

PARTICIPATING ADDENDUM
STATE OF MARYLAND
UNDER THE
WESTERN STATES CONTRACTING ALLIANCE
STATEWIDE MASTER SERVICE AGREEMENT FOR SERVICES OF INDEPENDENT
CONTRACTOR
CONTRACT NUMBER 1907

This Participating Addendum (the "Participating Addendum") is made this ^{15th} day of ~~NOVEMBER~~, 2012 between the State of Maryland, acting through the Maryland Department of Information Technology, by and for the Purchasing Entity, and T-Mobile USA, Inc. (the "Contractor").

1. **Participating Entity:** The authorized Purchasing Entity under this Participating Addendum is the State of Maryland, Department of Information Technology ("DoIT" or "State"), on behalf of all State agencies. County and Local agencies are not authorized Purchasing Entities under this Participating Addendum. If DoIT is acting as procurement agent for another State agency (a "Purchasing Entity"), the Purchasing Entity is the party in interest under the Participating Addendum and will be identified on the Purchase Order. For such contracts, all rights and liabilities of DoIT pursuant to the Purchase Order and applicable law shall be the rights and liabilities of the Purchasing Entity, which DoIT may exercise as agent, and for which DoIT shall have no liability to the Contractor pursuant to the Participating Addendum.

2. **Scope:** Contractor and the State of Nevada, for itself and on behalf of the Western States Contracting Alliance ("WSCA"), entered into a Statewide Master Service Agreement for Services of Independent Contractor, Contract Number 1907 ("WSCA Master Service Agreement") with an effective date beginning on April 12, 2012. This Participating Addendum is a "Participating Addendum" as defined in the WSCA Master Service Agreement. The parties hereby create this Participating Addendum governing the purchase of wireless telecommunications services offered in the WSCA Master Service Agreement.

3. **Definitions:**

- a. "COMAR" means the Code of Maryland Regulations.
- b. "Contract" means a contract entered into by DoIT or a Purchasing Entity and the Contractor under this Participating Addendum, and includes a purchase order issued to the Contractor.
- c. "Lead State", "Participating Addendum", "Participating State", and "Purchasing Entity" have the meanings set out in State of Nevada and WSCA Request for Proposal #1907, which is attached hereto as Exhibit B and is incorporated by reference herein.
- d. "State" means the State of Maryland.
- e. "Participating State" means the State of Maryland.

4. **Effective Date and Time for Performance:** This Participating Addendum shall be effective upon approval by the Maryland Board of Public Works until October 31, 2016, unless sooner terminated by either party as provided herein.

5. **Changes:**

a. The Primary Contact (as defined in Section 35) may, at any time, by written order, make changes in the work within the general scope of this Participating Addendum. No other order, statement or conduct of the Primary Contact or of any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section.

b. Except as otherwise provided in the Participating Addendum, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the Primary Contact's order, an equitable adjustment in the Participating Addendum price shall be made and the Participating Addendum modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under a Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with work as directed by the Primary Contact.

6. **Scope of Work:** The Contractor shall provide wireless communications services and related equipment (the "Services").

a. Contractor may not assess any activation fee(s), cancellation fee(s), late payment fee(s), restocking fee(s), or number portability fee(s) to DoIT or a Purchasing Entity purchasing lines of service and equipment through this Participating Addendum.

b. Unless otherwise agreed, Contractor pays expenses for returned products.

c. Contractor provides the following warranties:

i. **General Warranty.** Contractor warrants that all Services shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; and shall be fit for ordinary use, of good quality, with no material defects.

ii. **Manufacturer Pass-Through Warranty.** Contractor shall pass through any written warranty from the manufacturer of the equipment that may be provided with the equipment by the manufacturer.

iii. **System Compliance.** Contractor warrants that equipment and software will exhibit date consistency and proper century recognition and date data interface

values that reflect the applicable century. However, this warranty will not apply in cases where DoIT, State, Purchasing Entity or any of their end users have modified or otherwise made changes to the equipment or software and such changes interfere with the data accuracy referenced in the preceding sentence.

