

## **COPIERS & MANAGED PRINT SERVICES**

Led by the State of Colorado

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Master Agreement #: **140603**

State Contract: #SW1034

Contractor: **SHARP ELECTRONICS CORPORATION**

Participating Entity: **STATE OF OKLAHOMA**

**The following products and services are included in this contract portfolio:**

- Group A – MFD, A3
- Group B – MFD, A4
- Group C – Production Equipment
- Group D – Single-function Printers
- Group F – Scanners
- Managed Print Services (MPS)
- Supplies
- Software

### **Master Agreement Terms and Conditions:**

1. Scope: This Participating Addendum (“Addendum”) is entered into and effective February 9, 2021 (the “Effective Date”) between the State of Oklahoma by and through the Office of Management and Enterprise Services (the “Participating State”, “State”, or “Participating Entity”) and Sharp Electronics Corporation (“Contractor,” “Vendor,” or “Supplier”) and covers the NASPO ValuePoint Master Agreement for Copiers and Managed Print Services led by the State of Colorado (“NASPO ValuePoint Master Agreement”), for use by state agencies, interlocal entities, and affiliates authorized by the Participating State to utilize state contracts with the prior approval of the state’s Chief Procurement Officer.

This Addendum consists of the following documents, which are incorporated herein as part of this Addendum:

- Exhibit 1-The State of Oklahoma Specific Terms and Conditions; Exhibit 2 – Oklahoma Hosting Agreement
2. Participation: Use of specific NASPO ValuePoint cooperative contracts by state entities, interlocal entities, or affiliates authorized by the Participating State (“Authorized Purchaser”) are subject to the approval of the State’s Chief Procurement Officer. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Officer.

**PARTICIPATING ADDENDUM****COPIERS & MANAGED PRINT SERVICES**

Led by the State of Colorado

3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

## Contractor

Name:	Jack Coons
Address:	100 Paragon Drive, Montvale, NJ 07645
Telephone:	817-909-0152
Fax:	N/A
Email:	<a href="mailto:CoonsJ@sharpsec.com">CoonsJ@sharpsec.com</a>

## Participating Entity

Name:	Statewide Initiatives Lead
Address:	5005 N. Lincoln Blvd. Ste. 200, Oklahoma City, Ok 73105
Telephone:	(405) 521-4772
Fax:	N/A
Email:	<a href="mailto:purchasing@omes.ok.gov">purchasing@omes.ok.gov</a>

4. Participating Entity Modifications or Additions to The Master Agreement: Modifications or additions apply only to actions and relationships within the Participating Entity.

[X] The following changes are modifying or supplementing the NASPO ValuePoint Master Agreement terms and conditions. See attached Exhibit 1 - The State of Oklahoma Specific Terms and Conditions; Exhibit 2 – Oklahoma Hosting Agreement.

5. Order of Precedence:

- A Participating Entity's Participating Addendum; including all Exhibits;
- NASPO ValuePoint Master Agreement, including all Exhibits;
- An Order issued against the Master Agreement;
- The Solicitation, RFP-NP-18-001, Copiers and Managed Print Services;
- The Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State; and
- The Contractor's Supplemental Documents, including all Attachments

6. Lease Agreements:

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Led by the State of Colorado

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- a. Lease Terms: Equipment leases are subject to the Terms and Conditions as set forth in the NASPO ValuePoint Master Agreement, unless otherwise agreed to in writing. To initiate a lease, Purchasing Entity may issue a Purchase Order ("PO") and reference the type of lease (FMV, Straight, or Capital Lease) on the PO or may simply sign other transactional documents deemed acceptable to the parties. Each PO shall contain the substantially similar language to the following: "This PO is subject to and incorporates by reference (i) that certain Master Lease Agreement attached as Attachment A to NASPO ValuePoint Contract No. #140603 & State Contract # SW1034, and (ii), if the issuer is subject to annual appropriations, the Appropriations Rider attached the Participating Addendum between the State of Oklahoma and Sharp Leasing USA Corp. pursuant to NASPO ValuePoint Contract NO. SW1034. This purchase order shall constitute a Master Lease Schedule for purposes of the Master Lease Agreement. Standard, preprinted purchase order terms and conditions set forth in, incorporated into or referenced in this PO (excluding the Master Lease Agreement attached as Attachment A to the NASPO ValuePoint Contract No. #140603 & State Contract # SW1034 shall be of no force or effect and shall not modify or amend the Master Lease Agreement or the Master Lease Schedule.
- b. The form of the Schedule and related leasing documents are attached as Attachment B to this Participating Addendum. Each Lease, whether in the form of a Schedule or PO, constitutes a separate and independent agreement of lease incorporating all of the terms of the Master Lease Agreement attached to the NASPO ValuePoint Master Agreement as Attachment A ("MLA"). Each Schedule or PO, as applicable, together with the MLA and this Section 6(b) and Section 6(g) below, constitutes the entire agreement of the parties thereto with respect to the subject matter thereof; provided, however, that the reference in the introductory paragraph of the MLA to "*other documents executed or delivered by Us in connection herewith*" is limited to the MLA, the Schedule and the PO and is not intended to incorporate the NASPO Master Agreement or this Participating Addendum into the MLA or make it part of any Lease. Notwithstanding the foregoing, in the event of any conflict between a Lease and Sections 4.5.5 through 4.5.5 and 4.10.1 through 4.10.6 of the NASPO ValuePoint Master Agreement, the NASPO ValuePoint Master Agreement shall control and in the event of any conflict between a Schedule or PO, as applicable, and the MLA, the Schedule or PO shall control. In the event of a conflict between the NASPO ValuePoint Master Agreement and this Participating Addendum, the terms of this Participating Addendum will control. No modification or amendment to any Lease shall be binding upon the parties thereto unless the same is in writing and signed by such parties. For the avoidance of doubt, standard PO terms and conditions attached to, included in or incorporated into a PO do not constitute part of any Lease.
- c. Assignment: Contractor may assign, solely for financing purposes, upon written notification to the State of Oklahoma, Office of Management and Enterprise Services, their right title and interest in and to: (i) the Products subject to the Lease Agreement; (ii) all payments and other amounts due and to become due thereunder with respect to the Products; and (iii) all rights and remedies under this Participating

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Addendum with respect to the Products, such payments and other amounts due. Any such assignment however, does not excuse Contractor from bearing any obligation, terms and conditions as outlined under either the NASPO ValuePoint Master Agreement 18-001 or this Participating Addendum. Contractor intends to assign, solely for financing purposes, rights as set forth immediately above and this paragraph constitutes the required written notification to the State.

