

Participating Addendum
between
Bell and Howell, LLC
and
State of Oregon acting by and through the Department of Administrative Services,
State Procurement Office
under
Western States Contracting Alliance's
Mailing Equipment, Supplies and Maintenance RFP
Master Agreement number: ADSPO11 00000411-4
entered into by the State of Arizona

(Oregon contract number: 2556)

1. **Introduction.** This Participating Addendum (this "Addendum") between Bell and Howell Company ("Contractor") and the State of Oregon acting by and through the Department of Administrative Services, State Procurement Office ("Oregon SPO") is entered into effective as of May 4, 2012. This Addendum includes Exhibits 1 (insurance) and 2 (pricing) which are incorporated herein. Contractor's pricing is listed on Exhibit 2.
2. **Scope.** This Addendum allows Oregon SPO and the Purchasers (defined below) to make purchases under Western States Contracting Alliance's ("WSCA") Mailing Equipment, Supplies and Maintenance RFP released by the State of Arizona ("Lead State") for use by WSCA members who enter into participating addenda such as this Addendum.
3. **Role of chief procurement official.** Use of WSCA contracts by agencies authorized by Oregon statutes to use state contracts are subject to the approval of Oregon's chief procurement official ("CPO"). Issues of interpretation and eligibility for participation are solely within the authority of the CPO.
4. **Governed by Addendum.** The terms of this Addendum govern the relationship between Oregon SPO and Contractor. As modified by this Addendum, Oregon SPO and Contractor are also bound by the terms of the Master Agreement, as that term is defined in Section 8.3. Purchasers are responsible for payment obligations arising from Purchase Orders under this Addendum. Contractor will only seek payment from a Purchaser which submits a Purchase Order.
5. **Primary contacts.** The primary contacts for this Addendum are the following individuals (or their named successors):

Contractor

Name	Marjorie McDermott
Address	3791 South Alston Avenue Durham, North Carolina 27713
Telephone	801-930-5402

Mobile	801-349-6191
Fax	866-593-1694
E-mail	marjorie.mcdermott@bhemail.com

Oregon SPO

Name	Tim Jenks
Address	1225 Ferry Street SE Salem, Oregon 97301
Telephone	503-378-6781
Fax	503-373-1626
E-mail	tim.jenks@state.or.us

Lead State

Name	Terri Johnson
Address	State of Arizona – Department of Administration State Procurement Office 100 N 15 th Ave, Phoenix, AZ 85007
Telephone	602-542-9125
Fax	602-542-5508
E-mail	terri.johnson@azdoa.gov

6. **Subcontractors.** Contractor's subcontractors who are authorized by Oregon SPO may provide products and services under this Addendum. Participation by subcontractors must be in accordance with, and is expressly subject to, the terms of this Addendum.

7. [Reserved.]

8. **Definitions.** The following terms have the meanings set forth below.

8.1 "Confidential Information" is defined in Section 20.

8.2 "Independent Agency" means an agency, board, commission, department or subdivision of the State of Oregon with independent procurement authority under ORS 279A.050, 279A.140, or other provisions of applicable Oregon law.

8.3 "Master Agreement" means Master Agreement number ADSP011 00000411-4 between Contractor and the State of Arizona, on behalf of WSCA. For purposes of this Addendum, the Master Agreement consists of only the following documents: (1) the one page Offer and Acceptance signed by Contractor and Lead State dated October 12, 2011, and (2) the Statement of Work issued by the Lead State for its solicitation ADSP011 00000411-4. For purposes of this Addendum, no other terms are part of the Master Agreement. The Uniform Terms and Conditions, the Special Terms and Conditions, and the other documents issued by the Lead State (and posted on the Lead State's website) are expressly not adopted by Oregon SPO and Contractor, and will not govern this Addendum.

8.4 "ORCPP" means the Oregon Cooperative Procurement Program, under which members including local governments, agencies, and organizations in the state of Oregon are

authorized to purchase products and services available under an agreement, like this Addendum, entered into by Oregon SPO, and which are listed in the following online document:

<http://www.oregon.gov/DAS/SSD/SPO/docs/orcpp/orcpp-member-list.pdf>

8.5 “Purchaser” means an entity that submits a Purchase Order to Contractor under this Addendum. A Purchaser may be either (1) Oregon SPO, (2) an agency submitting a Purchase Order under Oregon SPO purchasing authority and direction, (3) an Independent Agency, or (4) an ORCPP member with its own purchasing authority.

8.6 “Purchase Order” means a document submitted by a Purchaser to Contractor under this Addendum that specifies a quantity and type of products and services that Purchaser is purchasing and which Contractor will provide to Purchaser under the terms of this Addendum.

8.7 “Services” means installation, configuration, implementation, and training regarding products (including software) provided by Contractor under this Addendum. The Services include but are not limited to the items identified in the Statement of Work.

