State. A delay that results from a subcontractor's conduct, negligence or failure to perform shall not exempt the vendor from default remedies. The successful vendor shall be responsible for payment to all subcontractors and all other third parties.

Termination-Non-Appropriation
Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State to appropriate funds, discontinuance or material alteration of the program for which funds were provided, then the State shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration.

Immunity of State/Fed Agencies
The vendor shall defend and hold harmless the State and Federal funding source for the State of Iowa from liability arising from the vendor's performance of this contract and the vendor's activities with subcontracted and all other third parties.

Assignment
Vendors may not assign contracts or purchase orders to any party (including financial institutions) without written permission of the General Services Enterprise - Purchasing.

Anti-Trust Assignment
For good cause and as consideration for executing this purchase order, the vendor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa, relating to the particular goods or services purchased or acquired by the State of Iowa pursuant to the using State of Iowa agency.

Delivery and Acceptance
When an award has been made to a vendor and the purchase order issued, deliveries are to be made in the following manner.
A. Deliveries - All deliveries are to be made only to the point specified on the purchase order. If delivery is made to any other point, it shall be the responsibility of the vendor to promptly reship to the correct location. Failure to deliver procured goods on time may result in cancellation of an order or termination of a contract at the option of the State.
B. Delivery Charges - All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.
C. Notice of Rejection - The nature of any rejections of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the General Services Enterprise - Purchasing. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the State of Iowa at any time after acceptance.

Delivery and Acceptance (cont)
D. Disposition of Rejected item - The vendor must remove at the vendor's expense any item rejected by the State. If the vendor fails to remove that rejected item, the State may dispose of the item by offering the same for sale, deduct any accrued expense and remit the balance to the vendor.
E. Testing After Delivery - Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

Title to Goods
The vendor warrants that the goods purchased hereunder are free from all liens, claims or encumbrances.

Indemnification
To the extent that goods are not manufactured in accordance with the State's design, the vendor shall defend, indemnify and hold harmless the State of Iowa, the State's assignees, and other users of the goods from and against any claim of infringement of any Letter Patent, Trade Names, Trademark, Copyright or Trade Secrets by reason of sale or use of any articles purchased hereunder. The State shall promptly notify the vendor of any such claim.

Nondiscrimination
The vendor is subject to and must comply with all federal and state requirements concerning fair employment and will not discriminate between or among them by reason of race, color, religion, sex, national origin or physical handicap.

Warranty
The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

Taxes

The State of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity and/or service. Contractors performing construction activities are required to pay state sales tax on the cost of materials. The Iowa Department of Revenue exemption letter will be furnished to a vendor upon request.

Hazardous Material

All packaging, transportation, and handling of hazardous materials shall be in accordance with applicable federal and state regulations including, but not limited to, the Material Safety Data Sheet provision of O.S.H.A. Hazard Communication Standard 29CFR 1910.1200, and Iowa Administrative Code, Chapter 567.

Public Records

The laws of the State of Iowa require procurement records to be made public unless exempted by the Code of Iowa.

Miscellaneous

The terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this contract shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. If however, jurisdiction is not proper in Polk County District Court, the action shall only be brought in the United States District Court for the Southern District or Iowa, Central Division, providing that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability, which may be available to the State of Iowa.

If any provision of this contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

Records Retention

The vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State of Iowa throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The vendor shall at, no charge, permit the Auditor of the State of Iowa, or any authorized representative of the State (or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government) to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the vendor relating to orders, invoices, or payments documentation or materials pertaining to this Agreement.

Independent Contractor

The vendor is an independent contractor performing services for the State of Iowa, and as such shall not hold itself out as an employee or agent of the State.

Performance Monitoring

For all service contracts, the requirements of Iowa Code sections 8.47 shall be incorporated into final terms and conditions of the contract.

N30

NET 30 DAYS

WSCA/NASPO Contract Administration
112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155
Fax: 651.297.3996, TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

WSCA-NASPO COMPUTER CONTRACTS

BULLETIN NO. 26

MASTER AGREEMENTS EXTENDED

The following Master Price Agreements have been extended through August 30, 2009:

A63307	Dell Marketing L.P.
A63308	Gateway Companies
A63309	Hewlett Packard Company
A63310	Howard Technology Solutions
A63311	IBM Corporation
A63312	MPC-G, LLC
A63313	Konica Minolta Printing Solutions
A63316	Xiotech Coporation
A74402	Okidata Americas
A74813	Lenovo (United States) Inc.

The 'Master Price Agreement with all Amendments' link on the website has been updated.

The Amendment for A85627 with Sun Microsystems was received today and is being signed and the website will be updated this week.

Other bulletins will be sent as the remaining Master Price Agreements are signed and the links updated.

If you have any questions, please e-mail them to one of us:

Bernadette Kopischke - Contract Administrator
E-Mail: bernie.kopischke@state.mn.us

Paul Stembler - Procurement Manager
E-Mail: paul.stembler@state.mn.us

WESTERN STATES CONTRACTING ALLIANCE

MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES

DELL MARKETING L.P.

Number A63307

This Agreement is made and entered into by Dell Marketing L.P., One Dell Way, Round Rock, TX 78682, ("Contractor") and the 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 Participating States and Participating 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. The Contractor may use subcontractors to provide the warranty and/or maintenance services; however the Contractor will be responsible for working with the equipment manufacturer on behalf of the Purchasing Entity and for the timeliness and quality of all services provided. No type of Lease transactions are allowed through this Agreement.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations 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. 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, with the prior approval of the WSCA Directors.

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.
   "Contract" means an agreement for the procurement of items of tangible personal property or services.
   "Contract Administrator" means an individual appointed by the State to administer this Agreement on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

"Contractor" shall mean 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.
"Consumables" that are required for the operation of Equipment offered or supplied are included -- printer cartridges, batteries, projector bulbs, etc. *Consumables such as magnetic media, paper and generally available office supplies are excluded.*
"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 their Master Price 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 offered in a nationally announced promotion, which is limited to educational customers only, as defined by the Contractor.
"Energy Star®" is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes identification of energy efficient computers easy by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. Energy Star qualified computers and monitors automatically power down to 15 watts or less when not in use and may actually last longer than conventional products because they spend a large portion of time in a low-power sleep mode. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at http://www.energystar.gov.
"Equipment" means workstations, desktop, laptop (includes Tablet PC's), and handheld (PDA) devices, servers, computing hardware, including upgrade components such as memory, storage drives, and spare parts.
"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 reduction in the Dell Retail Price offered to consumer, business or governmental purchaser. General price reduction prices will be reflected in the PSS as soon as practical.
"ISO 14001" is the conformance standard within the family of ISO 14000 documents developed by the International Organization for Standardization (ISO) in Geneva, Switzerland. Similar in structure to the ISO 9000 quality management system standard, ISO 14001 outlines key requirements companies should comply with in order to operate in an environmentally responsible manner. Utilizing ISO 14001, companies can merge environmental programs into one coherent system to efficiently manage all environmental activities. In short, ISO 14001 provides organizations with a way to demonstrate to their customers that their environmental processes and impact are effectively managed, continually improving, and part of the corporate management system. For more information, please refer to www.iso.org .
"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this solicitation, the Lead State is Minnesota.
"Mandatory" The terms "must" and "shall" identify a mandatory item or factor.