7. Terms and Conditions Incorporated by Reference; Precedence:

- a. This Participating Addendum supersedes and replaces in its entirety all previously executed Participating Addendums between DoIT and Contractor.
- b. The Services shall be provided in accordance with this Participating Addendum and the following Exhibits, which are attached hereto and incorporated herein by reference:

Exhibit A - WSCA Master Services Agreement, including all attachments thereto;
Exhibit B - State Bid/Proposal Affidavit;
Exhibit C - State Contract Affidavit;
Exhibit D - Living Wage Affidavit; and
Exhibit E - State of Nevada and WSCA Current Contract Information (CCI), as amended from time to time and found at
http://purchasing.state.nv.us/Wireless/WSCA_Only/WSCA_Only_PVersion.htm

If there are any inconsistencies or conflicts between this Participating Addendum and the above Exhibits, the terms of this Participating Addendum shall control. If there is any conflict among the Exhibits, the order of precedence among the Exhibits shall determine the prevailing provision with earlier-listed documents prevailing over later-listed documents. The order of priority in this section takes precedence over the order of priority set forth in Section 5 of the WSCA Master Service Agreement.

- c. This Participating Addendum and the documents incorporated by reference herein shall be terms and conditions of each Contract.
- d. The order of precedence in this section supersedes any order of precedence under any document incorporated by reference as part of this Participating Addendum.

8. Compensation and Method of Payment:

- a. Contractor shall submit an invoice for the payment of Services to the Purchasing Entity contact designated in the applicable Contract. Each invoice must reflect the Contractor's Federal Tax Identification Number ("FEIN") which is [REDACTED]. Each invoice shall include all charges for the billing period and shall include such information as is required in each Contract. The State shall not make final payment under the Participating Addendum until after certification is received from the Comptroller of the State that all taxes have been paid. Contractor's eMarylandMarketplace registration number is [REDACTED].

b. Payments to the Contractor shall be made no later than thirty (30) days after the Purchasing Entity's receipt of a proper invoice for the Services provided by the Contractor, acceptance by the State of the Services, and pursuant to the conditions outlined in this Participating Addendum. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. The State will use electronic funds transfer to pay the Contractor for the Services pursuant to this Participating Addendum and any other State payments due Contractor unless the State's Comptroller's Office grants the Contractor an exemption. See application form <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>.

c. The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor(s), however, is not exempt from such sales and use taxes and may be liable for the same.

d. Contractor does hereby agree to waive any and all activation fee(s), early termination fee(s) and number portability fee(s) to entities purchasing via this Participating Addendum.

e. In addition to any other available remedies if, in the opinion of the Primary Contact, the Contractor fails to perform in a satisfactory and timely manner, the Primary Contact, after providing reasonable written notice to the Contractor, may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Primary Contact pursuant to this Participating Addendum.

f. If, due to the fault of Contractor, service is unavailable in the Contractor service area for more than 24 continuous hours, Contractor will provide a pro rata daily credit for the period subscriber was without wireless service. Contractor can credit the subscriber's invoice up to the full amount of the subscriber's monthly access charge for the period in which service was unavailable. To receive credit, subscriber must notify Contractor within ninety (90) days after the first bill is received for the period during which the interruption started.

g. All pricing discount shall remain fixed for the term of this contract.

9. **Invoicing and Reporting Requirements:** Monthly Reports: Contractor shall provide electronic reports to the Primary Contact on CD by the 15th day of the month following the month of service regarding purchases of equipment or Service in a format specified and approved from time to time in writing by the State. (Microsoft Excel is preferred at the present time). The reports shall contain the following information in column format:

- a. Monthly New Equipment or New Service Report – the following shall be reported by functional area, subtotaled by functional area, with all functional areas grand totaled:
 - i. Purchase Order Number
 - ii. Agency acronym, Account Number and sub-account number (e.g. DGS, DHMH, MDOT, etc.)
 - iii. Division name (e.g. Telecommunications, Crownsville Hospital, State Highway Administration, etc.)