9. Use of Purchase Orders.

9.1 **Purchase Order forms.** Purchasers may use their own Purchase Order (“PO”) forms, and may also use Oregon SPO’s Purchase Order form. If the terms of any PO form differ from the terms of this Addendum, the terms of this Addendum supersede the inconsistent terms. Each Purchase Order should contain the language below on the first page. If a Purchaser received a price quote, the quote number should also be included on the PO.

“This Purchase Order is issued under the Western States Contracting Alliance Master Agreement ADSP011 00000411-4 and the Participating Addendum entered into by Oregon SPO, contract number 2556. The terms of the Participating Addendum govern this purchase and supersede any inconsistent terms.”

9.2 **Liability for Purchase Orders.** Only a Purchaser issuing a Purchase Order is liable for obligations arising under the order. The State of Oregon expressly disclaims any liability for purchases made by entities that are not Oregon state agencies.

9.3 **Verification of Purchasers.** Contractor is responsible for verifying that it provides products and services under this Addendum only to Purchasers. Contractor may verify that a particular entity is an ORCPP member at the URL listed in Section 8.4.

10. [Reserved.]

11. Payment terms.

11.1 A Purchaser will pay Contractor for products and services at the rates set forth in a Purchase Order. All payments to Contractor are subject to ORS 293.462. Purchasers may make payments under this Addendum by check or credit card.

11.2 **Invoices.** A Purchaser will pay Contractor no more than once each month for undisputed amounts due upon Contractor’s submission of detailed invoices that set forth the products and services accepted by the Purchaser. Such invoices will describe the purchased

products and services delivered to and accepted by Purchaser for which Contractor seeks payment. Contractor shall request payment only for products and services accepted by a Purchaser. Contractor must submit invoices electronically to Purchaser's representative as designated on a Purchase Order.

11.3 Contractor's invoices must include the following information:

- (a) Participating Addendum number.
- (b) Purchase Order number.
- (c) Products and services ordered.
- (d) Date of Contractor's delivery.
- (e) Quantity of goods delivered.
- (f) The price per item of delivered goods.
- (g) The total amount due. And
- (h) The address to which payment is to be sent.

11.4 **Invoice disputes.** Purchasers may review invoices for compliance with the requirements of this Addendum, and in the event of a discrepancy may dispute an invoice. Purchasers will not pay disputed claims until the dispute is resolved. Purchasers will pay undisputed portions of disputed or incorrect invoices where the undisputed portion can be easily identified by Purchaser. Payment of an amount less than the total amount due on an unpaid invoice must be credited by Contractor as directed by Purchaser. In no event may Contractor apply any payment or portion thereof to any particular amount or item that is subject to any claim of error or dispute between the parties. Contractor shall have three months from the date of any disputed billing item to give notice and initiate a dispute against Purchaser. Once either party has notified the other of a invoice or payment dispute, the parties shall attempt to resolve the dispute within 6 months. Purchasers have two years from the date of any disputed invoice to give notice and initiate a dispute against Contractor.

11.5 No additional fees. The cost for products listed in this Addendum is the only allowable charge. Contractor may not add any other fees or charges irrespective of the payment method used by a Purchaser.

12. **Funds available and non-appropriation.** A Purchaser's payment obligations under this Addendum are conditioned upon Purchaser receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any Purchaser Order. Nothing in this Addendum or Purchaser Order is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law governing liabilities or financial obligations of the State of Oregon.

13. **Volume sales reports and vendor collected administrative fees.**

13.1 **Volume sales reports.**

13.1.1 Contractor shall submit to Oregon SPO a volume sales report ("VSR") no later than thirty (30) calendar days from the end of each calendar quarter, whether or not there are sales under this Addendum. When no sales have been recorded for a quarter, Contractor's VSR

will state "No sales for the quarter." The calendar quarters end on March 31, June 30, September 30, and December 31.

13.1.2 Content of VSRs. Contractor's VSR must include the following information:

- (a) Complete and accurate details of all receipts (sales and refunds) for the reported period.
- (b) The information listed in Exhibit 3 to this Addendum. (Exhibit 3 is the Volume Sales Report Template - Data Requirement, Format and Layout which Contractor is required to submit to Oregon SPO.) and
- (c) Such other information as Oregon SPO may reasonably request.

13.1.3 VSR delivery requirements. Contractor must deliver VSRs by email with the VSR in the form of a Microsoft Excel (.xls) spreadsheet attached to the email. Print outs of VSRs are not acceptable. Electronic copies of VSRs on compact disks are only acceptable if the size of the file precludes transmission by email. Approval from the Oregon SPO representative must be obtained for deviations from these requirements.

13.1.4 Delivery of VSRs. The first VSR submitted by Contractor must be submitted to the Oregon SPO representative for review and approval. The first VSR and all subsequent VSRs must be submitted by email to: vcaf.reporting@state.or.us. The Oregon SPO representative's receipt of VSRs does not preclude Oregon SPO from challenging the accuracy of VSRs at any time.