"Manufacturer" means the company that designs, assembles, and 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. The Contractor shall provide warranty service and maintenance for equipment covered by this 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 Contractor's products and/or services by Purchasing Entities. The "master price agreement" is a permissive price agreement. In order for a Purchasing 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" 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. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the master price agreement. Additional terms and conditions may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One physically or digitally signed copy of each Participating Addendum shall be filed by the Contractor with the Contract Administrator within five (5) days after execution.
"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, or who subsequently signs a Participating Addendum 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 through the execution of a participating addendum.
"PDA" means a Personal Digital Assistant. 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 are later entered into a larger computer. **NOTE: For this Agreement, all Tablet PC's are NOT considered PDA's.**
"Peripherals" include but are not limited to storage, printers (including multifunction network print/fax/scanner devises), scanners (used in conjunction with computing equipment), monitors, keyboards, uninterruptible power supplies and accessories. Adaptive/Assistive technology devices are included as well as configurations for education. A third party may manufacture Peripherals. The Contractor shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.
"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" 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 Software, and Network Storage devices, but not unrelated services.

"Products and Services Schedule Prices" mean the maximum prices offered to Participating Entities exclusive of Announced Promotional Prices, Education Discount Prices, General Price Reductions, or Large Order Negotiated Prices. All such products and services shall be listed on the Contractor's web site accessible via a URL.

"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 Agreement 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.

"Services" are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Price Agreement. These types of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/help desk, and any other directly related technical support service required for the effective operation of a product offered or supplied. *General consulting and all forms of application development and programming services are excluded.*

"Servicing Subcontractor" or **"Reseller Agent"** or **"Subcontractor"** 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 in a Participating Agreement. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor's providing warranty service and maintenance for equipment on a Master Price Agreement as well as the Take back Program**.

"Standard Configurations" mean deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement only. 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); Storage Area Networks (SAN); Content Addressed Storage (CAS); and/or Clustered Network Storage (CNS).

"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.

2. **Scope of Work**
The Contractor, or its approved subcontractor, shall accept purchase orders from and deliver computing system Products and services to Purchasing Entities in accordance with the terms of this Agreement. This Agreement is a "Master Price Agreement". Accordingly, the Contractor shall provide Products or Services only upon the issuance and acceptance by the Contractor of valid "Purchase Orders". Purchase Orders may be issued to purchase the license for software or to purchase products listed on the Contractor's PSS. A Purchasing Entity may purchase any quantity of Product or Service listed in the Contractor's PSS at the prices in accordance the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State procurement official. The Contractor is required to provide warranty and maintenance services on equipment that is purchased. The Contractor shall offer a Takeback Program for all products covered by this Agreement.

3. **Title Passage**
The Contractor must pass unencumbered title to any and all products purchased under this Agreement upon receipt of the product by the Purchasing Entity. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensor, or to unmodified commercial software that is available to the State on the open market. Ownership rights to such materials 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; no additional terms or conditions conflicting with this Agreement or the Participating Addendum will be added to this Agreement as the result of acceptance of a Purchase Order. The Contractor agrees to accept all valid Purchase Orders. In the event of any conflict among these documents, the following order of precedence shall apply:
A. Executed Participating Addendum(s);
B. Terms and conditions of this Agreement;
C. Exhibits and amendments to this Agreement;
D. The list of products and services contained in the purchase order;
E. The request for proposals document P-1331 and Addenda thereto; and
F. Contractor's proposal including any written clarifications and/or best and final offer.

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. Unless otherwise agreed upon between the Purchasing Entity and the Contractor, the Purchasing Entity shall within fifteen (15) calendar days from the date of the Contractor's invoice, issue a written notice of partial acceptance or rejection of the Products or Services; otherwise, the Product or Services shall be deemed accepted.

B. Payment of Invoice
1. 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. Payments shall be made in accordance with the applicable laws of the Purchasing Entity.

2. For Minnesota, per Minn. Stat. § 16A.124, payment shall be made to the Contractor within thirty (30) days following receipt of an undisputed invoice, merchandise or service whichever is later. After the thirtieth day, interest may be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent per month. The Purchasing Entity shall make a good-faith effort to pay within thirty (30) days on all undisputed invoices. Payments may be made via a Purchasing Entity's "Purchasing Card".

3. 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. Contractor shall provide a commercial invoice. The Contractor shall also provide a packing slip/list for each system to identify the components included within the configuration. Invoices shall match the total amount on the Purchase Order. However, line item detail shall be available upon request.

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 or on September 1, 2004, whichever is later, through August 31, 2007 (3 years). The Agreement may be mutually renewed for two (2) additional one-year terms unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the State may terminate this agreement, in whole or in part, by giving the Contractor (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 product is ultimately accepted. At any time, the Contractor may terminate this Agreement, in whole or in part, by giving the Contract Administrator sixty (60) days written notice. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. In the event of a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed and accepted.

B. Termination for Cause

Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, 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.

C. **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 in transit or delivered prior to the effective termination date.

D. **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. Responsibility and liability for loss or damage shall remain with the Contractor, as long as the Contractor designates the carrier, until delivery to the identified ship to address when responsibility and liability for loss shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.

B. Whenever a Purchasing Entity does not accept Products due to missing, damaged, defective, incorrect order and returns them to the Contractor, all related documentation furnished by the Contractor shall be returned also. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the return shipping cost of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products due to missing, damaged, defective and incorrect order.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, all shipments of Products should be shipped within three-to-five days by a reliable and insured shipping company.

11. Warranties

A. The Contractor agrees to warrant and assume responsibility for each Product that it licenses or sells to the Purchasing Entity under this Agreement in accordance with the Contractor's standard warranties. The Contractor acknowledges that the Uniform Commercial Code applies to this Agreement. In general, the Contractor warrants that:

1. The Product will conform with the technical information published in the Contractor's product manuals or data sheets.
2. The Product will be suitable for the ordinary purposes for which such Product is intended,
3. The Product will meet any mandatory specifications provided to the Contractor and agreed to in writing by the Contractor prior to reliance by the Participating Entity on the Contractor's skill or judgment when the Contractor advised the Purchasing Entity about the Product's ability to meet those mandatory specifications.
4. The Product has been properly designed and manufactured for its intended use, and
5. The Product is free of significant defects in material and workmanship, or unusual problems about which the Purchasing Entity has not been warned.

6. Exhibit A contains additional warranties in effect as of the date of this Agreement. Warranties may be deemed voice in certain situations, including but not limited to the follows: (I) will not apply to use of a Product other than as anticipated and intended by the Contractor, (ii) 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 (iii) to 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) Limited Warranties and Return Policy

B. Contractor may modify the warranties described in Exhibit A from time to time with 30 days prior written approval of the Contract Administrator.

C. Warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products, as provided by the Manufacturer.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

A. The Contractor shall defend, at its own expense, the State of Minnesota, Participating States, Participating Entities, Purchasing Entities against any claim that any Dell Branded Product or Service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a Purchasing Entity based upon the Contractor's trade secret infringement relating to any Dell Branded Products or Services provided under this Agreement, the Contractor agrees to reimburse the Purchasing Entity for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Lead State or Participating or Purchasing Entity shall:
   1. Give the Contractor prompt written notice of any claim;
   2. Allow the Contractor to control the defense or settlement of the claim; and
   3. Cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any Products or Service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:
   1. Provide a Purchasing Entity the right to continue using the Products or Services;
   2. Replace or modify the Products or Services so that it becomes non-infringing; or
   3. Accept the return of the Products or Service and refund an amount equal to the depreciated value of the returned Products or Service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any Products or Services modified by the Purchasing Entity to the extent such modification is the cause of the claim.