- d. All lease and rental programs shall remain with the Contractor or Authorized Dealers through an in-house leasing program, or through the financial branch or subsidiary of the Contractor. In addition, Contractor and their Authorized Dealers may use Third Party leasing companies, but all billing must be invoiced in the name of the Contractor or Authorized Dealer, and all contractual obligations will still be the responsibility of the Contractor.
- e. End of Term Notification: Contractor must notify a Purchasing Entity, in writing, of their End of Term options at least sixty (60) to ninety (90) days prior to the end of any Initial Lease or Rental Term. Such notification may include, but not be limited to, the following:
  - i. Any acquisition or return options, based on the type of lease or rental agreement;
  - ii. Any renewal options, if applicable; and/or
  - iii. Hard drive removal and surrender cost, if applicable.
- f. End of Term Options: If a Purchasing Entity desires to exercise a purchase, renewal, or return of the Equipment, it shall give Contractor at least thirty (30) days written notice prior to the expiration of such lease or rental term. Notwithstanding anything to the contrary, if Purchasing Entity fails to notify Contractor of its intent with respect to the exercise of a purchase, renewal, or return of the Equipment, the Initial Lease or Rental Term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged.
- g. Non-Appropriation with respect to Leases: This section applies only to Leases for which the Purchasing Entity is the State or a political subdivision thereof. Purchasing Entity is obligated only to pay such payments under any Lease as may lawfully been made from funds budgeted and appropriated for that purpose during Purchasing Entity's then current fiscal year. In the event Purchasing Entity has requested and sufficient funds shall not be appropriated or are not otherwise legally available to pay the Lease payments required to be paid in the next fiscal year, the Lease shall be deemed to be terminated at the end of the then current fiscal year. Purchasing Entity agrees to deliver written notice to Contractor of such termination of at least 90 days

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Led by the State of Colorado

prior to the end of the current fiscal year but failure to give such notice shall not extend the Lease term beyond the then current fiscal year. If a Lease is terminated in accordance with this Section, Purchasing Entity agrees, at its cost and expense, to peaceably deliver the Equipment to Contractor at the location or locations specified by it.

7. Resellers: All contractors and resellers authorized in the State of Oklahoma, as shown on the dedicated Contractor (cooperative contract) website, are approved to accept orders and provide sales, service support, and invoicing to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the Master Agreement.
8. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this NASPO ValuePoint Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the NASPO ValuePoint Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

All orders should contain the following (1) "PO subject to NASPO ValuePoint Contract #140603 & State Contract # SW1034 (2) Purchaser's, Address, Contact, & Phone-Number (3) Purchase order amount (4) Type of Lease (FMV, Straight, or Capital lease) and monthly payment (5) Itemized list of accessories (6) Service program and rates (7) Attached SOW Template if applicable.

9. Product Installation & Invoicing: Unless otherwise agreed to by both parties, signing the delivery and acceptance ("D&A") certificate constitutes Acceptance of the Product(s) and allows Contractor to invoice for the Product(s). Failure to sign the D&A or reject the Product(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity.

Contractor will provide timely billing and Customer will notify Contractor, in writing, of any billing concern. In order for Contractor to generate accurate service invoices, Purchasing Entities shall provide meter reads within the Contractor(s) requested timeframe.

Invoices that are generated without receiving the proper meter read information from the Purchasing Entity will not be considered inaccurate.

The Purchasing Entity shall provide written notice of any alleged invoicing issue(s) and the Contractor will be allowed a thirty (30) day cure period to address any such issue. Failure

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Led by the State of Colorado

on the Contractor(s) part to maintain accurate invoicing shall result in a \$25.00 per instance credit on the following month's invoice.

10. Not Specifically Priced ("NSP") Open Market Items: Not Specifically Priced (NSP) items compliment or enhance the Products and/or Services offered under the resulting Master Agreement(s). NSP items will not include:

- i) Interactive White boards;
- ii) Computers, monitors, or other related items;
- iii) Fax machines;
- iv) Overhead Projectors; and
- v) Cameras.

NSP items may only be acquired through the Contractor(s) or their Authorized Dealer(s) and must be reported quarterly with all other sales under the resulting Master Agreement(s). NSP items must be priced at a minimum discount of 15% from MSRP or List Price. NSP items shall not be offered to a Purchasing Entity as a stand-alone option, and the maximum allowable amount of all NSP items in a single Order shall be determined by the Participating State or Entity.

11. Showroom Equipment: Upon request by a Purchasing Entity, showroom Equipment for Groups A, B, and C may be converted to a purchase, lease, or rental providing the following conditions are met:

- a. The meter count on Group A and Group B Devices does not exceed 10,000 copies total (i.e. b&w and color combined); and the meter count on Group C Devices does not exceed 50,000 copies total (i.e. b&w and color combined);
- b. The Device must be discounted by at least 5% off the Master Agreement pricing for that same Device; and the Purchasing Entity and the Contractor must indicate on the Order that the Device is a showroom model.

12. Software: Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software. Software subscriptions shall not be subject to automatic renewals. Purchasing Entities shall have the option to finance software subscriptions by utilizing Contractor lease and rental rates. Notwithstanding the foregoing, in the event of a conflict in language between an end user license agreement (EULA) and the Master Agreement, the language in the Master Agreement will supersede and control. In addition, any language in a EULA which violates a participating state's constitution or a statute of that state; or violates the laws of a local entity making a purchase, will be deemed void, and of no force or effect, as applied to the participating or purchasing entity.

**COPIERS & MANAGED PRINT SERVICES**

Led by the State of Colorado



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13. Maintenance Service Level Agreements: Purchasing Entities are subject to the Contractor “Maintenance Service Level Agreement” provided in Participating Addendum **Exhibit A**.
14. Service Maintenance Agreement: Purchasing Entities are subject to the Contractor “Service Maintenance Agreement” provided in Participating Addendum **Exhibit B**. Contractor(s) may not provide maintenance or repair Services on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless they have a written agreement with the Manufacturer to do so.
15. MPS Statement of Work Template: All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, similar to the format provided in Participating Addendum **Exhibit C (MPS Statement of Work)**, and it must be approved by both parties prior to the initiation of any engagement.

**PARTICIPATING ADDENDUM****COPIERS & MANAGED PRINT SERVICES**

Led by the State of Colorado

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

Participating Entity: The Office of Management and Enterprise Services	Contractor: Sharp Electronics Corporation
Signature: 	Signature:  <a href="#">Mike Marusic (Feb 22, 2021 11:16 EST)</a>
Name: D. Jerry Moore	Name: Mike Marusic
Title: Chief Information Officer	Title: President and CEO
Date: Feb 23, 2021	Date: Feb 22, 2021

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Ted Fosket
Telephone:	(907) 723-3360
Email:	<a href="mailto:tfosket@naspovaluepoint.org">tfosket@naspovaluepoint.org</a>

***[Please email fully executed PDF copy of this document to***

***[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)***

***to support documentation of participation and posting in appropriate data bases.]***

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

Any and all licensing, maintenance, or order-specific agreements referenced within the terms and conditions of the NASPO Master Agreement No. 140603 are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum, the Master Agreement, and to the extent the terms are not in conflict with applicable Oklahoma law. In the event of conflict among the terms and conditions, the Participating Addendum shall take precedence.

**1. Definitions: The parties agree that, when used in the Agreement, the following terms are defined as set forth below:**

**A. Acquisition**

The term ("Acquisition") means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act.

**B. Contract Document**

The term ("Contract Document") means this Agreement, any statement of work, work order, or other similar ordering document related hereto and executed by the Vendor and the State of Oklahoma, as applicable; any purchase order related hereto; other mutually agreed documents; and any Addendum to any of the foregoing.

**C. Purchasing Entity**

The term ("Purchasing Entity") shall include the State of Oklahoma (the "State") and (a) any board, commission, committee, department or other instrumentality or entity designated to act on behalf of the State of Oklahoma or a political subdivision thereof; (b) any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act, including, without limitation, (i) any associated institution, instrumentality, board, commission, committee department, or other entity designated to act on behalf of the political subdivision; and (ii) a county or local governmental entity; and (c) entities authorized to utilize contracts awarded by the State of Oklahoma via a multistate or multi-governmental contract.