13.2 Vendor collected administrative fee.

- (a) **Vendor collected administrative fee (VCAF) definition.** VCAF means one percent (1%) of Contractor's gross total sales, less any credits, made to Purchasers under this Addendum during each calendar quarter.
- (b) **VCAF payments.** During the term of this Addendum, Contractor shall pay the VCAF amount to Oregon SPO within forty-five (45) calendar days after the end of each calendar quarter.
- (c) Contractor must not reflect the VCAF fee as a separate line item charge to Purchasers. Contractor's prices must reflect all Contractor's charges to Purchasers, including the VCAF amount. Oregon SPO will invoice Contractor for the VCAF on invoices based on Contractor's VSR. Contractor is responsible for submitting timely VSR reports and making timely VCAF payment to Oregon SPO.
- (d) **Payment format.** Contractor's VCAF payment shall be made in the form of a check sent to the address below (or to such other address designated by the Oregon SPO representative). Any form of VCAF payment other than a check must be specifically approved in writing by the Oregon SPO representative.

State of Oregon

Department of Administrative Services
Attn: VCAF payment to SPO
1225 Ferry Street SE, U140
Salem, Oregon 97301-4285

(e) **Interest on payments.** Any payments owed by Contractor to Oregon SPO which are made after the due date indicated on the invoice shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until the overdue amount has been paid in full. Oregon SPO's right to interest on late payments shall not preclude Oregon SPO from exercising any available rights or remedies.

13.3 **Audit rights.** Oregon SPO shall have the right during regular business hours and upon reasonable notice, at Contractor's premises, by itself or by a person authorized by it, to audit Contractor's books and records to determine and verify the information reported in any VSRs. In the event that any such audit reveals underpayment of VCAF fee, Contractor shall immediately pay the amount of deficiency, together with interest thereon at the rate provided in Section 6.2.3.2. At Oregon SPO'S request, Contractor shall pay the reasonable cost of an audit, but only if such audit reveals that an underpayment may exist as determined by Oregon SPO.

14. **Contractor warranties.**

14.1 Contractor makes the representations and warranties in this section for the benefit of Purchasers. Purchasers are entitled to the warranties, rights, remedies, and benefits under this Addendum. Without limiting the generality of the warranty provisions of the Master Agreement, Contractor represents and warrants to Purchasers that:

(a) Contractor has the power and authority to enter into and perform this Addendum and that this Addendum, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms.

(b) Contractor will, at all times during the term of this Addendum, be qualified to do business in the State of Oregon, professionally competent and duly licensed to perform services under this Addendum.

(c) All goods delivered by Contractor under this Addendum will be new, unused, current versions and models, and will be free from defects in materials, design and manufacture for the longer of Contractor's or the publisher's warranty period, through the expiration of the longer warranty period.

(d) All products and services delivered by Contractor will materially conform to, and meet or exceed, the specifications and acceptance criteria set forth in a Purchase Order, this Addendum, the Master Agreement, or any documentation provided by Contractor.

(e) All services performed by Contractor will be performed in accordance with the highest applicable professional or industry standards, and that only workmanship of the first quality shall be employed.

(f) Contractor's performance creates no potential or actual conflict of interest, as defined by ORS chapter 244, for Contractor, any Contractor personnel, or any approved subcontractors who perform services for Purchasers.

(g) All goods provided by Contractor are free and clear of any liens and encumbrances, and that Contractor has full legal title to the goods, and no other person has any right, title or interest in the goods which is superior to or infringe upon the rights transferred to a Purchaser. Title to goods delivered is subject to the provisions of ORS chapter 72

(h) When used as suggested by Contractor in product documentation and otherwise, no good or service delivered by Contractor infringes any copyright, patent, trade secret, trademark, or other proprietary right of any third party, nor will Purchaser's use, duplication, or transfer of the products or services infringe any such rights.

(i) All products and services provided by Contractor comply with all applicable federal and state health and safety standards.

(j) Any approved subcontractors performing work under this Addendum have assigned all of their rights in the products and services to Purchaser. No third party has any right, title or interest in any products or services supplied to Purchaser.

14.2 Contractor must transfer to Purchaser all manufacturer warranties covering goods at time of delivery at no charge.

14.3

Contractor shall transfer all products and services to Purchasers free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind. In addition, Contractor shall, to the best of its ability, transfer software to Purchasers free and clear of any and restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment.

14.4 The warranties set forth in this Addendum are in addition to, and not in lieu of, any other warranties provided in the Master Agreement or in Contractor's product documentation or otherwise. All warranties provided in this Addendum and in the Master Agreement are cumulative and should be interpreted expansively so as to afford Purchaser the broadest protection available.