C. Non-Dell Branded offerings: With respect to any claim that Non Dell-Branded product(s) infringes upon another person's or entity's patent, copyright, trade secret or other intellectual property rights in the United States, Dell agrees to pass through to the appropriate Purchasing Entity any rights to indemnification protection for which Dell currently or subsequently has an agreement in place with the potentially infringing equipment manufacturer/entity.

D. The Contractor has no obligation for any claim of infringement arising from:
   1. The Contractor's compliance with the Purchasing Entity's or by a third party on the Purchasing Entity's behalf designs, specifications, or instructions;
   2. The Contractor's use of technical information or technology provided by the Purchasing Entity;
   3. Product modifications by the Purchasing Entity or a third party;
   4. Product use prohibited by Specifications or related application notes; or
   5. Product use with products that are not the Contractor branded.

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, Per Transaction Multiple Unit Discount Price, or Standard Configuration Price . Only the 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 Cumulative, Per Transaction Multiple Unit, and Standard Configurations Discounts shall be submitted to the Contract Administrator 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.

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 guaranteed price discount levels on file with the Contract Administrator for the following Products:
Band 1: File/Print Servers, Mid-Range Servers
Band 2: Desktops, Laptops, Tablet PCs,
Band 3: Printers, High speed; Medium speed; Desktop; Laptop
Band 4: Storage Solutions
Band 5: PDA's
LAN equipment and related software.
General Purpose Software

B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the 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 these requirements 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 price discount levels approved by the 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.

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 Agreements. Substitution of different units and configurations will be permitted with the prior written approval of the Contract Administrator. This substitution is at the sole discretion of the Contract Administrator, subject only to review and approval of the 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 to the PSS may be permitted, with the prior approval of the Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the 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 hardware and software installation or operation of Contractor-supplied Products during the product warranty period or during a support agreement.

17. Take back/Environment/Energy Efficiency Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in their response to the RFP, including but not limited to:

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

B. Environment: Compliance with the European Unions' Directives, or other international directives; reduction/minimization/avoidance of the use of toxic and hazardous constituents; certification by independent third party eco-labeling programs (TCO, Blue Angel, and Nordic Swan); ISO 14001 certification; and the use of recyclable, nontoxic packaging.

C. Energy Efficiency: Products meet the Energy Star or other recognized programs for energy efficiency.

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

The Contractor will notify the Contract Administrator, in writing, of any additions/changes/deletions to the above programs.

18. Product Delivery

Contractor agrees to deliver Products to Purchasing Entities within and estimated 14 - 30 days after receipt of a valid Purchase Order, or in accordance with a schedule agreed to between the Purchasing Entity and the Contractor.

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, strike, riot, industry-wide constraints, or other catastrophes 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 reasonable 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 Minnesota transactions must be made available and subject to examination by the contracting agency or its agents, the Legislative Auditor 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.

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 with other third parties 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

In the event the Contractor hires subcontractors to perform all or some of the duties of this Agreement, the Contractor understands that Minn. Stat. § 16A.1245 requires that any such subcontractor be paid within ten (10) days of the Contractor's receipt of payment from the State for undisputed services provided by the subcontractor. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Agreement. 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 any amounts due from the Contractor for work performed under this Agreement and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor. 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 Agreement, consistent with the intellectual property rights and ownership sections of this Agreement. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Agreement, 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

A. The Contractor shall hold the Lead State, Participating Entities and its agencies and employees harmless and shall indemnify the Lead State, Participating Entities and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to real property or tangible personal property arising from the negligent or willful acts or omissions of the contractor, its agents, officers, employees or subcontractors. This indemnification shall in no event exceed an amount of twice the fees paid to Contractor under the specific order giving rise to the claim, suite, action, or liability.

B. Contractor shall not be liable for damages that are the result of negligence by the Lead State, Participating Entity, or its employees. To the maximum extent permitted by applicable state law, Purchasing Entities agree to be responsible for their own acts, errors, or omissions pertaining to this indemnification provision.

C. Additional representations

For acquisition of Services, the following additional terms shall apply. To the extent permitted by law, a Participating Entity accepts responsibility for and represents and warrants that: (a) the Participating Entity has obtained the appropriate license, intellectual property rights, or any other permissions required to support any Service Description, SOW, or Technical Specification Form signed by the Parties, or Contractor's performance of the Services, including the right to make any copies or Reproductions of any Participating Entity-provided software, (b) the Participating Entity's representations regarding the existence of an export license or the eligibility for export of software without a license are accurate, or (c) that Contractor shall not be held liable for the effect (if any) on the Participating Entity's third-party product warranties caused by having Contractor perform services on such third-party Products.

25. Amendments

Agreement 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 Agreement amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

This Agreement 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 Agreement, 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 Agreement is legally valid, 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 Agreement 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 forbearing/indulging 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 Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement 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 Agreement 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 in accordance with reasonable instructions provided by the 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 requirements 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 website for access to the specific Participating Entity PSS, as well as all other items listed in Item 29.A. listed 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 reporting.

30. Equal Opportunity Compliance

The Contractor agrees to abide by federal laws and the laws, regulations, and executive orders of the state in which it's primary place of business is located pertaining to equal employment opportunity. 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 Agreement.

31. Limitation of Liability

The Contractor's liability to a Purchasing Entity for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the Purchasing Entity's claim. The foregoing limitation does not apply to Paragraphs 12 and 24 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence. In no event shall the Contractor be liable for any indirect, special, punitive, or consequential damages arising out of this Agreement or the use of the Products or Services purchased by the Purchasing Entity hereunder.

32. 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 the Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against this Agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's state.

33. Change in Contractor Representatives

Contractor shall appoint a primary representative to work with the Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the 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.

34. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the Lead State and Participating Entities, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement, except as expressly provided in Paragraph 41, Survival, below. The Contractor agrees not to purport to bind the Lead State or any Participating Entity to any obligation, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

35. Data Practices

A. With respect to the agreement, the Contractor agrees to comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State to the Contractor and all data provided to the State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with this Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13.

B. The Contractor agrees to indemnify, save, and hold the State, its agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Agreement, the Contractor shall retain responsibility under the terms of this paragraph for such work.

C. The Contractor agrees to be bound by the data practices requirements as outlined in the Participating Addendum of a Participating State or Participating Entity.

36. Organizational Conflicts of Interest

A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no 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 Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Agreement and did not disclose the conflict to the Contract Administrator, the State may terminate the Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Agreement," "Contractor," and "Contract Administrator" modified appropriately to preserve the State's rights.

37. Replacement Parts

Unless otherwise restricted in a Participating Addendum or maintenance service agreement, replacement parts may be refurbished.

38. 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.

39. 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 Services and shall bear the costs associated with the site preparation.

40. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Agreement or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. This Agreement is a manufactured-direct solicitation and Agreement. Assignment to an entity that is not a manufacturer, as defined in this Agreement, is **NOT** within the Scope of this Agreement. Such consent shall not be unreasonably withheld. 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 Agreement. Failure to do so may result in the Contractor being held in default. This consent requirement includes reassignment of this Agreement due to a change in ownership, merger, or acquisition of the Contractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contractor's right to assign this Agreement to corporations to provide some of the services hereunder. Notwithstanding the foregoing acknowledgment, the Contractor shall

remain solely liable for all performance required and provided under the terms and conditions of this Agreement. The Contractor may assign payments in accordance with specific provisions stated in a Participating Addendum.