**D. Destination**

The term ("Destination") means delivered to the receiving dock or other point specified in the applicable Contract Document.

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

**E. Indemnified Parties**

The term ("Indemnified Parties") means the State of Oklahoma and Customers, and/or their officers, agents, employees, representatives, contractors, assignees and/or designees.

**2. Limitation of Authority**

With respect to procurement transactions for Customers, Vendor shall have no authority to act for or on behalf of Customers or the State of Oklahoma, except as expressly provided for in this Agreement; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Customers or the State of Oklahoma.

**3. Administrative Fees**

For Oklahoma-based Purchasing Entities, Contractor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. "Contract Usage Report" shall include the following: (i) the applicable state contract number; (ii) report amount(s); (iii) reporting period covered; and (iv) the applicable state agency name(s). Contract Usage Reports shall also include usage of the Participating Addendum by any other governmental entities (i.e. county, city, etc.). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the Participating Addendum.

All Contract Usage Reports shall meet the following criteria:

- a) Must be submitted electronically in Microsoft Excel format.
- b) Reports shall be submitted quarterly regardless whether this Addendum has been used during the applicable quarterly reporting period.
- c) Quarterly reporting periods
  - a. January 01 through March 31, due April 30
  - b. April 01 through June 30, due July 31
  - c. July 01 through September 30, due October 31
  - d. October 01 through December 31, due January 31

All Contract Usage Reports shall be delivered to:

E-mail: [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov)

For Oklahoma-based Purchasing Entities, the State of Oklahoma assesses an administrative fee in the sum of one percent (1%) on all net sales transacted by any Purchasing Entity under the Participating Addendum (the "Oklahoma Admin Fee").

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

Contractor shall submit the Oklahoma Admin Fee on a quarterly basis. Failure to remit the Oklahoma Admin Fee quarterly may result in cancellation of the Participating Addendum. Oklahoma Admin Fees shall not be reflected as a separate line item in Contractor's billing to participating state agencies and authorized users.

Payment of the Oklahoma Admin Fee shall be made via company check payable to OMES within forty-five (45) calendar days from the completion of the applicable quarterly reporting period set forth above.

Contractor agrees to notify OMES-ISD Procurement via the email address set forth below twenty-four (24) hours in advance of Contractor's submitting payment of the Oklahoma Admin Fee.

To ensure payment is properly accounted for, Contractor shall identify payment in the applicable Contract Usage Report as an "Administrative Fee" and shall include the following information: (i) the applicable state contract number, (ii) Oklahoma Admin Fee amount(s) paid, and (ii) the applicable quarterly reporting period.

Oklahoma Admin Fees shall be mailed to:  
Office of Management and Enterprise Services  
Attention: Accounts Receivable  
5005 N. Lincoln Boulevard, Suite 200  
Oklahoma City, OK 73105

**4. Pricing**

- A.** Pursuant to 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, Customers under the Contract that are Oklahoma state agencies are exempt from the assessment of State sales, use, and excise taxes. Further, such Customers and Customers that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Customers will provide Vendor with a tax exemption certificate upon request. Any taxes of any nature whatsoever payable by the Vendor shall not be reimbursed by the Customer.
- B.** Pursuant to Okla. Stat. tit. 74, § 85.40, Oklahoma Purchasing Entities shall not pay Contractor any travel expenses in addition to the total price of the products and/or services purchased; therefore, Contractor shall not invoice Oklahoma-based Purchasing Entities for any travel expenses in addition to the total price of the products and/or services purchased hereunder..

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

- C. The price to the Customer under the Participating Addendum shall include and Vendor shall prepay all shipping, packaging, delivery and handling fees. All Product deliveries will be Free on Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

**5. Invoices and Payment**

As applicable, the Parties shall comply with applicable Oklahoma law with respect to invoicing and making payments hereunder. Payments for goods and services are generally due thirty (30) days after receipt of a proper invoice; provided, however, Contractor acknowledges and agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days to pay Contractor shall not constitute default hereunder nor entitle Contractor to late payment fees or interest. Any applicable late fees or interest incurred after forty-five (45) days of nonpayment shall be paid only in accordance with Oklahoma law.

**6. Termination for Non-appropriation**

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities, Participating State may terminate any order if funds sufficient to pay its obligations under the Participating Addendum are not appropriated by the applicable state legislature, federal government or other appropriate government entity or received from an intended third party funding source. In the event of such insufficiency, Participating State shall provide ten (10) calendar days' written notice of intent to terminate. Notwithstanding the foregoing, if a Purchasing Entity issues an order and has accepted the products and/or services under such order, the Purchasing Entity shall be obligated to pay for such products and/or services. In the event of termination of an order as provided in the foregoing, Participating State shall not be considered to be in default or breach under the Participating Addendum nor under the Master Agreement, nor shall it be liable for any further payments ordinarily due under, with respect to, related to, or arising out of such order, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

**7. Notices**

If a party is to give notice under the Participating Addendum, all notices to the State of Oklahoma shall be address as follows:

**If sent to the State of Oklahoma:**

D. Jerry Moore  
Chief Information Officer  
3115 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

**With a copy to:**

OMES-IS Deputy General Counsel  
3115 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

**8. Choice of Law**

Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of the Contract Documents shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

**9. Choice of Venue**

Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of the Agreement, or any of the Contract Documents, shall be in Oklahoma County, Oklahoma. Further, notwithstanding any provision in the Agreement, the State does not waive the doctrine of sovereign immunity and immunity from suit to the extent authorized by the Constitution and laws of the State of Oklahoma nor any other right or defense available to the State.

**10. Conflict of Interest**

In addition to any requirement of law or through a professional code of ethics or conduct, the Vendor, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Further, as long as the Vendor has an obligation under the Agreement, any plan, preparation or

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

engagement in any such activity or interest shall not occur without prior written approval of the State.

**11. Force Majeure**

Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. In the event that a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, a Purchasing Entity may terminate a purchase order if Vendor cannot cause delivery of Products or Services in a timely manner to meet the business needs of the Purchasing Entity.

**12. Invalid Term or Condition**

To the extent any term or condition in the Participating Addendum conflicts with an applicable Oklahoma and/or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, Purchasing Entity makes no representation or warranty regarding the enforceability of such term or condition and Purchasing Entity does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the Contract term or condition.

**13. Audits and Records Clause**

- A. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Vendor

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

agrees any pertinent federal or State agency or governing entity of a Purchasing Entity shall have the right to examine and audit all records relevant to the execution and performance of the Contract except costs of Vendor that comprise pricing under the Contract, unless otherwise agreed.

- B.** The Vendor is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

**14. Compliance with Applicable Laws**

- A.** As long as Vendor has an obligation under the terms of the Contract and in connection with performance of its obligations, the Vendor shall comply with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- i.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. § 81.
  - ii.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - iii.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with debarment, suspension and other responsibility matters;
  - iv.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - v.** Anti-Lobbying Law set forth at 31 U.S.C. § 1325 and as implemented at 45 C.F.R. part 93;
  - vi.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

Circular A-133 with approval and work paper examination rights of the  
applicable procuring entity;

- vii.** Be compliant with the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. § 1312, and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. § 1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify); and
- viii.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- B.** The Vendor shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- C.** As applicable, Vendor agrees to comply with Governor's Executive Order 2012-01, effective August 06, 2012, which prohibits the use of any tobacco product on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.

