

PARTICIPATING ADDENDUM

NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS REMANUFACTURED BIO-BASED TONER CARTRIDGES, MASTER AGREEMENT - 15825

Administered by the State of South Dakota (hereinafter "Lead State")

1. **Scope:** This addendum covers the **Remanufactured Biobased Toner Cartridge** contract led by the State of South Dakota for use by state agencies and other entities located in the Participating Entity authorized by that state's statutes or entity ordinances to utilize entity contracts.
2. **Participation:** Use of specific NASPO cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes or rules to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Participating Entity Modifications or Additions to Master Price Agreement:** Exhibit A, State of North Dakota Special Terms and Conditions and Exhibit B, State of North Dakota Ordering, Contact and Payment Terms.
4. **Lease Agreement** Leasing was NOT included in the Master Price Agreement.
5. **Primary Contacts:** The primary contact individuals for this participating addendum are as follows (or their named successors):

Lead State – State of South Dakota

Name: Kathy Stasch, Purchasing Specialist
Address: 523 E. Capitol, Pierre, SD 57501
Telephone: (605) 773-6877
Fax: (605) 773-4840
E-mail: Kathy.Stasch@state.sd.us

Participating State/Entity

Name: State of North Dakota, Office of Management and Budget, State Procurement Office
Address: 14th Flr- Dept 012
600 E Boulevard Ave
Bismarck ND 58505-0310
Telephone: 701.400.4589
Fax: 701.328.0109
E-mail: dbach@nd.gov

Contractor

Name: Sarah Caniglia, LaserMonks, Inc.
Address: 17308 Havenwood Rd, Sparta, WI 54656
Telephone: (866) 808-8080 Ext. 225
Fax: (866) 322-2986
E-mail: sarah@lasermonks.com

Contractor Billing Contact:

Name: Cindy Griffith, Billing Manager
Address: 17308 Havenwood Rd, Sparta, WI 54656
Telephone: (866) 808-8080 Ext. 226
Fax: (866) 322-2986
E-mail: cindy@lasermonks.com

6. **Subcontractors:** None.
7. **Price Agreement Number:** All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating Entity contract number: North Dakota State Term Contract-Remanufactured Biobased Toner Cartridges, Contract 015-, and the Lead State Master Price Agreement Number: 15825.
8. **Compliance with reporting requirements of the “American Recovery and Reinvestment Act of 2009” (“ARRA”):** If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol. 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

9. **Execution:** This Participating Addendum and the Master Price Agreement number **15825** (administered by the State of South Dakota) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating Entity.

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

Participating Entity:
State of North Dakota, Office of
Management and Budget, acting through
the State Procurement Office

Contractor: LaserMonks, Inc.:

By: Dilys Back, C.P.A.
Name: Dilys Back
Title: State Procurement Officer II
Date: 3.26.2010

By: [Signature]
Name: SARAH CANIGUA
Title: Bus. Dev. MGR.
Date: 03/26/10

EXHIBIT A

SPECIAL TERMS AND CONDITIONS FOR THE STATE OF NORTH DAKOTA

SCOPE OF WORK. This Participation Addendum covers the NASPO Remanufactured Biobased Toner Cartridge Contract, lead by the State of South Dakota, for use by the Participating State's agencies, boards, bureaus, commissions, institutions of higher education and other North Dakota government and education (public primary and secondary) entities that are authorized to purchase from contracts established for and by the Participating State and located in the Participating State.

This Addendum is not a purchase order and it does not guarantee any purchases will be made by any Participating State procuring agency. Each Participating State procuring agency is responsible for complying with any laws that regulate its individual purchase authority.

PARTICIPATION. Use of this NASPO cooperative purchasing contract by North Dakota state agencies, political subdivisions and other entities is authorized pursuant to N.D.C.C. § 54-44.4-13. Issues of interpretation and eligibility for participation shall be determined by the North Dakota Office of Management and Budget, State Procurement Office.