41. Survival

Certain paragraphs of this agreement including but not limited to Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; Limitation of Liability; Governing Law; Audits; and Publicity shall survive the expiration of this agreement. Software licenses, warranty and service agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

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 Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery through the US Postal service shall be deemed as delivered three business days after being mailed. 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. All notices shall be addressed as follows:

To MMD:

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

To Contractor:

Dell Marketing L.P.
Attn: NASPO/WSCA Program Manager (Public Sector Contracts)
One Dell Way, Box 8707
Round Rock, TX 78682

B. Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph 44. The carrier for mail delivery and notices shall be the agent of the sender.

44. Reporting and Fees

A. Administration Reporting and Fees

1. The Contractor agrees to provide periodic utilization reports to the Contract Administrator in accordance with the following schedule:

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

2. The periodic report shall include, but not be limited to the net (gross sales minus returns, credits, and deductions) sales for the period subtotaled by Purchasing Entity name, within the Purchasing Entity's state name. A standard format of data elements shall be developed for the report. The Contractor shall submit a check payable to Western States Contracting Alliance for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period.

3. The Contractor agrees to include all Reseller Agent sales in the periodic utilization reports described above. In addition, the Contractor agrees to include in the utilization report a 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 quarterly utilization report a supplemental report of the credits associated with the units taken back in a format to be mutually agreed to.

5. The utilization reports shall be submitted to the 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 Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on a mutually agreed magnetic media in a mutually agreed format. Such requests 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 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 a 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 effect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.
2. The Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery method 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. Consistent nonperformance of contractual requirements; or
   2. A material breach of any term or condition of this Agreement.

B. A written notice of default, and an opportunity to cure within 30-days notification of the written notice, 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 order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:
   1. Exercise any remedy provided by law or equity;
   2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
   3. Impose liquidated damages as mutually agreed by the parties, as specified in an Amendment to a Participating Addendum;
   4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations from within the Participating Entity's jurisdiction.

46. Audits

A. The Contractor agrees to assist the Contract Administrator or designee with web site Product and pricing audits based on mutually acceptable procedures.
   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 Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.

B. 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, the Contractor may, at the sole discretion of the 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 State 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 Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

49. Ownership

A. **Ownership of Documents/Copyright.** Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contractor in the performance of its obligations under the Agreement and paid for by the State shall be the exclusive property of the State and all such material shall be remitted to the State by the Contractor upon completion, termination or cancellation of the Agreement. The Contractor shall not use, willingly allow or cause to allow such material to be used for any purpose other than performance of the Contractor's obligations under the Agreement without the prior written consent of the State.

B. **Rights, Title and Interest.** All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trade marks, and service marks in the said documents that the Contractor conceives or originates, either individually or jointly with others, which arise out of the performance of the Agreement and are ordered as a work product, will be the property of the State and are, by the Agreement, assigned to the State along with ownership of any and all copyrights in the copyrightable material. The Contractor also agrees, upon the request of the State, to execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contractor for the State in performance of the Agreement shall be considered "works for hire" as defined in the U.S. Copyright Act. Nothing in this Agreement shall be construed as transferring any right, title, or interest in any of the Contractor's or their third party's confidential information, trademarks, copyrights, intellectual property or other proprietary interest.

50. Prohibition Against Gratuities

A. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement 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 Agreement, or securing favorable treatment with respect to the award or amendment of this Agreement, or the making of any determinations with respect to the performance of this Agreement.

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 Agreement. This Agreement 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

By entering into a Contract, the Contractor agrees to consider, in the Contractor's discretion, all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the State, relating to the particular goods or services purchased or acquired by the State under said Contract. For any cause of action taken herein by Contractor, the State, at the State's discretion, may participate in any such action. In the event that Contractor desires to participate in such action, the Contractor shall not oppose the State's request to join such action so long as the interests/positions of the State are not adverse to the interests/positions of the Contractor.

52. Right to Publish

A. Any publicity given to the program, publications or services provided resulting from the Agreement, 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 Agreement prior to its approval by the 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 Agreement without the prior written consent of the Agreement Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

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 Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Agreement, 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 or infectious 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 submit a format for a survey for approval by the Contract Administrator. The Contractor will survey its customers in each Participating State two (2) months prior to the annual meeting with the Contract Administrator.

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**, including relative costs associated with those services.

57. E-Rate Program

The Contractor's E-Rate identification number is SPIN#143004340.

E-Rate eligibility depends upon who uses the equipment, how it is used and where it is located. In general terms, equipment located on school property and that is necessary for e-mail and Internet access in classrooms is eligible for E-Rate support.

File server components generally are eligible for discount when used for one or more of the following functions: Domain Name Server, E-mail Server, Communications Server, Terminal Server, Web Server, or DHCP Server.

File server components are not eligible for discount when used for one or more of the following functions: Application or DB Server, Archive or Data Warehouse, Caching Server, Print Server, or Proxy Server.

Generally, network electronics, such as switches and related items are eligible if they are part of a network that delivers information to classrooms. Caching devices are not eligible.

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. DELL MARKETING L.P.

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

By: _____

Title: National Contract Manager

Date: August 26, 2004

2. MATERIALS MANAGEMENT DIVISION

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

By: Bernadette Kopischke

Title: Acquisition Management Specialist

Date: 8/27/04

3. COMMISSIONER OF ADMINISTRATION

Or delegated representative

By: _____

Date: 27AUG04

EXHIBIT A - ADDITIONAL WARRANTIES

Limited Warranties and Return Policy
Dell-branded hardware products purchased in the U.S. or Canada come with either a 90-day, 1-year, 2-year, 3-year or 4-year limited warranty, depending on the product purchased. To determine which warranty came with your hardware product(s), see your packing slip or invoice. The following sections describe the limited warranties and return policy for the U.S.

What is covered by this limited warranty?
This limited warranty covers defects in materials and workmanship in your — our end-user customer's — Dell-branded hardware products, including Dell-branded peripheral products.

What is not covered by this limited warranty?
This limited warranty does not cover:

- Software, including the operating system and software added to the Dell-branded hardware products through our factory-integration system, third-party software, or the reloading of software.
- Non-Dell branded and Solution Provider Direct products and accessories
- Problems that result from:
    - External causes such as accident, abuse, misuse, or problems with electrical power
    - Servicing not authorized by Dell
    - Usage that is not in accordance with product instructions
    - Failure to follow the product instructions or failure to perform preventive maintenance
    - Problems caused by using accessories, parts, or components not supplied by Dell
- Products with missing or altered Service Tags or serial numbers
- Products for which Dell has not received payment

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN TIME TO THE TERM OF THE LIMITED WARRANTY PERIOD REFLECTED ON YOUR PACKING SLIP OR INVOICE. NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER THE LIMITED WARRANTY PERIOD HAS EXPIRED. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THIS LIMITATION MAY NOT APPLY TO YOU.

WE DO NOT ACCEPT LIABILITY BEYOND THE REMEDIES PROVIDED FOR IN THIS LIMITED WARRANTY OR FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY FOR THIRD-PARTY CLAIMS AGAINST YOU FOR DAMAGES, FOR PRODUCTS NOT BEING AVAILABLE FOR USE, OR FOR LOST DATA OR LOST SOFTWARE. OUR LIABILITY WILL BE NO MORE THAN THE AMOUNT YOU PAID FOR THE PRODUCT THAT IS THE SUBJECT OF A CLAIM. THIS IS THE MAXIMUM AMOUNT FOR WHICH WE ARE RESPONSIBLE.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

How long does this limited warranty last?
This limited warranty lasts for the time period indicated on your packing slip or invoice, except for the following Dell-branded hardware:

- Portable computer batteries carry a 1-year limited warranty.
- Projector lamps carry a 90-day limited warranty.
- Memory carries a lifetime limited warranty.