- iv. Address where equipment or Service was delivered
- v. Date equipment or Service was delivered
- vi. Manufacturer and Model Number of equipment
- vii. Service selected
- viii. Electronic Serial Number of Equipment (ESN)
- ix. Quantity
- x. Phone number
- xi. Unit price
- xii. Total price
- b. Monthly Active Accounts Report
 - i. Agency acronym, account number and sub-account number
 - ii. Division name
 - iii. Address where invoiced is mailed
 - iv. Telephone number of each line
 - v. Date line was activated
 - vi. Service selected
 - vii. Number of minutes used
 - viii. Charge per minute
 - ix. Total monthly charges
 - x. Total number of active lines
 - xi. Total State-wide number of minutes used
 - xii. Total State-wide lines of service
 - xiii. Total State-wide monthly charges
- c. Monthly Exceptions Report
 - i. Agency acronym, Account number and sub-account number
 - ii. Division name
 - iii. Cellular telephone number
 - iv. Date line was activated
 - v. Active lines that have zero (0) usage for a one-month period
 - vi. Active lines that have usage between one (1) and twenty (20) minutes for a one-month period
 - vii. Lines that have been deactivated
- d. Fiscal Year-End Reports: Electronically on a CD, the contractor(s) must submit to the Primary Contact by July 15th of each year of the base term of the Participating Addendum a report detailing the items for the State's previous fiscal year (July 1 – June 30). Reports shall contain, at a minimum, the following summary information:
 - i. Agency acronym, account number and sub-account number
 - ii. Division name
 - iii. Cellular telephone number of each line
 - iv. Date line was activated
 - v. Date line was deactivated (if possible)
 - vi. Service plan subscription
 - vii. Number of minutes used per month
 - viii. Number of minutes used per year
 - ix. Total yearly charges
- e. Closeout Report

i. The Contractor shall prepare and submit to the Primary Contact a closeout report due on the last day of the Participating Addendum, to include a final inventory of all existing accounts in the same format as the monthly reports. The Contractor shall cooperate and provide to any successor and/or State agent the Participating Addendum information and records a successor or State agent would require to continue providing Services.

10. **Breach, Default, Termination:**

a. Termination for Convenience The performance of work under this Participating Addendum may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Participating Addendum that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Participating Addendum; provided, however, the Contractor may not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

b. Termination for Cause If the Contractor fails to fulfill its obligations under this Participating Addendum or under a Contract properly and on time, or otherwise violates any provision of the Participating Addendum or of a Contract, the State may terminate the Participating Addendum by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

c. Non-Appropriation; Non-Availability of Funding If the Maryland General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Participating Addendum or of a Contract succeeding the first fiscal period, the Participating Addendum or the Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Participating Addendum. The effect of termination of a Contract will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may

not be available for the continuation of the Participating Addendum for each succeeding fiscal period beyond the first.

Subject to the terms of the preceding paragraph, in the event moneys sufficient to make all payments under the Agreement are not budgeted and appropriated by the State, the State shall terminate services prior to the end of the fiscal period without being assessed an early termination fee. Notwithstanding the foregoing, the State shall be responsible for all charges incurred up to and including the date of termination.

11. **Delays and Extensions of Time:** The Contractor agrees to perform the work under this Participating Addendum and any Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Participating Addendum or any Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

12. **Suspension of Work:** The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Primary Contact may determine to be appropriate for the convenience of the State.

13. **Pre-Existing Regulations:** In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Participating Addendum are applicable to this Participating Addendum.

14. **Rights to Records:**

a. The Contractor does not anticipate that any technical data or any software will be delivered in performing services called for under the Solicitation. During the course of providing services, however, the Contractor may from time to time as it sees fit employ certain proprietary data, including but not limited to proprietary methodologies, templates, tool kits, concepts, structures, and processes ("Proprietary Data"). In addition, the Contractor may employ and make minor modifications to certain commercial computer software that has been developed at private expense ("Proprietary Software"). Because such Proprietary Data and Software are not required to be delivered in the course of performing the services under this Participating Addendum, the Contractor will retain all right, title and interest in any such Data or Software used during the performance of the services, including any modifications thereto. In the event that the Contractor provides State personnel with access to any Proprietary Data and/or Software during the performance of the services under the Participating Addendum, such Data and/or Software will be furnished with limited

rights, or with only those rights set forth in the applicable standard commercial license agreement.

b. Contractor shall report to the Primary Contact, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Participating Addendum.