1. **MERGER AND MODIFICATION, ORDER OF PRECEDENCE**

This Participation Addendum and the Master Contract together with all the attachments set forth constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Addendum. This Addendum may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties. Notwithstanding, documents within this contract, the documents must control in this order of precedence:

- a. Terms of this Participating Addendum and Exhibits; A- Special Terms and Conditions for the State of North Dakota, and Exhibit B-Ordering, Contacts and Payment Terms for the State of North Dakota;
- b. Master Contract for NASPO Remanufactured Biobased Toner Cartridge
- c. State of South Dakota's Invitation for Bid # KPS-24923;
- d. Contractor's Bid Response, as dated.

2. **REGISTRATION REQUIREMENTS.** Pursuant to N.D.C.C. § 54-44.4-09, the Contractor must become an approved vendor by registering with the North Dakota Secretary of State (fees apply) and the State Procurement Office (no fees) at www.nd.gov/spo/vendor/registry/.

3. **RENEWAL.** The renewal terms for this Participation Addendum shall be the same as the NASPO Remanufactured Biobased Toner Cartridges contractual Terms and Conditions renewal terms. This contract will not automatically renew. The State will notify the Contractor by written notice within 30 days of the contract term date, if it intends to renew the contract.

4. **APPLICABLE LAW AND VENUE.** This Participation Addendum is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

5. **ATTORNEY FEES.** In the event a lawsuit is instituted on behalf of the State of North Dakota to obtain performance due of any kind under this Participation Addendum, and the State is the prevailing party, Contractor shall, except when prohibited by N.D.C.C. § 28-26-04, pay the State of North Dakota's reasonable attorney fees and costs in connection with the lawsuit.

6. **ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL.** The State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to legal action to enforce available remedies. The State does not waive any right to a jury trial.
7. **CONFIDENTIALITY AND COMPLIANCE WITH PUBLIC RECORDS ACT.** Contractor and the State of North Dakota agree not to use or disclose any information previously identified as confidential which the State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of State and Contractor to maintain confidentiality of information under this section continues beyond the term of this Contract. Contractor also understands that the State must disclose to the public upon request any records it receives from Contractor under this Contract. Any records that are obtained or generated by the Contractor under this Contract, except for records that are confidential, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. Contractor agrees to contact the State upon receiving a request for information under the open records law and to comply with the State's instructions on responding to the request.
8. **INDEMNIFICATION.**
The State and Contractor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.
9. **INSURANCE.**
The State and Contractor each shall secure and keep in force during the term of this agreement, from an insurance company, government self-insurance pool or government self-retention fund authorized to do business in North Dakota, commercial general liability with minimum limits of liability of \$250,000 per person and \$1,000,000 per occurrence.
10. **SPOILIATION – NOTICE OF POTENTIAL CLAIMS.**
Potential claims that arise or result from this contract. Contractor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.
11. **COMPLIANCE WITH REPORTING REQUIREMENTS OF THE "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009" ("ARRA").** If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol. 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or subgrantee, but simply a provider of goods and related services.
12. **TAXPAYER ID.**
Contractor's federal employer ID number is 39-1942603

13. PAYMENT OF TAXES BY STATE.

State of North Dakota is not responsible for and will not pay local, state, or federal taxes. State of North Dakota sales tax exemption number is E-2001, and certificates will be furnished upon request by the purchasing agency.

14. NOTICE TO PARTIES.

All notices or other communications required under this contract shall be in writing and may be sent by fax, certified mail or registered mail and are effective on actual date sent to the addressed parties below:

Contractor

Name: Sarah Caniglia, LaserMonks, Inc.
Address: 17308 Havenwood Rd, Sparta, WI 54656
Telephone: (866) 808-8080 Ext. 225
Fax: (866) 322-2986
E-mail: sarah@lasermonks.com

State Agency Name
Contract Administrator
Phone
Fax
Email
Mailing Address

OMB-State Procurement Office
Dillys Bach, C.P.M.
701.400.4589
701.328.0109
dbach@nd.gov
14th Floor, Capitol Tower
600 E. Boulevard Ave
Bismarck ND 58505-0310