Monitors carry the longer of either a 3-year limited warranty or the remainder of the warranty for the Dell computer to which the monitor will be connected.
PDAs, MP3 players, earphones, remote inline controls, and AC adapters carry a 1-year limited warranty.
Other add-on hardware carries the longer of either a 1-year limited warranty for new parts and a 90-day limited warranty for reconditioned parts or, for both new and reconditioned parts, the remainder of the warranty for the Dell computer on which such parts are installed.

The limited warranty on all Dell-branded products begins on the date of the packing slip or invoice. The warranty period is not extended if we repair or replace a warranted product or any parts. Dell may change the availability of limited warranties, at its discretion, but any changes will not be retroactive.

What do I do if I need warranty service?

Before the warranty expires, please call us at the relevant number listed in the following table. Please also have your Dell Service Tag or order number available.

Web Support: http://www.support.dell.com/ContactUs/ContactUsHome.aspx?c=us&1=en&s=gen
Government and Education Customers: 1-800-234-1490
Dell-branded Memory: 1-888-363-5150

What will Dell do?

During the 90 days of the 90-day limited warranty and the first year of all other limited warranties: During the 90 days of the 90-day limited warranty and the first year of all other limited warranties, we will repair any Dell-branded hardware products returned to us that prove to be defective in materials or workmanship. If we are not able to repair the product, we will replace it with a comparable product that is new or refurbished.

When you contact us, we will issue a Return Material Authorization Number for you to include with your return. You must return the products to us in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk if the product is lost or damaged in shipment. We will return the repaired or replacement products to you. We will pay to ship the repaired or replaced products to you if you use an address in the United States (excluding Puerto Rico and U.S. possessions and territories). Otherwise, we will ship the product to you freight collect.

If we determine that the problem is not covered under this warranty, we will notify you and inform you of service alternatives that are available to you on a fee basis.

NOTE: Before you ship the product(s) to us, make sure to back up the data on the hard drive(s) and any other storage device(s) in the product(s). Remove any confidential, proprietary, or personal information and removable media such as floppy disks, CDs, or PC Cards. We are not responsible for any of your confidential, proprietary, or personal information; lost or corrupted data; or damaged or lost removable media.

During the remaining years: For the remaining period of the limited warranty, we will replace any defective part with new or refurbished parts, if we agree that it needs to be replaced. When you contact us, we will require a valid credit card number at the time you request a replacement part, but we will not charge you for the replacement part as long as you return the original part to us within 30 days after we ship the replacement part to you. If we do not receive the original part within 30 days, we will charge to your credit card the then-current standard price for that part.

We will pay to ship the part to you if you use an address in the United States, (excluding Puerto Rico and U.S. possessions and territories). Otherwise, we will ship the part freight collect. We will also include a prepaid shipping container with each replacement part for your use in returning the replaced part to us.

NOTE: Before you replace parts, make sure to back up the data on the hard drive(s) and any other storage device(s) in the product(s). We are not responsible for lost or corrupted data.

What if I purchased a service contract?
If your service contract is with Dell, service will be provided to you under the terms of the service agreement. Please refer to that contract for details on how to obtain service.

If you purchased through us a service contract with one of our third-party service providers, please refer to that contract for details on how to obtain service.

How will you fix my product?
We use new and refurbished parts made by various manufacturers in performing warranty repairs and in building replacement parts and systems. Refurbished parts and systems are parts or systems that have been returned to Dell, some of which were never used by a customer. All parts and systems are inspected and tested for quality. Replacement parts and systems are covered for the remaining period of the limited warranty for the product you bought. Dell owns all parts removed from repaired products.

May I transfer the limited warranty?
Limited warranties on systems may be transferred if the current owner transfers ownership of the system and records the transfer with us. The limited warranty on Dell-branded memory may not be transferred. You may record your transfer by going to Dell's Web site:

If you are an Individual Home Consumer, go to www.dell.com/us/en/dhs/topics/sbtopic_015_ccare.htm
If you are a Home Office, Small, Medium, Large, or Global Commercial Customer, go to www.dell.com/us/en/biz/topics/sbtopic_ccare_nav_015_ccare.htm
If you are a Government, Education, or Healthcare Customer, or an Individual Home Consumer who purchased through an Employee Purchase Program, go to www.dell.com/us/en/pub/topics/sbtopic_015_ccare.htm

If you do not have Internet access, call your customer care representative or call 1-800-624-9897.

Total Satisfaction Return Policy (U.S. Only)
We value our relationship with you and want to make sure that you're satisfied with your purchases. That's why we offer a Total Satisfaction return policy for most products that you, the end-user customer, purchase directly from Dell. Under this policy, you may return to Dell products that you purchased directly from Dell for a credit or a refund of the purchase price paid, less shipping and handling and applicable return fees as follows:

New Hardware Products and Accessories: Unless you have a separate agreement with Dell, all hardware, accessories, peripherals, parts and unopened software still in its sealed package, excluding the products listed below, may be returned within twenty-one (21) days from the date on the packing slip or invoice. New PowerEdge™, PowerConnect™ and PowerVault™ products may be returned within thirty (30) days from the date on the packing slip or invoice except that new PowerEdge™ SC servers and n series products purchased from the Small and Medium Business Sales Division may only be returned within fourteen (14) days from the date on the packing slip or invoice. To return applications software or an operating system that has been installed by Dell, you must return the entire computer. A different return policy applies to nondefective products purchased through Dell's Software and Peripherals division by customers of our Small and Medium Business divisions. Those products may be returned within twenty-one (21) days from the date on the packing slip or invoice, but a fifteen percent (15%) return fee will be deducted from any refund or credit. The Total Satisfaction Return Policy and Software and Peripherals division return policy are not available for Dell/EMC storage products, EMC-branded products, Unisys-branded products, PowerVault™ 160T tape libraries, enterprise software, non-Dell branded enterprise products, software and/or software licenses purchased under any type of volume purchase agreement or any non-Dell customized hardware and/or software product(s).

Reconditioned or Refurbished Dell-Branded Hardware Products and Parts: All reconditioned or refurbished PowerEdge™, PowerConnect™ and PowerVault™ products may be returned within thirty (30) days from the date on the packing slip or invoice. All other reconditioned or refurbished Dell-branded hardware products and parts may be returned within fourteen (14) days of the date on the packing slip or invoice.

How to Return: To return products, e-mail or call Dell customer service to receive a Credit Return Authorization Number within the return policy period applicable to the product you want to return. You must obtain a Credit Return Authorization Number in order to return the product. See "Contacting Dell" or "Getting Help" in your customer documentation (or www.dell.com/us/en/gen/contact.htm) to find the appropriate contact information for obtaining customer assistance. You must ship the products to Dell within five (5) days of the date that Dell issues the Credit Return Authorization Number. You must also return the products to Dell in their original packaging, in as-new condition along with any media, documentation, and all other items that were included in the original shipment, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment.

Note: Before you ship the product(s) to us, make sure to back up the data on the hard drive(s) and any other storage device(s) in the product(s). Remove any confidential, proprietary or personal information, removable media, such as floppy disks, CDs, or PC Cards. We are not responsible for any of your confidential, proprietary or personal information; lost or corrupted data; or damaged or lost removable media.