15. Indemnities and Liability.

15.1 **General indemnity.** Contractor will defend and indemnify Purchaser and the State of Oregon and their agencies, officers, employees, and agents (together, the "Indemnified Parties") from and against all claims, suits, actions, losses, damages, liabilities, costs, expenses, and attorney fees of any nature whatsoever including the activities of Contractor and its officers, employees, subcontractors, and agents without limitation claims for personal injury, death, and property damage (together, "Claims") resulting from, arising out of, and relating to products and services provided by Contractor under this Addendum.

15.2 Infringement indemnity. Contractor will defend and indemnify the Indemnified Parties from and against Claims resulting from, arising out of, or relating to a claim that any aspect of the products or services furnished under a Purchase Order infringes a copyright, patent, trademark, trade dress, utility model, industrial design, mask work, or any other intellectual property right of any third party ("Infringement Claim").

15.3 Defense of indemnity claims. Contractor's obligation to defend and indemnify a Purchaser is conditioned on Purchaser providing to Contractor notice of a Claim or potential Claim of which Purchaser becomes aware that may be the subject of those sections. However, to the extent Purchaser's notice is delayed, Contractor's obligation to defend and indemnify is only foregone only to the extent it is prejudiced by delay. Contractor may control the defense and settlement of Claims. However, neither Contractor nor any attorney engaged by Contractor may defend a claim nor purport to act as legal representative in the name of the State of Oregon or the Indemnified Parties without the approval of the Oregon Attorney General. Contractor may not settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election, assume its own defense by providing notice to Contractor. Contractor may not settle any indemnity claim on the State of Oregon's behalf without the prior written consent of the Oregon Attorney General. The participation of the State of Oregon under this section will not relieve Contractor of its obligation to indemnify the State of Oregon.

15.4 Remedies for Infringement Claims. If any products or services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if an Purchaser is prevented from exercising its rights under this Addendum based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, (1) procure for the Purchaser the right to continue using the allegedly infringing products and services, or (2) replace or modify the products or services so that they become non-infringing, provided that the replacement or modified product or service meets the specifications in the applicable Purchase Order to the satisfaction of Purchaser. If the foregoing remedies are not available, then Purchaser may return the allegedly infringing goods or terminate the allegedly infringing services, and Contractor must refund Purchaser's payments in full, for the allegedly infringing products or services, in addition to any other remedies available to Purchaser.

15.5 Limitation of liability. Except for indemnity and defense liability or confidentiality violations, or claims for personal injury, including death, or damage to property arising from the negligence, reckless conduct, or intentional acts of Contractor, its officers, employees, and agents, Contractor's liability for damages to the State of Oregon for individual claims is limited to the greater of one million dollars or two times the aggregate value of all payments made by Purchasers under this Addendum over the two year period prior to notice of a claim. Neither party is liable to the other party for any consequential or incidental damages.

16. Term and termination of Addendum.

16.1 Term of Addendum. The initial term of this Addendum will be **one year** beginning on the date that Oregon SPO signs the Addendum. SPO may extend the term of the Addendum for additional periods not to exceed a cumulative total of **five years**, unless terminated earlier in accordance with the termination provisions in this Addendum. Irrespective

of any termination, a Purchaser's rights this Addendum continues in force for any products and services accepted by a Purchaser.

16.2 Termination of Addendum. In addition to any termination rights in the Master Agreement, Oregon SPO may terminate this Addendum, in whole or in part, immediately upon notice to Contractor, or at such later date as Oregon SPO may establish in such notice, for no reason or for any reason. Oregon SPO may also terminate this Addendum for the following reasons:

- (a) Contractor is in default under this Addendum and breaches any term of this Addendum.
- (b) Oregon SPO fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient to allow Oregon SPO, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Addendum.
- (c) Federal, state, or local laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of products or services under this Addendum is prohibited or a Purchaser is prohibited from paying for such products or services from the planned funding source.

16.3 Upon receipt of written notice of termination, Contractor shall stop performance under all Purchase Orders under this Addendum as directed by Oregon SPO. Contractor must notify Oregon SPO and effected Purchasers regarding the status of Purchase Orders which have not been fully performed by Contractor at the time of the termination.

16.4 Termination of this Addendum or the Master Agreement does not extinguish or prejudice Oregon SPO's or a Purchaser's right to enforce this Addendum or a Purchase Order, including without limitation any right of the Oregon SPO or a Purchaser to indemnification by Contractor. If this Addendum or a Purchase Order is so terminated, the Purchaser will pay Contractor in accordance with the terms of a Purchase Order for products and services which are accepted by the Purchaser.

17. Termination of individual Purchase Orders.

17.1 A Purchaser may, at its sole discretion, terminate individual Purchase Orders, in whole or in part, immediately upon notice to Contractor, or at such later date as Purchaser may establish in such notice, for no reason or for any reason. A Purchaser may also terminate this Purchase Orders on the occurrence of any of the following events:

- (a) Contractor is in default of or breaches any term of a Purchase Order.
- (b) A Purchaser fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient to allow a Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under a Purchase Order.
- (c) Federal, state, or local laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of products or services is prohibited, or a Purchaser is prohibited from paying for such products or services from the planned funding source.