**15. Employment Relationship**

The Addendum does not create an employment relationship. Individuals performing Services required by the Addendum are not employees of the Purchasing Entity. The Vendor's employees shall not be considered employees of the Purchasing Entity for any purpose, and accordingly shall not be eligible for rights or benefits accruing to such employees.

**16. Publicity**

Vendor acknowledges and agrees that the existence of the Contract or any Acquisition thereunder is not in any way an endorsement by the Purchasing Entity, the Products or the Services and shall not be so construed by Vendor in any advertising or publicity materials. Vendor agrees to submit to the State all advertising, sales, promotion, and other publicity

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

matters relating to the Participating Addendum wherein the name of the Purchasing Entity is mentioned or language used from which the connection of the Purchasing Entity therewith may, in the State's judgment, be inferred or implied as an endorsement. Vendor further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices without obtaining the prior written approval of the State.

**17. Open Records Act**

Vendor acknowledges that Purchasing Entity are subject to the Oklahoma Open Records Act. Vendor also acknowledges that such Purchasing Entity will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act, no Contract provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

**18. Confidentiality:**

- A.** The Vendor shall maintain strict security of all State data and records entrusted to it or to which the Vendor gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as needed by Vendor for performance of its obligations under the Contract. The Vendor further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. If Vendor utilizes a subcontractor, Vendor shall obtain specific written assurance, and provide a copy to the State, that the subcontractor shall maintain this same level of security of all data and records entrusted to or accessed by the subcontractor and agree to the same obligations as Vendor, to the extent applicable. Such written assurance may be set forth in the required subcontractor agreement referenced herein.
- B.** No State data or records shall be provided or the contents thereof disclosed to a third party unless specifically authorized in advance to do so in writing by the State Purchasing Director, the individual with administrative control over a Customer or in compliance with a valid court order. The Vendor shall immediately forward to the State and the State Purchasing Director any request by

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

a third party for data or records in the possession of the Vendor or any subcontractor or to which the Vendor or subcontractor has access and Vendor shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

**19. Assignment and Permitted Subcontractors**

- A.** Vendor's obligations under the Addendum may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Vendor assign its rights to payment, in whole or in part, under the Addendum, Vendor shall provide the State of Oklahoma with written notice of the assignment. Such written notice shall contain details sufficient for the Participating Entity to perform its payment obligations without any delay caused by the assignment. Sharp reserves the right to be able to assign without approval in the event of a merger or acquisition.
- B.** If the Vendor is permitted to utilize subcontractors in support of the Addendum, the Vendor shall remain solely responsible for its obligations under the terms of the Addendum and for its actions and omissions and those of its agents, employees and subcontractors. Any proposed subcontractor shall be identified by entity name, and by employee name if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by the Vendor, the Vendor shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Vendor. Such approval is within the sole discretion of the State. As part of the approval request, the Vendor shall provide a copy of a written agreement executed by the Vendor and subcontractor setting forth that such subcontractor is bound by and agrees to perform, as applicable, the same covenants and be subject to the same conditions, and make identical certifications to the same facts and criteria, as the Vendor under the terms of all applicable Contract Documents. Vendor agrees that maintaining such agreement with any subcontractor and obtaining prior approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State of Oklahoma further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
- C.** All payments under the Addendum shall be made directly to the Vendor, except as provided in Section A above regarding the Vendor's assignment of payment. No

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

payment shall be made to the Vendor for performance by unapproved or disapproved employees of the Vendor or a subcontractor.

**20. Failure to Enforce**

Failure by the State or a Customer, as applicable, at any time to enforce a provision of, or exercise a right under, the Addendum shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Addendum at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Addendum.

**21. Mutual Responsibilities of the Parties**

- A. Neither the State nor the Vendor grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B. The Addendum is a non-exclusive contract, and each party is free to enter into similar agreements with others.
- C. The Customer and Vendor each grant the other only the licenses and rights specified in the Addendum and all other rights and interests are expressly reserved.
- D. The State and Vendor shall reasonably cooperate with each other and any vendor to which Products and/or Services under the Contract may be transitioned after termination or expiration of the Addendum.
- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by either Customer, the State or the Vendor is required under the Addendum, such action shall not be unreasonably delayed or withheld.

**22. Indemnification**

- A. **Acts or Omissions**

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

Vendor shall indemnify and hold harmless the Indemnified Parties, as applicable, from any and all liability, including costs, expenses and attorney fees, for actions, claims, demands and suits arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct of the Vendor or its agents, employees, or subcontractors in the execution or performance of the Addendum.

**B. Coordination of Defense**

IN CONNECTION WITH INDEMNIFICATION OF A PURCHASING ENTITY WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, CONTRACTOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR CONTRACTOR, CONTRACTOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION; PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, CONTRACTOR SHALL CONTINUE TO BE OBLIGATED TO INDEMNIFY THE PARTICIPATING ENTITY AND, TO THE EXTENT APPLICABLE, ANY AND ALL PURCHASING ENTITIES, IN ACCORDANCE WITH AND TO THE EXTENT CONTRACTOR PROVIDES SUCH INDEMNITY UNDER THIS MASTER AGREEMENT.

**23. Miscellaneous**

**A. Severability**

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

of such provision to other parties or circumstances shall remain valid and in full force and effect.

**B. Section Headings**

The headings used in any Contract Document are intended for convenience only and do not constitute terms of the contract.

**C. Sovereign Immunity**

Notwithstanding any provision of any Contract Document, the State does not waive its sovereign immunity or immunity from suit.

**D. Survival**

As applicable, performance under all license, subscription, service agreements and other similar Contract Documents entered into between Vendor and any Customer under the terms of the Contract shall survive expiration or termination of the contract. Additionally, rights and obligations under the Addendum which by their nature should survive including, but not limited to, payment obligations invoiced prior to expiration or termination; confidentiality obligations and indemnification remain in effect after expiration or termination of the contract.

**E. Entire Agreement**

The Contract Documents taken together as a whole constitute the entire agreement between a Customer and Vendor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid.

**B. Compliance and Electronic and Information Technology Accessibility**

Vendor shall comply with federal and State laws, rules and regulations related to information technology accessibility, as applicable, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at [http://www.ok.gov/cio/documents/isd\\_itas.pdf](http://www.ok.gov/cio/documents/isd_itas.pdf), and shall provide a

Exhibit 1 to the  
Participating Addendum between the State of Oklahoma and Sharpe Electronics Corporation  
("SW1034") to the  
NASPO Master Agreement 140603

Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If Products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Vendor. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. Accordingly, in each statement of work or similar document issued pursuant to the Addendum, Vendor shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

**C. Offshore Services**

Contractor shall not store, access, nor process outside of the United States of America any data belonging to any such Purchasing Entity without the prior written approval of the Participating State/Entity, which approval may be given or withheld at the sole and absolute discretion of the Participating State/Entity. Notwithstanding, this section shall not prohibit Contractor from providing Order related administration and/or support services available from its global locations outside of the United States.