Limited Warranty for Dell-Branded Ink and Toner Cartridges (U.S. and Canada Only)
Dell Inc. warrants to the original purchaser of genuine Dell-branded toner cartridges that they will be free from defects in material and workmanship for the life of the cartridge and that for genuine Dell-branded ink cartridges they will be free from defects in material and workmanship for two years beginning on the date of invoice. If this product proves defective in either material or workmanship, it will be replaced without charge during the limited warranty period if returned to Dell. You must first call our toll-free number to get your return authorization. In the U.S., call 1-800-822-8965; in Canada, call 1-800-387-5757. If we are not able to replace the product because it has been discontinued or is not available, we will either replace it with a comparable product or reimburse you for the cartridge purchase cost, at Dell's sole option. This limited warranty does not apply to ink or toner cartridges that have been refilled, improperly stored, or due to problems resulting from misuse, abuse, accident, neglect, mishandling, incorrect environments, or wear from ordinary use.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPLACEMENT AS SET FORTH IN THIS WARRANTY STATEMENT. FOR CANADIAN CUSTOMERS, EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN THIS WARRANTY STATEMENT, DELL DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, FOR THE PRODUCT. FOR U.S. CUSTOMERS, ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE LIMITED IN TIME TO THE TERM OF THIS LIMITED WARRANTY. NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER THE LIMITED WARRANTY PERIOD HAS EXPIRED. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES OR CONDITIONS, OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY OR CONDITION LASTS, SO THIS LIMITATION MAY NOT APPLY TO YOU. THIS WARRANTY COVERAGE TERMINATES IF YOU SELL OR OTHERWISE TRANSFER THIS PRODUCT TO ANOTHER PARTY.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES PROVIDED FOR IN THIS LIMITED WARRANTY OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY FOR THIRD-PARTY CLAIMS AGAINST YOU FOR DAMAGES, FOR PRODUCTS NOT BEING AVAILABLE FOR USE, OR FOR LOST DATA OR LOST SOFTWARE. DELL'S LIABILITY WILL BE NO MORE THAN THE AMOUNT YOU PAID FOR THE PRODUCT THAT IS THE SUBJECT OF A CLAIM. THIS IS THE MAXIMUM AMOUNT FOR WHICH DELL IS RESPONSIBLE.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

Limited Warranty for Dell-Branded Tape Media (U.S. and Canada Only)

Dell warrants to you, the end-user customer, that this product will be free from defects in material and workmanship for one year from the invoice date, if properly used and maintained. If this product proves defective in either material or workmanship, it will be replaced without charge if returned to Dell. You must first call our toll-free number to get your return authorization. In the U.S., call 1-800-822-8965. In Canada, call 1-800-387-5757. If we are not able to replace the product because it has been discontinued or is not available, we will replace it with a comparable product. This warranty does not apply to failure of the product resulting from misuse, abuse, accident, neglect or mishandling, improperly adjusted or maintained drives, incorrect environments or wear from ordinary use.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPLACEMENT AS SET FORTH IN THIS WARRANTY STATEMENT. FOR CANADIAN CUSTOMERS, EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN THIS WARRANTY STATEMENT, DELL DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, FOR THE PRODUCT. FOR U.S. CUSTOMERS, ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN TIME TO THE TERM OF THIS LIMITED WARRANTY. NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER THE LIMITED WARRANTY PERIOD HAS EXPIRED. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES OR CONDITIONS, OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY OR CONDITION LASTS, SO THIS LIMITATION MAY NOT APPLY TO YOU. THIS WARRANTY COVERAGE TERMINATES IF YOU SELL OR OTHERWISE TRANSFER THIS PRODUCT TO ANOTHER PARTY.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES PROVIDED FOR IN THIS LIMITED WARRANTY OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY FOR THIRD-PARTY CLAIMS AGAINST YOU FOR DAMAGES, FOR PRODUCTS NOT BEING AVAILABLE FOR USE, OR FOR LOST DATA OR LOST SOFTWARE. DELL'S LIABILITY WILL BE NO MORE THAN THE AMOUNT YOU PAID FOR THE PRODUCT THAT IS THE SUBJECT OF A CLAIM. THIS IS THE MAXIMUM AMOUNT FOR WHICH DELL IS RESPONSIBLE.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

EXHIBIT B - COMPLAINT RESOLUTION

Dell relies on direct feedback from customers through face-to-face, telephone, email and facsimile communication with our dedicated account management team. *Voice of the Customer* is a key initiative at Dell that allows us to maintain the high quality of customer service that has garnered nationwide recognition. This initiative causes us to promptly review and address every service, sales, equipment or contractual issue.

All levels of management work with our customers to ensure that we resolve issues in a timely and complete manner. An email sent to Michael Dell is visible to every level of our company's senior management and is responded to with utmost urgency. While the issue resolution procedures described in this section remain our preferred way of resolving customer issues, the option of contacting Michael Dell ensures a consistent focus on the *Voice of the Customer* at all levels of the company.

Dell also offers Advanced Escalation and Problem Resolution Services that exceed the standard approaches described here (as described in Exhibit C - Value Added Services).

A. Customer Service

Dell's account team provides an escalation path for customer satisfaction issues, from the sales representative to the director of the customer's region.

The Dell Sales Representative (SR), currently assigned to the customer's account, is the primary point of contact for daily business. Any issues related to configuration, pricing, quotes, or purchase orders should be communicated initially to the SR or the Account Executive (AE) for resolution and followed up in writing via email with a copy to the Inside Sales Manager (ISM).

Should the SR be temporarily unavailable, a backup representative will assist the customer. In the rare event that both the SR and the designated backup are unavailable, the ISM is available to handle the issue. Path of escalation for sales issues is as follows:

1. Sales Representative
2. Account Executive
3. Inside Sales Manager
4. Regional Sales Manager
5. Sales Director or Vice President.

If a resolution cannot be reached, the escalation process is then directed to the Public Sector General Manager, Brian Wood.

When necessary, Dell assigns a Project Manager (PM) as a single point of contact for customized deployment and installation. To facilitate timely response to problems during critical periods, the Dell PM will monitor the progress of the rollout and/or installation in conjunction with the Dell Service Field PM.

All operational issues should be communicated to the PM as soon as possible. Initial communication may be email or telephone based on priority of the issue. All telephone communications should be followed by email documentation. The PM will record the issue and coordinate involvement of appropriate resources to assess the issue and define an action plan for resolution. The action plan will be communicated to the project team. The weekly progress report will include status of issues and related action plans.

B. Equipment

Dell's reputation for industry-leading service and support starts with the high quality of our equipment. When support is necessary, the direct model enables us to quickly respond based on specific information provided by our customers.

This information, combined with our knowledge of equipment (as original manufacturer), ensures our premier status. The technical support process is as follows:

1. Technical support calls are routed within Dell by use of specific 800 numbers, or service and support options from a customized 800 number.

2. Technical issues are handled in the main Technical Support queues. Calls are routed to the next available technician. This technician gathers the required information from the caller, including the system ID (Service Tag) number and a description of the problem. This Level One (L1) representative uses several tools and knowledge based aids to diagnose and resolve the issue.

3. If the problem requires a more advanced level of support, the Level One representative consults with a Level Two (L2) technician. The Level Two Technician uses additional tools in conjunction with their expertise to resolve many of the issues. If the issue is not resolved by consulting with the Level Two Technician, the Level Two Technician takes ownership of the issue for further research.