17.2 Upon receipt of written notice of termination, Contractor will stop performance under the Purchase Order as directed by Purchaser.

17.3 Termination of a Purchase Order does not extinguish or prejudice a Purchaser's right to enforce the Purchase Order, including without limitation any right of Purchaser to indemnification by Contractor. In addition, termination of a Purchase Order does not extinguish or prejudice Purchaser's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this Addendum. If a Purchase Order is terminated, Purchaser will pay Contractor in accordance with the terms of this Addendum for products and services accepted by Purchaser.

18. **Compliance with law.** (a) Contractor will comply with all federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to Contractor's performance under this Addendum and to the products and services purchased.

(b)

Without limitation, a Purchaser's performance under this Addendum and Purchase Orders is conditioned on Contractor's compliance with the provisions of ORS 279B.220, 279B.230, 279B.235, and 279B.270. In addition, Contractor warrants the products and services provided under this Addendum will comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the Oregon Workers' Compensation Division. Contractor must comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section v of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659.425, (d) all regulations and administrative rules established pursuant to the foregoing laws, and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. (c)

In addition, if Contractor is notified by a Purchaser that a specific purchase is being made with American Recovery and Reinvestment Act of 2009 ("ARRA") funds, Contractor agrees to comply with the data element and reporting requirements as defined in Federal Register Volume 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Purchaser will inform Contractor when Purchaser becomes aware that ARRA funds are being used for a purchase. Contractor will provide the required report to Purchaser with the invoice presented to Purchaser for payment. Contractor, as it relates to purchases under this Addendum, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

(d) **Application of Public Records Law.** Contractor acknowledges that any disclosures Contractor makes to Purchaser under this Addendum are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.410 to 192.505, the provisions for the custody and maintenance of public records, ORS 192.005 to 192.710, and of ORS 646.461 to 646.475. The non-disclosure of documents or of any portion of a document submitted by Contractor to Purchaser may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to Purchaser's release of documents to entities other than participating agencies or other State agencies. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested documents, at its own expense.

(e) **Recycled Products.** Contractor must use, to the maximum extent economically feasible in the performance of this Contract, recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

19. **Notices.** Except as otherwise provided in a Purchase Order, any notices to be given under this Addendum or under a Purchase Order must be given in writing by personal delivery, by facsimile, or by mailing the notice, postage prepaid, to the address or phone number set forth on the Purchase Order. Any communication so addressed and mailed will be deemed to have been received five calendar days after mailing. Any communication delivered by facsimile will be deemed to be given when a confirming report for the transmission is generated by the transmitting fax machine. To be effective against the receiving party, a fax transmission or mailed notice must be confirmed by telephone notice and email notice to the receiving party's authorized representative. Any notice by personal delivery will be deemed to be given when actually received by the appropriate authorized representative. For notices given under this Addendum, the contact information for representatives of Contractor and Oregon SPO are set forth in Section 5 of the Addendum.

20. **Confidential Information and non-disclosure.**

20.1 In the course of performing under this Addendum, Contractor may be exposed to or acquire information that is confidential to Oregon SPO and Purchasers. Any information of any form obtained by Contractor and its employees, agents, and approved subcontractors (together, "Contractor Personnel") in the performance of this Addendum and Purchase Orders is confidential information of Oregon SPO and Purchasers ("Confidential Information"). Contractor must treat any reports or other documents or items which result from the use of the Confidential Information in the same manner as Confidential Information.

20.2 **Non-disclosure obligation.** Contractor must hold Confidential Information in confidence, using at least the same degree of care that Contractor uses in maintaining its own confidential information, and must not transfer, copy, reproduce, sell, assign, license, market, or otherwise disclose Confidential Information to third parties (other than Contractor Personnel who have a need to know such information). Contractor must not use Confidential Information for any purpose whatsoever other than in performing under this Addendum. Contractor must advise Contractor Personnel in writing of their obligations to keep the Confidential Information confidential. Contractor must use commercially reasonable efforts to assist Purchasers in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, Contractor must advise Purchasers immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the non-disclosure obligations of this Addendum. Contractor will at its expense cooperate with Purchasers in seeking injunctive or other equitable relief in the name of Purchasers or Contractor against any such person. Contractor agrees that, except as directed by Purchasers, Contractor will not at any time during or after the term of this Addendum disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Addendum, and that upon termination of this Addendum or at a Purchaser's request, Contractor will provide to the Purchaser all documents, papers, and all other materials in Contractor's possession that contain Confidential Information of that Purchaser.