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**EXHIBIT 2**

**HOSTING AGREEMENT**

This Hosting Agreement (“Hosting Agreement”) is a Contract Document in connection with the Contract issued as a result of Solicitation No. 1034 (the “Contract”) and entered into between Sharp Electronics Corporation (“Vendor”) and the State of Oklahoma by and through the Office of Management and Enterprise Services (“State” or “Customer”), the terms of which are incorporated herein. This Hosting Agreement is applicable to any Customer Data stored or hosted by Vendor in connection with the Contract. Unless otherwise indicated herein, capitalized terms used in this Hosting Agreement without definition shall have the respective meanings specified in the Contract.

**I. Definitions**

- a. “Customer Data” shall mean all data supplied by or on behalf of Customer in connection with the Contract, excluding any confidential information of Vendor.
- b. “Data Breach” shall mean the unauthorized access by an unauthorized person that results in the access, use, disclosure or theft of Customer Data.
- c. “Non-Public Data” shall mean Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- d. “Personal Data” shall mean Customer Data that contains 1) any combination of an individual’s name, social security numbers, driver’s license, state/federal identification number, account number, credit or debit card number and/or 2) contains electronic protected health information that is subject to the Health Insurance Portability and Accountability Act of 1996, as amended.
- e. “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the hosted environment used to perform the services.

**II. Customer Data**

- a. Customer will be responsible for the accuracy and completeness of all Customer Data provided to Vendor by Customer. Customer shall retain exclusive ownership of all Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Vendor shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).
- b. Vendor shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the hosted environment. Vendor shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Vendor shall not respond to subpoenas, service or process, FOIA requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Vendor's proposed responses. Vendor agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.
- c. Vendor will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Vendor. Vendor will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Vendor will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Vendor as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Vendor's negligence or willful misconduct, Vendor, at the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

### **III. Data Security**

- a. Vendor will use commercially reasonable efforts, consistent with industry standards, to provide security for the hosted environment and Customer Data and to protect against both unauthorized access to the hosting environment, and unauthorized communications between the hosting environment and the Customer's browser. Vendor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Vendor applies to its own personal data and non-public data of similar kind.

- b. All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Vendor is responsible for encryption of Personal Data.
- c. Vendor represents and warrants to the Customer that the hosting equipment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Vendor will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Vendor will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Vendor, Vendor will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Vendor has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Vendor is responsible for costs incurred by Customer for Customer to remediate the virus.
- d. Vendor shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Vendor shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Vendor shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Vendor's obligations under the Contract.
- e. Vendor shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.
- f. Vendor shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. Vendor may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.

***Sharp Electronics Corporation, headquartered in Montvale, NJ, considers information security as fundamentally essential to the continued success of the company, its customers, and its partners. To deliver assurance of confidentiality, integrity, availability, and privacy Sharp has established an Information Security Management System (ISMS) conforming to ISO27001:2013 standards. Personnel and resources are allocated to support people, processes and systems that transmit, process, or store information for Sharp's Sales and Marketing, Manufacturing, and Services operations units of the Americas"***

#### **IV. Security Assessment**

- a. The State requires any entity or third-party vendor hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Vendor submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the Contract, including renewals, constitutes a material breach.
- b. To the extent Vendor requests a different sub-contractor than the third-party hosting vendor already approved by the State, the different sub-contractor is subject to the State's approval. Vendor agrees not to migrate State's data or otherwise utilize a different third-party hosting vendor in connection with key business functions that are Vendor's obligations under the Contract until the State approves the third-party hosting vendor's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party hosting vendor does not meet the State's requirements under the State Certification and Accreditation Review, Vendor acknowledges and agrees it may not utilize such third-party vendor in connection with key business functions that are Vendor's obligations under the Contract, until such third party meets such requirements.

#### **V. Security Incident Notification and Responsibilities:** Vendor shall inform Customer of any Security Incident or Data Breach

- a. Vendor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Vendor will coordinate with Customer prior to making any such communication.
- b. Vendor shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice period required by applicable law or regulation (i.e. HIPAA requires notice to be provided within 24 hours).
- c. Vendor shall: (i) maintain processes and procedures to identify, respond to and analyze Security Incidents; (ii) make summary information regarding such procedures available to Customer at Customer's request, (iii) mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Vendor; and (iv) documents all Security Incidents and their outcomes.

**VI. Data Breach Notification and Responsibilities:** This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Vendor.

- a. Vendor, unless stipulated otherwise, shall promptly notify the Customer identified contact within 2 hours or sooner, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a Data Breach. Vendor shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- b. Unless otherwise stipulated, if a Data Breach is a direct result of Vendor's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – (2), (3) and (4) not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach; and (5) complete all corrective actions as reasonably determined by Vendor based on root cause.
- c. If a Data Breach is a direct result of Vendor's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

**VII. Notice:** Contact information for Customer for notifications pursuant this Hosting Agreement are consistent with the Contract with a copy sent to:

Chief Information Officer  
3115 N. Lincoln Blvd  
Oklahoma City, OK 73105

And

Chief Information Security Officer  
3115 N. Lincoln Blvd  
Oklahoma City, OK 73105

And

OMES Information Services General Counsel  
3115 N. Lincoln Blvd  
Oklahoma City, OK 73105

For immediate notice which does not constitute written notice:

OMES Help Desk  
405-521-2444  
[helpdesk@omes.ok.gov](mailto:helpdesk@omes.ok.gov)  
Attn: Chief Information Security Officer

**VIII. Vendor Representations and Warranties:** Vendor represents and warrants the following

- a. The product and services provided under this Hosting Agreement do not infringe a third party's patent or copyright or other intellectual property rights.
- b. Vendor will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.
- c. The execution, delivery and performance of the Contract, the Hosting Agreement and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Vendor will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Vendor and any third parties retained or utilized by Vendor to provide goods or services for the benefit of the Customer.
- d. Vendor shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting Environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any "copy-protected" devices, or any other harmful or disruptive program.

**IX. Indemnity**

- a. Vendor's Duty of Indemnification. Vendor agrees to indemnify and shall hold the State of Oklahoma and State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and

actions of third parties (including without limitation reasonable attorneys' fees) (collectively "Damages") (other than Damages that are the fault of Customer) arising from or in connection with Vendor's breach of its express representations and warranties or other obligations in this Hosting Agreement and the Contract. If a third party claims that any portion of the products or services provided by Vendor under the terms of the Contract or this Hosting Agreement infringes that party's patent or copyright, Vendor shall defend and indemnify the State of Oklahoma and Customer against the claim at Vendor's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State of Oklahoma and/or Customer. The State of Oklahoma and/or Customer shall promptly notify Vendor of any third party claims and to the extent authorized by the Attorney General of the State, allow Vendor to control the defense and any related settlement negotiations. If the Attorney General of the State of Oklahoma does not authorize sole control of the defense and settlement negotiations to Vendor, Vendor shall be granted authorization to equally participate in any proceeding related to this section but Vendor shall remain responsible to indemnify Customer and the State of Oklahoma for all associated costs, damages and fees incurred by or assessed to the State of Oklahoma and/or Customer. Should the software become, or in Vendor's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated under this Hosting Agreement, Vendor may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

**X. Termination and Suspension of Service:**

- a. In the event of a termination of the Contract, Vendor shall implement an orderly return of Customer Data in a mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of Customer Data.
- b. During any period of service suspension, Vendor shall not take any action to intentionally erase any Customer Data.
- c. In the event of termination of any services or agreement in entirety, Vendor shall not take any action to intentionally erase any Customer Data for a period of:
  - i. 10 days after the effective date of termination, if the termination is in accordance with the contract period
  - ii. 30 days after the effective date of termination, if the termination is for convenience
  - iii. 60 days after the effective date of termination, if the termination is for cause

After such period, Vendor shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

- d. The State shall be entitled to any post termination assistance generally made available with respect to the services.
- e. Vendor shall securely dispose of all requested data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer.