4. Once the Level Two Technician has exhausted the resources and has still not resolved the issue, the issue is escalated to the International Product Support (IPS) for resolution. The IPS engineer is now responsible for resolving the issue. The IPS engineer will work with vendors, manufacturers and engineers to resolve the issue.

5. The customer can utilize the Dell 800 number to receive the latest status on the service call for that specific unit.

6. Customer calls are placed to the Dell Technical Support group through an 800 number. When an on-site service call is required, Dell ships the part required. A technician is dispatched to pick up the part, go to the customer's site, replace the defective part and ship it to Dell. Escalation procedures are built into the process to insure response times are met.

7. Dell developed Dell's Product Support (DPS) for tracking all service requests and dispatching on-site engineers. DPS is Dell's service history database. The Dell Customer Service Delivery (CSD) technician can instantly see the end-user's model number and configuration in DPS by simply asking for the 5-character service tag located on the back of each Dell system. Armed with this information, the technician may begin any necessary troubleshooting procedures with the end user.

8. DPS shows the CSD technician the complete service history of that particular PC. The CSD technician must log entries into DPS each time there is communication with a customer, including nature of the problem and troubleshooting steps taken. So, each call into Technical Support is documented. The CSD technician uses the service history to determine whether a problem needs escalation or needs to be researched further.

9. Dell's service provider is linked into DPS, so if a problem in the field requires on-site attention, the dispatch is seamless.

10. Finally, DPS is the primary tool for diagnosing and attacking early life failures of new products and measuring a product's reliability.

C. Billing Issues

Dell emphasizes quick response to billing issues with an immediate and concise approach:

1. Each account with payment terms is assigned an Accounts Receivable Specialist. Billing issues can be directed to that person
2. If no resolution, issues are escalated to the Accounts Receivable Team Lead
3. If no resolution, issues are then escalated to the Accounts Receivable Supervisor.
4. The next level of escalation for billing issues is the segment Controller, the most senior finance representative associated with billing and collections.

D. Contractual Issues

In addition to the standard mechanisms for resolving service, equipment or billing issues, Dell Public Sector maintains a highly experienced contract management team. This team is staffed with experts who understand the unique requirements of SLG, K-12 and HIED customers. Working as a part of the operations organization, this team provides both first-response and point-of-escalation support.

1. First-Response

A tenet of the direct model encourages a single point of accountability. This means that while Dell provides a documented method for responding to customer issues, every person at Dell is encouraged to take ownership of their resolution. As an example, while the contracts team primarily exists to assure contract compliance, it often serves as a first-response point with customers. The contract manager listens to customers and connects them with our streamlined customer service, equipment and billing processes. The process will resolve the issue to the satisfaction of the customer without further engagement of the contracts team. The contracts team often follows up to ensure the problem was solved to the customer's satisfaction.

Contract mangers are also charged with pro-active monitoring of Dell behaviors to assure contract compliance. This ensures that the entire delivery and support organization understands Dell's obligations from day one of a new contract.

Examples of the first-response function under the current WSCA contract include

a. Answering end-customer questions about the overall WSCA program and how Dell's offering meets their needs under this program.
b. Escalating service complaints to the appropriate technical or customer service organization.
c. Routing equipment support questions as appropriate.
d. Ensuring that repeat support issues are escalated inside the product and support organizations.
e. Connecting customers with the appropriate billing representative and managing tools that ensure billing is in accordance with contractual requirements.

E. Point of Escalation

Some complaints are harder to resolve than others. If a customer has engaged the appropriate customer service, equipment and billing resolution process and is dissatisfied with the results, the contract management team can act as a level of escalation by:

1. Supporting a customer's unique requirements for a special project.
2. Escalating customer questions and complaints to the NASPO | WSCA Administrator.
3. Working with customers and Dell internal resources to ensure expectations are set and met.
4. Ensuring the decisions of the NASPO | WSCA Administrator are implemented on future orders.

Contract management can be considered an administrative function. Dell's ability to staff an industry-leading contract management team is enhanced by the focus of this team on issues that improve overall customer experience. Active engagement in resolving customer concerns is integral to this role. The contract management team ensures that these concerns get to the right people inside Dell, then follows up to ensure they do not become contractual issues.

EXHIBIT C - VALUE ADDED SERVICES

Contact the Contractor for more details on these services and their related costs.

A. Deployment Services

Dell delivers a comprehensive, end-to-end solution for deployment needs, providing improved resource utilization, a single point of accountability and exceptional execution. Dell deployment services allow customers to focus on more strategic projects, helping save both time and effort while reducing Total Cost of Ownership (TCO). Dell provides the following services:

1. Custom Factory Integration

   Dell's Custom Factory Integration (CFI) service provides a range of custom built, factory-installed solutions to help eliminate installation hassles. After determining the customer's exact needs, Dell performs the custom configuration during the initial system build. It's a one-touch, high quality, custom integration; which means that systems are not twice built and twice shipped. This ensures that Dell products are custom configured to the customer's specification and delivered from Dell's ISO 9001-certified factory. Dell currently offers the following CFI services:

   a. Software Integration – Custom configuration and installation of software.
   b. Image Management Services – A complete image deployment solution.
   c. Hardware Integration – Installation of industry-standard hardware components.
   d. X-Image – A client software service designed to develop, deploy and manage a hardware independent custom image that will run across all Dell clients' systems (Optiplex, Latitude and Precision). This means that Dell can help reduce significantly the time and cost associated with custom image management.
   e. Asset Management Services
      - Asset Security Service
      - Asset Tag Service
      - Asset Tracking Service
   f. CFI Client Support Services
      - Parts Replacement Program
      - Image Recovery Products

B. Delivery Options

All Dell systems are built to customer specifications and shipped directly to the end user. The following shipping options are available:

1. 3- to 5-Day Ground Shipping – Most cost-effective shipping option.
2. 2-Day Shipping – Timely shipping at a reasonable price.
3. Next-Day Shipping – When delivery is critical to customer deadlines.

Dell also offers customer-selected third-party carrier shipping options at the customer's discretion and expense.

C. Custom Delivery Services

Once the systems are built, Dell can arrange a number of custom delivery services to best meet customer work environment and staffing constraints. Delivery services are described below; each service assumes the use of a Dell-selected carrier.

1. Inside Delivery
   a. Single Destination Delivery
   b. Inner Office Distribution
   c. Unpacking of Boxes
   d. Destination Bundle
   e. Package Removal Bundle

2. Scheduled Delivery Services
   With scheduled delivery services, customers benefit from a predictable and/or precise delivery cycle to specific locations. Projects may include recurring deliveries that typically involve a repetitive schedule or clearly defined deliveries with start and end dates. Choices available include:
   a. Date-Specific Delivery
   b. Time-Specific Delivery
   c. Weekday-Specific Delivery
   d. After-Hours Delivery
   e. Weekend Deliveries
3. Pre-Delivery Services
   Pre-delivery services are performed to prepare shipments for delivery, based on the specific receiving environment.
   a. Palletization
   b. Standard Pallet
   a. Custom Pallet
   b. Order Consolidation
   c. Specific Truck Size
   d. Lift-Gate/Tail-Gate Service
   e. Advance Delivery Notice
4. Destination Services
   a. De-Palletization

D. Custom Installation Services

Dell has streamlined standard installation services to enable customers to easily choose the right package to meet deployment needs, while keeping internal customer resources focused on strategic initiatives. Our installation packages provide customers with a choice of service offerings ranging from system set up and test to comprehensive install/de-install with user data transfer. Dell's flexibility as a result of the direct model allows custom installation services to be designed around unique customer requirements. Whether standard or custom, Dell manages the installation scheduling process and is the single point of accountability.