20.3 Confidential Information does not include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document, (b) is furnished by Purchaser to others without restrictions similar to those imposed by this Addendum, (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Addendum, (d) is obtained from a source other than Purchaser without the obligation of confidentiality, (e) is disclosed with the written consent of a Purchaser, or (f) is independently developed by Contractor Personnel who have had no access to the Confidential Information.

21. **Dispute resolution.** In the event that there is any disagreement, dispute, breach, or claim of breach, non-performance, or repudiation arising from, related to or in connection with the Addendum or any Purchase Order, including without limitation to any party's failure or alleged failure to comply with any of the provisions of the Addendum (collectively, a "Dispute"), other than one related to the release of Confidential Information, Oregon SPO and Contractor shall first conduct the following procedure in an attempt to resolve the Dispute:

(a) Oregon SPO and Contractor must make every effort to settle any dispute through their respective managers within five calendar days of one party notifying the other party of a dispute.

(b) If the dispute is not resolved between the managers, then either party may initiate formal dispute resolution discussions by advising the other party in writing. The contacts for these discussions will be Oregon SPO's and Contractor's representatives listed in Section 5 of the Addendum. Oregon SPO and Contractor must attempt in good faith to resolve the dispute within five calendar days of the notice from the other party that they are initiating this second level of dispute resolution. If Oregon SPO and Contractor agree in writing that there has been substantial progress toward resolution of the dispute, this second level may be extended for an additional five business day period which shall commence at the conclusion of the first five day period.

(c) Nothing in this section (1) will in any way limit a party's rights to seek injunctive relief of any kind, at any time, with respect to any matter, nor (2) will in any way limit a party's right to suspend or terminate the Addendum or pursue other remedies available under the Master Agreement, Addendum, law or otherwise, nor (c) will remove the requirement to provide notices or filings to meet deadlines otherwise required by law, nor (d) will constitute a waiver of the any form of immunity available to the State of Oregon.

(d) Purchasers and Contractor must attempt to resolve all disputes related to Purchase Orders under the procedures described in this section.

22. **Governing law.** This Addendum and Purchase Orders are governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

23. **Jurisdiction and venue.** (a) **Oregon state agencies.** Any claim, action, suit, or proceeding (collectively, "Claim") between Contractor and Oregon SPO, or a Purchaser other than an ORCPP member, that arises from or relates to this Addendum or a Purchase Order, must be brought and conducted exclusively in the Circuit Court of Marion County for the State of Oregon.

(b) **ORCPP members.** Any Claims between Contractor and an ORCPP member that arise from or are related to Purchase Orders must be brought and conducted exclusively within the Circuit Court of the Oregon county in which the ORCPP member has its principal office, or at Purchaser's option, within such other county as Purchaser will be entitled to proceed under the venue laws of Oregon to bring or defend Claims.

(c) This section is not a waiver by the State of Oregon or any Purchaser of any form of immunity, including but not limited to sovereign immunity or immunity based on the Eleventh Amendment to the Constitution of the United States. If a Claim must be brought in a federal court, then it must be brought and conducted exclusively in the United States District Court of the District of Oregon. BY EXECUTION OF THIS ADDENDUM OR ACCEPTANCE OF A PURCHASE ORDER, CONTRACTOR HEREBY CONSENTS TO THE PERSONAL JURISDICTION PROVISIONS OF THIS ADDENDUM.

24. **Entire agreement.** This Addendum, including the Master Agreement and the exhibits to this Addendum, constitutes the entire agreement between the parties on the subject matter hereof, and supersedes all prior agreements, oral or written. The terms of this Addendum prevail and govern in the case of inconsistent terms of any other document. There are no understandings, agreements, or representations, oral or written, between these parties that are not specified in this Addendum. No waiver, consent, modification, or change of terms of this Addendum binds either party unless in writing and signed by both parties and all necessary state approvals have been obtained. Such waiver, consent, modification or change, if made is effective only in the specific instance and for the specific purpose given. The failure of Oregon SPO or a Purchaser to enforce any provision of this Addendum does not constitute a waiver of that or any other provision.

25. **Foreign contractor.** If Contractor is not domiciled in, or registered to do business in, the State of Oregon as of the effective date of this Addendum, Contractor will promptly provide to the Oregon Department of Revenue all information required by that department. A Purchaser may withhold final payment under a Purchase Order until Contractor has provided the Oregon Department of Revenue with the required information.

26. **Independent contractor.** Contractor is an independent contractor and is not an officer, employee, or agent (as those terms are used in ORS 30.265) of Oregon SPO or Purchasers. Contractor has no authority to bind Oregon SPO or Purchasers in any way. Contractor must not hold itself out as an officer, employee, or agent of Oregon SPO or Purchasers. Neither party shall make any statements, representations, or commitments of any kind or to take any action binding on the other except as provided for herein or authorized in writing by the party to be bound.