## Negotiated Master Lease Agreement

ATTACHMENT A



Master Lease Number:	Customer's Federal Tax ID#:
Customer Name (exact registered name if a corporation, LLC or LP):	Customer's Address (principal place of business):
Customer's d/b/a (if any):	Customer's Main Business Phone Number:

In this Master Lease Agreement, as it may be amended from time to time (the "Master Agreement"), the words "You" and "Your" mean the Customer named above. "We," "Us" and "Our" mean Sharp Leasing USA Corporation ("SLUSA"). "Schedule" means a document, in the form attached hereto as **Exhibit A** or such other form as We may accept in Our sole discretion, to be entered into between You and Us for each individual transaction entered into between You and Us pursuant to this Master Agreement. "Sharp" means Sharp Electronics Corporation (either directly or through one of its branch dealers), the supplier of the Equipment to You. ***This Master Agreement, each Schedule and the other documents executed or delivered by Us in connection herewith and therewith represent the final and only agreement between You and Us regarding the subject matter herein and therein and shall supersede any other oral or written agreements between You and Us. This Master Agreement can be changed only by a written agreement between You and Us. Other agreements not stated herein (including, without limitation, those contained in any purchase agreement or other agreement between You and Sharp) are not binding on either party.*** This Master Agreement and each Schedule may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. You acknowledge that You have received a copy of this Master Agreement and agree that a facsimile or other copy containing Your faxed or copied signature shall be as enforceable as the original executed Master Agreement. You hereby represent that this Master Agreement is legally binding and enforceable against You in accordance with its terms.

**1. LEASE OF EQUIPMENT - GENERAL.** Each Schedule executed by You (and to be executed by You in the future) represents your agreement to lease from Us the personal property listed therein (together with all existing and future accessories, attachments, replacements, additions and embedded software, the "Equipment"), upon the terms stated in such Schedule and this Master Agreement, the terms and conditions of which are incorporated by reference into the Schedule (collectively, a "Lease"). Each Schedule, including the terms and conditions incorporated therein by reference, shall be considered a separate and independent Lease. If the Equipment includes any software, You agree that (i) We don't own the software, (ii) You are responsible for entering into any necessary software license agreements with the owners or licensors of such software, (iii) You shall comply with the terms of all such agreements, if any, and (iv) any default by You under any such agreements shall also constitute a default by You under this Master Agreement and the related Schedule. The initial term of each Lease will begin on a date designated by Us after We accept it (the "Commencement Date") and will continue for the number of months shown on such Schedule ("Initial Term"). You promise to pay to Us the periodic payments shown on each Schedule in accordance with the payment schedule set forth therein, plus all other amounts stated herein and therein. Each Schedule is binding on You as of the date You sign it unless you notify us within ten (10) business days of delivery that you do not accept the Equipment and specify the defect or malfunction. In that event, at our sole option, we or our designee will replace the defective item of Equipment or this Agreement will be canceled and we or our designee will repossess the Equipment. After You sign a Schedule, We may (i) insert the Schedule or contract number thereon and any other information missing in such Schedule. (ii) lease payment may be adjusted downward if the actual cost of the equipment is less than the original estimate provided to the Lessee.

**2. NON-CANCELABLE TERM; RENEWAL.** As used herein, "Present Term" means the term presently in effect at any time with respect to a Lease, whether it is the Initial Term or a Renewal Term (as defined below). With respect to each Lease, **You shall notify Us in writing at least 30 days before the end of the Present Term (the "Notice Period") that You intend to return the Equipment at the end of such Present Term or enter into a Renewal Term, per the terms and conditions outlined in the Master Agreement.** Should you choose to renew the Lease, then the payment amount and other terms of such Lease will continue to apply. Should you choose not to renew the lease and return the Equipment at the end of the Present Term, then, promptly upon the expiration of such Present Term, You shall return the Equipment pursuant to Section 13 below. **Except as specified under the NASPO ValuePoint Master Agreement Terms and Conditions Section 4.5.8(f) and Section 4.5.8(h)(i) (non-appropriation), each Lease is non-cancelable during the Initial Term and any Renewal Term.**

**3. UNCONDITIONAL OBLIGATIONS.** With respect to each Lease, You agree that: (a) We are a separate and independent company from Sharp, the manufacturer and any other vendor (collectively, "Vendors"), and the Vendors are NOT Our agents; (b) no statement, representation or warranty by any Vendor is binding on Us, and no Vendor has authority to waive or alter any term of this Master Agreement or any Schedule; (c) You, not We, selected all Equipment and the Vendors based on Your own judgment; (d) Your duty to perform Your obligations under this Master Agreement and each Schedule is unconditional and irrevocable despite any failure of any Equipment, the existence of any law restricting the use of any Equipment, or any other adverse condition; (e) if You are a party to any maintenance, service, supplies or other contract with any Vendor, We are NOT a party thereto, such contract is NOT part of this Master Agreement or any Schedule (even though We may, as a convenience to You and a Vendor, bill and collect monies owed by You to such Vendor); We have no obligations to You under such contract, and no breach by any Vendor will excuse You from performing Your obligations to Us under this Master Agreement or any Schedule; and (f) if the Equipment is unsatisfactory or if any Vendor fails to provide any service or fulfill any other obligation to You, You shall not make any claim against Us and shall continue to perform all of Your obligations to Us.

**4. PAYMENTS.** The payments due pursuant to each Schedule, plus applicable taxes and other charges provided for herein and in the Schedule, shall be due and payable by the due date set forth in Our invoice to You. The payments due under a Schedule may include additional copy charges at the "Overage Copy Charge" rate specified in the Schedule for copies in excess of the Monthly Copy Allowance provided in the Schedule. You agree to (a) provide Us or Sharp by telephone or facsimile with the actual meter readings whenever You are requested to do so, (b) allow Us or Sharp to attach an automatic meter reading device to the Equipment, which meter reading device You will not remove or alter without approval from Us or Sharp, and/or (c) give Us or Sharp access to the Equipment to obtain meter readings or audit the meter reading device. If We or Sharp request You to provide meter readings and You fail to do so within 7 days of the date of such request then (i) the number of copies used by You may be estimated by Us or Sharp and We will invoice You accordingly, and (ii) We will adjust the estimated charge for excess copies upon receipt of actual meter readings. Restrictive endorsements on checks will not be binding on Us. All payments received will be applied to past due amounts and to the current amount due, in such order as We determine. Any security deposit that You pay with respect to a Lease is non-interest bearing, may be commingled with Our funds, may be applied by Us at any time to past-due amounts, and the unused portion will be returned to You within 90 days after the end of this Lease. If We do not receive a payment within forty-five (45) days of the undisputed variable bill or fixed equipment portion of the payment from the date of the invoice, You shall pay (i) a fee equal to 1% per month of the outstanding balance or the amount allowed per applicable law, whichever is less. If any check is dishonored, You shall pay Us a fee of \$20.00. Promptly following Our written request, from time to time, You shall furnish Us with current financial statements that are relevant to the agreement.