1. PC Install
2. PC Install with data transfer
3. Server and Storage Installation Service
4. Pre-Install Site Configuration
5. Server and Storage Installation (with Factory-Installed NOS)
6. Server and Storage and NOS Installation
7. Basic Server Set-Up (with Factory-Installed NOS)
8. Novell ICS Basic Server Set-Up (with Factory-Installed NOS)
9. Windows NT or Novell NetWare Operating System Installation
10. Server Rack Mounting

E. Standard Custom Support Services

1. Response Time
   a. 7x24 Telephone Support
   b. 30-Day Getting Started Help line
   c. Next Business Day, Onsite Services

F. Expanded Customer Support Services

1. Same-Day, On-site Services
   a. 4-Hour Response Service
   b. 8-Hour Response Service
   c. 2-Hour Response Service
   d. 2-Hour Response Service, 6-Hour Repair

2. Client Gold Technical Support
   Dell's Gold Technical Support provides advanced level of technical support expertise for Dell desktops, notebooks and workstations. Gold Technical Support combines rapid response and resolution with advanced technical assistance and account management to give customers a single point of contact for personal system support. Key features are:
   a. Access to Dell's Gold Queue
   b. Technical Account Manager (TAM) Services
   c. Seamless Escalation Support
   d. Quarterly Service Performance Report
3. Premier Enterprise Support
   a. Platinum Enterprise
   b. Gold Enterprise
   c. Silver-Same Day Basic
   d. Bronze Next-Business-Day (NBD) Basic
   e. Software Support for Servers and Storage
   f. OpenManage™ Subscription Service

G. Software Support

Dell's software support services provide toll-free priority-access operating system support from experienced technicians for Microsoft and Novell operating systems. We also offer extensive application support for over 100 different types of client applications.

1. Standard Software Support
2. Client Software Support
3. Advanced Software Support

H. Dell's Premier Access – Self-Maintainer Program, Tier I and Tier II

The Dell Premier Access Program is a service and support program designed specifically for Information Service professionals who have technical expertise in diagnosing and servicing computer systems. With benefits like fast access to service and service part dispatches and direct access to advanced level technical support, the Premier Access Program helps provide the knowledge, tools and services necessary to efficiently maintain OptiPlex, Dimension, Latitude, PowerEdge and Workstation systems.

Whether the customer supports their own Dell systems, uses a help desk to dispatch service, or contracts with others for the maintenance of their Dell equipment, the Premier Access Program helps contain service and support costs and provides direct access to the exact level of service and support required.

I. Keep Your Hard Drive Services

The Dell Keep Your Hard Drive services gives participants the option of retaining a failed hard drive (that is covered by Dell warranty), while receiving a replacement hard drive. Replacement hard drives may be new or reconditioned and supported as new. This service provides control over sensitive and confidential data contained on the hard drive and allows customers to determine the method of disposal for the failed hard drive. Key benefits include:

1. Greater Security
2. Complete Control
3. Data Privacy

J. Training and Certification

1. Delivery Methods
   a. E-learning
   b. Instructor-led
2. IT Professional Training
3. Education Professional Training
4. Productivity at Work Courses

PARTICIPATING ADDENDUM

COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES
WSCA/NASPO MASTER PRICE AGREEMENT
with
Dell Marketing L.P.

Contract Number A63307

State of Iowa

1. **Scope**
Within the State of Iowa, all state agencies, state facilities, cities, counties or education entities or any entity funded in part with tax dollars, are eligible purchasers and authorized to purchase products and services under the terms of this price agreement.

2. **Changes:**

A. The Contractor shall provide to the State of Iowa a 1.00% rebate on all sales made within the State of Iowa against this agreement. However, such rebate shall reduce the discount level by a similar amount. The rebate is to be paid quarterly to The Iowa Department of Administrative Services, General Services Enterprise Purchasing, Hoover State Office Building, Level A, Des Moines, IA 50319.

B. The Contractor shall provide an electronic detailed quarterly report on all sales made against this agreement within the State of Iowa to the State's primary contract below. The report file format shall be Microsoft Excel compatible format. The report at minimum shall include the order date, customer name, product description, quantity, PO number, total price.

C. Contractor's stated prices on the Contractor's approved State of Iowa WSCA/NASPO e-Store web site shall be discounted using the discounts and price lists approved and agreed to with WSCA/NASPO under the Master Price Agreement. The stated discounts are considered to be the minimum discount offered. The Contractor may offer, within written quotes, a higher discount than the approved minimum discount for volume purchases or for competitive reasons.

3. **Primary Contact:**
The primary participating entity contact for this participating addendum is as follows:

Ashley Super, Purchasing Agent III
Iowa Department of Administrative Services,
General Services Enterprise
Hoover State Office Building, Level A
Des Moines, IA 50319
Ph: 515-281-7073
Fax: 515-242-5922
Email: Ashley.super@iowa.gov

The primary Contractor contact for this participating addendum is as follows:

Heather Smith, Contract Manager, Central US
Dell Marketing L.P.
One Dell Way, Box 8707, Round Rock, TX 78682
Ph: 512.723.7380
Fax: 512.283.9092
E-mail: heather_m_smith@dell.com

4. **Servicing Subcontractors:**

By agreement with Dell, Mr. Mikel Derby, Ideal IT Solutions, Inc., 811 Burr Oaks Drive Suite 601, West Des Moines, IA 50266-6658 is authorized to assist state and local government customers with completing sales under this agreement All orders and payment will be issued directly to Dell Marketing L.P. The State of Iowa does not compensate Servicing subcontractors.

The Master Price Agreement Number A63307 MUST be shown on all Purchase Orders issued against this Agreement.

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

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

State of Iowa

by: Debbie O'Leary

Name: Debbie O'Leary

Title: ADMINISTRATOR, DAS GSE

Date: 1/05/05

Dell Marketing L.P., Contractor

by: Heather Smith

Name: Heather Smith

Title: Contract Manager, Central US

Date: 1/05/05

Dell Marketing L.P.
One Dell Way, RR 8, MS-8707
Round Rock, Texas 78682

Telephone 800.981.3355 x37380
www.dell.com

September 26, 2005

Ideal IT Solutions, Inc.
811 Burr Oaks Drive Suite 601
West Des Moines, IA 50265

Attention: Mikel Derby
Reference: Marketer Agreement dated February 6, 2004

Dear Mr. Derby:

The Marketer Agreement by and between Dell Marketing, L.P. ("Dell") and Ideal IT Solutions, Inc. dated February 6, 2004 ("Agreement") provides that either party may terminate the Agreement upon provision of at least 30 days prior written notice to the other party.

The purpose of this letter is to inform you that Dell will terminate the Agreement effective thirty calendar days from the date of this letter. Termination of this Agreement will not affect the rights and obligations of the parties with respect to orders accepted prior to the termination's effective date and the Products sold under those orders. Quotes issued by Dell that have not yet been accepted by your company, or reached their respective expiration dates are revoked as of the effective date of this termination.

Please do not hesitate to contact me directly if you have any further questions regarding this or any other matter. As always, thank you for choosing Dell.

Sincerely,

Heather M. Smith
Dell Public Contracts
Dell Marketing, L.P.
heather_m_smith@dell.com
Ph: (512) 723-7380
Fax: (512) 283-9092