27. **Access to records.** Contractor will maintain all fiscal records relating to this Addendum and to Purchase Orders in accordance with generally accepted accounting principles and will maintain any other records relating to this Addendum and Purchase Orders in such a manner as to clearly document Contractor's performance. Contractor must provide access to Purchasers, Oregon SPO, and the State of Oregon, and their representatives to all records including without limitation to all books, documents, papers, plans and writings of Contractor which relate to this Addendum and Purchase Orders to perform examination and audits and make copies. Contractor will retain and keep accessible all such records for a minimum of six years following final payment or termination of this Addendum, or such longer period as may be required by

applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum or a Purchase Order, whichever date is later.

28. **Severability.** If any term of this Addendum is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Addendum did not contain the particular term held to be invalid.

29. **Survival of terms.** Any terms of this Addendum, which by their nature are intended to survive termination or expiration including but not limited to warranties, indemnification, access to records, governing law, venue, consent to jurisdiction, termination, and remedies will survive the termination of this Addendum.

30. **Insurance requirements.** Contractor must obtain the insurance coverage as set forth in Exhibit 1. Contractor may not transact business under Addendum or a Purchase Order until it has provided certificates of insurance to Oregon SPO demonstrating that it has complied with the insurance requirements.

31. **Amendments.** (a) The parties may amend this Addendum from time to time. An amendment must be in writing and signed by the parties.

(b) Oregon SPO, in its sole discretion, may add products and services to this Addendum on an as-needed basis from time to time as determined by Oregon SPO with input from Purchasers. This process will be conducted either as an anticipated or unanticipated amendment in accordance with OAR 125-246-0560(2) (general rule for amendments), or as a renegotiation of the terms of the Addendum (to include price) in accordance with either OAR 125-246-0560(8), or OAR 125-247-0288(3) (rule for renegotiated contracts).

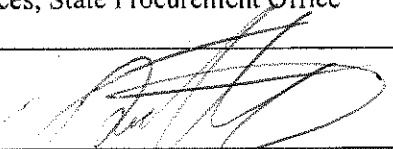
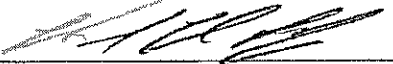
Oregon SPO: State of Oregon acting by and through the Department of Administrative Services, State Procurement Office	Contractor: Bell and Howell, LLC
By: 	By: 
Name: Timothy J. Jenks	Name: RICHARD R PASKE JR
Title: State Procurement Analyst	Title: DIR ORDER MANAGEMENT
Date: May 4, 2012	Date: 05/03/2012
	Federal Tax ID#: 36-3580100

Exhibit 1
to
Participating Addendum

Contractor's insurance requirements

A. Contractor shall obtain, at Contractor's sole expense, the insurance specified in this Exhibit 1 prior to performing under this Addendum, and shall maintain it in full force and at its own expense throughout the duration of this Addendum and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to Oregon SPO.

i. WORKERS COMPENSATION. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

ii. PROFESSIONAL LIABILITY.

X Required by Oregon SPO Not required by Oregon SPO.

___ Professional Liability. Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Addendum. Contractor shall provide proof of insurance of not less than the following amounts as determined by Oregon SPO:

X \$2,000,000 (Oregon SPO to enter amount) Per occurrence limit for any single claimant;
and
X \$2,000,000 (Oregon SPO to enter amount) Per occurrence limit for multiple claimants

iii. COMMERCIAL GENERAL LIABILITY.

X Required by Oregon SPO ___ Not required by Oregon SPO.

X Commercial General Liability. Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverage's that are satisfactory to the State. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by Oregon SPO:

X Bodily Injury/Death:

X Per occurrence limit for any single claimant:

From commencement of the Addendum term to June 30, 2012: \$1,700,000.
July 1, 2012 to June 30, 2013: \$1,800,000.
July 1, 2013 to June 30, 2014: \$1,900,000.
July 1, 2014 to June 30, 2015: \$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court
Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Per occurrence limit for multiple claimants:

From commencement of the Addendum term to June 30, 2012: \$3,400,000.
July 1, 2012 to June 30, 2013: \$3,600,000.
July 1, 2013 to June 30, 2014: \$3,800,000.
July 1, 2014 to June 30, 2015: \$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court
Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

AND

X Property Damage:

X Per occurrence limit for any single claimant:

From commencement of the Addendum term to June 30, 2010: \$100,000.
From July 1, 2010, and every year thereafter the adjusted limitation as determined by the State
Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

X Per occurrence limit for multiple claimants:

From commencement of the Addendum term to June 30, 2010: \$500,000.
From July 1, 2010, and every year thereafter the adjusted limitation as determined by the State
Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

iv. AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.

X Required by Oregon SPO ___ Not required by Oregon SPO.