**5. INDEMNIFICATION. Without waiving the doctrines of sovereign immunity and immunity from suit and to the extent authorized by the constitution and law of the State of Oklahoma,** with respect to each separate Lease, You agree to indemnify and defend Us against, and hold Us harmless for, any and all claims (including but not limited to claims for personal injury and death), actions, damages, liabilities, losses and costs (including but not limited to reasonable attorneys' fees) made against Us, or suffered or incurred by Us, arising directly or indirectly out of, or otherwise relating to, the delivery, installation, possession, ownership, use, loss of use, defect in or malfunction of any Equipment. This obligation shall survive the termination of this Master Agreement and each Schedule.

**THE TERMS OF THIS MASTER AGREEMENT ARE CONTINUED ON THE REVERSE SIDE / NEXT PAGE. DO NOT SIGN THIS CONTRACT BEFORE YOU READ AND UNDERSTAND IT. PLEASE SEEK LEGAL COUNSEL BEFORE SIGNING IF YOU HAVE QUESTIONS.**

Customer:	Accepted by Sharp Leasing USA Corp., Mahwah, New Jersey
By: <b>X</b> _____ Date: ____ / ____ / ____	By: _____

Print name:

Title:

Acceptance Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (to be filled in by Sharp Leasing  
USA Corp.)

**6. NO WARRANTIES.** WE ARE LEASING ALL EQUIPMENT TO YOU "AS IS". We have not made and we hereby disclaim any and all warranties, express or implied, arising by applicable law or otherwise, including without limitation, the implied warranties of merchantability and fitness for a particular purpose. We hereby transfer to You, without recourse to Us or our assignee under this Lease, all automatically transferable warranties, if any, made to Us by the Vendor(s) of the Equipment. You agree that each Lease is a "finance lease" under the Uniform Commercial Code (the "UCC") unless otherwise expressly stated in the related Schedule or as provided by law. To the extent permitted by law, You hereby waive any and all rights and remedies conferred upon You under UCC Sections 2A-303 and 2A-508 through 522. You may be entitled under Article 2A of the UCC to the promises and warranties (if any) provided to Us by some or all of the Vendor(s) in connection with or as part of the contracts (if any) by which We acquire Equipment from such Vendor(s). You may contact such Vendor(s) for an accurate and complete statement of those promises and warranties (if any), including any disclaimers and limitations of them or of remedies. If it is determined that any Lease is a lease intended as security and/or the related Schedule grants to You a \$1.00 purchase option, then **You hereby grant to Us a security interest in the related Equipment and all proceeds thereof.** You authorize Us to record UCC financing statements to protect Our interests in the Equipment.

**7. DELIVERY, LOCATION, OWNERSHIP, USE, MAINTENANCE OF EQUIPMENT.** Sharp will install (and, with Our prior consent, remove) the Equipment in accordance with Sharp's service policies. You are responsible for all Equipment maintenance. You shall not remove any Equipment from the Equipment location specified in the related Schedule, unless you notify us of the new Equipment location within 30 days. You shall give Us access to each Equipment location so that We may inspect the Equipment, and You agree to pay Our costs in connection therewith, and as outlined in the Master Agreement, whether performed prior to or after the Commencement Date of the related Lease. Unless otherwise stated in the related Schedule or as provided by law, **We will own and have title to all Equipment (excluding any software) during each Lease.** You agree that all Equipment is and shall remain personal property. Without Our prior written consent, You will not permit it to become (i) attached to real property or (ii) subject to any liens or encumbrances. **You represent that all Equipment will be used solely for commercial purposes and not for personal, family or household purposes.** You shall use all Equipment in accordance with all laws, operation manuals, any service contracts and insurance requirements, and shall not make any permanent alterations to it. At Your cost, You shall keep all Equipment in good working order and warrantable condition, ordinary wear and tear excepted ("Good Condition").

**8. LOSS; DAMAGE; INSURANCE.** With respect to each Lease, You shall, at all times during the Initial Term and any Renewal Term, (i) bear the risk of loss and damage to the Equipment and shall continue performing all Your obligations to Us even if it becomes damaged or suffers a loss (ii) carry public liability insurance covering bodily injury and property damage ("Liability Insurance"). You have the choice of satisfying these insurance requirements by providing Us with satisfactory evidence of Liability Insurance ("Insurance Proof"), within 30 days of the Commencement Date of such Lease. Such Insurance Proof must provide for at least 30 days prior written notice to Us before it may be cancelled or terminated. You agree to reasonably cooperate with us and any insurer in the placement of any coverage and claims.

**9. ASSIGNMENT.** You shall not sell, transfer, assign or otherwise encumber (collectively, "Transfer") this Master Agreement or any Schedule, or Transfer or sublease any Equipment, in whole or in part. We may, upon prior written notice to You, Transfer Our interests in any Equipment and/or this Master Agreement or any Schedule, in whole or in part, to a third party ("New Owner"), and if so, the New Owner will, to the extent of the Transfer, have all of Our rights and benefits but will not have to perform Our obligations (if any). You agree not to assert against the New Owner any claim or defense You may have against Us or any predecessor in interest. Notice to You will be provided as soon as reasonably practicable.

**10. TAXES AND OTHER FEES.** Except to the extent you have provided us with an exemption certification, you are responsible for all taxes (including, without limitation, sales and personal property taxes, and excluding only taxes based on Our income), levies, assessments, license and registration fees and other governmental charges relating to this Master Agreement, each Schedule and/or the related Equipment (collectively "Governmental Charges"). You authorize Us to pay any Governmental Charges as they become due, and You agree to reimburse Us promptly upon demand for the full amount and You agree not to file any personal property tax returns.

**11. SAVINGS CLAUSE.** If any amount charged or collected under this Master Agreement or any Lease is greater than the amount allowed by law, including, without limitation, any amount that exceeds applicable usury limits (an "Excess Amount"), then (i) any Excess Amount charged but not yet paid will be waived by Us and (ii) any Excess Amount collected will be refunded to You or applied to any other amount then due hereunder.

**12. DEFAULT.** With respect to each Lease, You will be in default if You (1) fail to pay any amount due within 15 days of the due date invoice or, if later, the date by which such sum is payable pursuant to applicable law; or, (2) breach other term, representation or covenant set forth herein, the related Schedule or in any other agreement

between You-

and Us which is not cured within 15 days of receipt of written notice of breach, (3) file any proceeding commencing bankruptcy or the filing of any involuntary petition against You or the appointment of any receiver not dismissed within sixty (60) days from the date of said filing or appointment, (4) become insolvent, or (5) subjection of a substantial part of Your property or any part of the Equipment to any levy, seizure, assignment or sale for or by any creditor or governmental agency. If You default, We may do any or all of the following with respect to the applicable Schedules: (A) after giving 15 days prior written notice to You of default, during which time You shall have the opportunity to cure such default cancel the related Lease, (B) require You to return the Equipment pursuant to Section 13 below, (C) upon notice to You and due process of law take possession of Equipment wherever located and/or render the Equipment (including any software) unusable, (D) to the extent permitted by applicable law require You to pay to Us, on demand, an amount equal to the sum of (i) all payments and other amounts then due and past due, (ii) **all remaining payments for the remainder of the then Present Term thereof** discounted at a rate of 6% per annum, (iii) the residual value of the Equipment estimated by Us at the inception of the Lease (as shown in Our books and records), discounted at a rate of 6% per annum, (iv) Time-Value Interest on the amounts specified in clauses "i", "ii" and "iii" above from the date of demand to the date paid. (such amounts specified in sub-clauses "i" through "iv" referred to below as the "Balance Due"), and/or (E) exercise any other remedy available to Us under law. Without waiving the doctrines of sovereign immunity and the immunity from suit, and to the extent allowed by the law and Constitution of the State of Oklahoma, You also agree to reimburse Us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs) and reasonable expenses of repossessing, holding, preparing for disposition, and disposition ("Remarketing") of Equipment, plus Time-Value Interest on the foregoing amounts from the date of demand to the date paid. In the event We are successful in Remarketing the Equipment, We shall give You a credit against the Balance Due in an amount equal to the present value of the proceeds received and to be received from Remarketing minus the above-mentioned costs (the "**Net Proceeds**"). **If the Net Proceeds are less than the Balance Due, You shall be liable for such deficiency.** Any delay or failure to enforce Our rights under a Lease shall not constitute a waiver thereof. If We are holding any money belonging to You at any time during a Lease, You agree We may retain and utilize such money to cure any default by You under any Lease.

**13. RETURN OF EQUIPMENT.** If You are required to return any Equipment pursuant to the terms hereof, You shall, at Our expense, promptly send the Equipment to a location(s) designated by Us. The Equipment must be received in Good Condition (as defined in Section 7). If the Equipment is not received within 30 days of the date of demand, You agree to continue paying the scheduled payments and all other amounts due pursuant to the related Schedule until it is received by Us.

**14. APPLICABLE LAW; VENUE; JURISDICTION** Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of the Contract, or any of the Contract Documents shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles. Each provision hereof shall be interpreted to the maximum extent possible to be enforceable under applicable law. If any provision is construed to be unenforceable, such provision shall be ineffective only to the extent of such unenforceability without invalidating the remainder hereof.



Schedule to **Negotiated** Master Lease Agreement

Customer Name:	Master Lease Agreement Number: Master Lease Agreement Date:  Lease Order No.:
Name of Supplier:	Schedule Number:

This schedule (this "Schedule") is made and entered into by and between Sharp Leasing USA Corp. (hereinafter "We," "Us" or "Our") and the customer named above (hereinafter "You" or "Your"). This Schedule is entered into subject to the master lease agreement referenced above (the "Master Lease Agreement") between You and Us. All of the terms and conditions set forth in the Master Lease Agreement are hereby reaffirmed and incorporated in and made part of this Schedule, as if fully set forth herein. The Master Lease Agreement, together with this Schedule and the related and supporting documents entered into in connection with this Schedule, represent the final and only agreement between You and Us regarding the subject matter herein and the equipment identified below (the "Equipment") and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. This Schedule may not be changed except by way of a written agreement between You and Us. Other agreements (including, without limitation, those contained in any purchase agreement or other agreement between You and Sharp Electronics Corporation) not stated in the Master Lease Agreement or in this Schedule are not binding on Us. This Schedule, inclusive of the terms and conditions set forth in the Master Lease Agreement, constitutes a separate Lease between You and Us. Any amendment to the Master Lease Agreement subsequent to the date of this Schedule shall be ineffective as to this Schedule unless otherwise expressly stated in such amendment. This Schedule may not be modified except in a writing signed by You and Us.

1. This Schedule applies to the following-described Equipment:

EQUIPMENT DESCRIPTION:

Qty	Model No.	Description	Monthly Equipment Payment (A)	Monthly Service Payment (B)	Monthly Payment (A+B)	Copy Type (B&W Color)	Monthly Copy Allowance (each)	Overage Copy Charge*
<input type="checkbox"/> Service Including Supplies								

\*The Overage Copy Charge applies to each copy in excess of the Monthly Copy Allowance.

PAYMENTS ARE EXCLUSIVE OF TAX  
FOR ADDITIONAL UNITS, SEE SCHEDULE A ATTACHED.

2. Equipment Location if different from Customer address set forth in Master Lease Agreement: \_\_\_\_\_  
Lessee Contact/Telephone: \_\_\_\_\_
3. Initial term of this Schedule: \_\_\_\_\_ months
4. Payment terms:           Payment frequency is "Monthly" unless otherwise noted here: ☐ Quarterly   ☐ Semi-Annual  
                                  Scheduled Meter Reading shall be "Monthly" unless otherwise noted here: ☐ Quarterly   ☐ Semi-Annual  
                                  Overage Copy Charges will be billed when meter reads are taken.
5. Pricing expiration date: \_\_\_\_\_
6. Advance payment due at the time this Schedule is signed (if any): \$\_\_\_\_\_, which shall be applied to the:  
  
                                  ☐ First payment           ☐ First and last payments           ☐ Other: \_\_\_\_\_
7. Security Deposit (if any): \$\_\_\_\_\_
8. Purchase Option at end of original term (applicable only if Schedule is entered into pursuant to a Master Lease Agreement):  
☐ 10%   ☐ Fair Market Value   ☐ One Dollar (\$1.00)   ☐ Other: \_\_\_\_\_

Applicable only if Schedule is entered into pursuant to a Master Lease Agreement: The above Equipment purchase option (if any is checked) may be exercised by You only at the end of the original term of this Schedule. If you are in default under the Master Agreement or this Schedule and/or any other schedule under a Master Lease Agreement at the time You desire to exercise the above-checked purchase option, You must cure such default(s) to Our satisfaction before having the right to exercise such option. If the "One Dollar" purchase option is checked above, then no provision in the Master Lease Agreement relating to automatic renewal of the term of a schedule shall apply to this Schedule. If the "Fair Market Value" option is checked above, then the purchase price will be the fair market value of the Equipment, as determined by Us in our sole but commercially reasonable judgment.

This Schedule may be signed in counterparts, each of which shall be deemed an original, and all of which shall be considered one and the same agreement. You acknowledge that You have received a copy of this Schedule and agree that a facsimile or other copy of this Schedule containing your signature shall have the same force and effect as the original. Except as otherwise expressly provided in the Master Lease Agreement under which this Schedule is entered into, the Schedule is non-cancelable and may not be terminated early.

Us: Sharp Leasing USA Corp., One Sharp Plaza, Mahwah, NJ 07495	You:
By:	By:
Name (print):	Name (print):
Title:	Title:










# EXECUTION VERSION SW1034 Sharp PA w Attach

Final Audit Report

2021-02-23

Created:	2021-02-11
By:	Matthew Gomez (matthew.gomez@omes.ok.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAr48rSE8tMAaliWR9too4MJNZIZvzHZxY

## "EXECUTION VERSION SW1034 Sharp PA w Attach" History

-  Document created by Matthew Gomez (matthew.gomez@omes.ok.gov)  
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-  Document emailed to mike.marusic@sharpusa.com for signature  
2021-02-11 - 11:12:21 PM GMT
-  Matthew Gomez (matthew.gomez@omes.ok.gov) replaced signer mike.marusic@sharpusa.com with Mike Marusic (marusicm@sharpsec.com)  
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