X Automobile Liability. Automobile Liability Insurance covering all owned, non-owned, or
hired vehicles. This coverage may be written in combination with the Commercial General
Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile
Liability"). Contractor shall provide proof of insurance of not less than the following amounts as
determined by Oregon SPO:

X Bodily Injury/Death:

X Per occurrence limit for any single claimant:

From commencement of the Addendum term to June 30, 2012: \$1,700,000.
July 1, 2012 to June 30, 2013: \$1,800,000.
July 1, 2013 to June 30, 2014: \$1,900,000.
July 1, 2014 to June 30, 2015: \$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court
Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

X Per occurrence limit for multiple claimants:

From commencement of the Addendum term to June 30, 2012:	\$3,400,000.
July 1, 2012 to June 30, 2013:	\$3,600,000.
July 1, 2013 to June 30, 2014:	\$3,800,000.
July 1, 2014 to June 30, 2015:	\$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

B. **ADDITIONAL INSURED.** The Commercial General Liability insurance and Automobile Liability insurance required under this Addendum shall include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Addendum. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. **"TAIL" COVERAGE.** If any of the required professional liability insurance is on a "claims made" basis, Contractor shall either maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Addendum, for a minimum of 24 months following the later of (i) Contractor's completion and Oregon SPO's acceptance of all Services required under this Addendum, or, (ii) The expiration of all warranty periods provided under this Addendum. Notwithstanding the foregoing 24-month requirement, if Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under this Addendum. Contractor shall provide to Oregon SPO, upon Oregon SPO's request, certification of the coverage required under this section C.

D. **NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days' written notice from this Contractor or its insurer(s) to Oregon SPO. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Addendum and shall be grounds for immediate termination of this Addendum by Oregon SPO.

E. **CERTIFICATE(S) OF INSURANCE.** Contractor shall provide to Oregon SPO Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Addendum. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

Exhibit 2
to
Participating Addendum

Contractor Pricing
Pricing sheets 1 to 4

Pricing sheet 1

<u>Pricing for the following equipment</u>	<u>Contractor pricing</u>
1. Inserters	
2. Folder-inserters, high volume	
3. Folder-inserters, production	
Percentage discount off MSRP or catalog price	17% discount
Percentage discount off accessories pricing	17% discount
Percentage discount off supplies and consumables (does not include paper)	17% discount
Percentage discount off mailing furniture	17% discount
Maintenance and support for equipment and software	
Maintenance- fixed for years 2 to 5	12% of the MSRP
If Purchaser is using time and materials rates	
Time and materials rate during regular business hours	\$162 per hour (plus 10% discount)
Time and materials rate on Saturdays	\$243 per hour
Time and materials rate on Sundays and holidays	\$324 per hour
Percentage discounts of parts for time and materials	3% parts discount. 5% discount for annual parts purchases after the first \$50,000

All products and services must meet or exceed Purchaser specifications.

Contractor Pricing
Pricing sheet 2

<u>Pricing for the following equipment</u>	<u>Contractor pricing</u>
1. Press sealing, production	
Percentage discount off MSRP or catalog price	14% discount
Percentage discount off accessories pricing	14% discount
Percentage discount off supplies and consumables (does not include paper)	14% discount
Percentage discount off mailing furniture	14% discount
Maintenance and support	
Maintenance- fixed for years 2 to 5	12% of the MSRP
If Purchaser is using time and materials rates	
Time and materials rate during regular business hours	\$162 per hour (includes 10% discount)
Time and materials rate on Saturdays	\$243 per hour
Time and materials rate on Sundays and holidays	\$324 per hour
Percentage discounts of parts for time and materials	3% parts discount. 5% discount for annual parts purchases after the first \$50,000

All products and services must meet or exceed Purchaser specifications.

Contractor Pricing
Pricing sheet 3

<u>Pricing for the following equipment</u>	<u>Contractor pricing</u>
1. Pre-sorting equipment, production	
Percentage discount off MSRP or catalog price	17% discount
Percentage discount off accessories pricing	17% discount
Percentage discount off supplies and consumables (does not include paper)	17% discount
Percentage discount off mailing furniture	17% discount
Maintenance and support	
Maintenance- fixed for years 2 to 5	12% of the MSRP
If Purchaser is using time and materials rates	
Time and materials rate during regular business hours	\$162 per hour (includes 10% discount)
Time and materials rate on Saturdays	\$243 per hour
Time and materials rate on Sundays and holidays	\$324 per hour
Percentage discounts of parts for time and materials	3% parts discount. 5% discount for annual parts purchases after the first \$50,000

All products and services must meet or exceed Purchaser specifications.

Contractor Pricing
Pricing sheet 4

<u>Pricing for the following services</u>	<u>Contractor pricing</u>
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Installation-assembly-software integration, production only

Software professional services during regular business hours	\$180 per hour
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Software professional services during outside normal business hours, and weekends and holidays	\$270 per hour
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All products and services must meet or exceed the Purchaser specifications.

Hourly rate is based on a total number of hours agreed to in writing by the parties before Contractor provides any services.

Exhibit 4
to
Participating Addendum
Format for Volume Sales Report

See attached file