15. **Retention of Records:** Contractor shall retain and maintain all records pertaining to the Services rendered and products delivered to the State pursuant to the Participating Addendum for three (3) years after close out and final payment by DoIT under this Participating Addendum or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State at all reasonable times. The Contractor shall, upon written request by DoIT and within thirty (30) days of such request, make available copies of documents reasonably needed by the State, including, but not limited to itemized billing documentation containing the dates and work performed by the Contractor and its subcontractors under the Participating Addendum. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees reasonably available and assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

16. **Invalid Term or Condition, No Waiver of State's Rights:** If any provision of this Participating Addendum or of any Contract purports to cause the State to bestow a right or incur an obligation that is beyond its legal authority to bestow or incur, then that provision shall be deemed of no effect. Nothing in this Participating Addendum and no act by a Purchasing Entity shall be construed to waive the State's rights, including but not limited to the State's sovereign or federal immunity or under applicable laws.

17. **Indemnification:**

a. The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Participating Addendum against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Participating Addendum or any Purchase Order arising therefrom.

b. The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Participating Addendum or any Purchase Order arising therefrom.

c. The Contractor shall immediately notify the Primary Contact of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Participating Addendum, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the

Contractor's performance under this Participating Addendum or any Purchase Order arising therefrom.

16. **Confidentiality:** Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Participating Addendum, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Participating Addendum; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

17. **Subcontracting and Assignment:** The Contractor may not subcontract any portion of the Services provided under this Participating Addendum without obtaining the prior written approval of the State, nor may the Contractor assign this Participating Addendum or any of its rights or obligations under either, without the prior written approval of the State. Any such subcontract or assignment shall include the terms of this Participating Addendum and the Contract which is the subject of the assignment and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to its subcontractors.

18. **Loss of Data:** In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Primary Contact. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor.

19. **Non-Hiring of Employees:** No official or employee of the State, as defined under State Government Article, 15-102 whose duties as such official or employee include matters relating to or affecting the subject matter of this Participating Addendum, shall, during the pendency and term of this Participating Addendum and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Participating Addendum.

20. **Disputes:** This Participating Addendum and any Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Participating Addendum in accordance with the Primary Contact's decision. Unless a lesser period is provided by applicable statute, regulation, or contract the Contractor must file a written notice of claim with the Primary Contact within 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Participating Addendum, the Contractor must submit to the

Primary Contact its written claim containing the information specified in COMAR 21.10.04.02. This clause replaces in full any provisions incorporated by reference as part of this Participating Addendum regarding, in any manner, disputes or claims under this Participating Addendum.

21. **Maryland Law:** This Participating Addendum, any order against the WSCA Master Service Agreement, and any dispute, claim or controversy relating thereto shall, in all respects, be construed, interpreted, and enforced, and governed by and under according to the laws of the State of Maryland. The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any software license acquired hereunder. Any and all references to the Annotated Code of Maryland contained in this Participating Addendum shall be construed to refer to such Code sections as from time to time amended.

22. **Nondiscrimination in Employment:** The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

23. **Contingent Fee Prohibition:** Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the Contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson or commercial selling agency, any fee or any other consideration contingent on the making of this Participating Addendum.

24. **Pre-Existing Regulations:** In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Participating Addendum are applicable to this Participating Addendum Contract.

25. **Financial Disclosure:** Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

26. **Political Contribution Disclosure:** Contractor shall comply with the Election Law Article, Sections 14-101 through 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate

\$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

27. **Representations:** Contractor hereby represents and warrants that:

- a. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- b. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Participating Addendum;
- c. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Participating Addendum; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Participating Addendum.

28. **Insurance Requirements:**

- a. In addition to complying with the Insurance Schedule requirements of Section 26 of the WSCA Master Service Agreement, the Contractor shall maintain commercial general liability insurance in amounts sufficient to cover losses resulting from or arising out of Contractor's action or inaction in the performance of the Participating Addendum by the Contractor, its agents, servants, employees or subcontractors.
- b. The Contractor shall maintain a policy of general liability insurance that is of the proper type and of sufficient limits that the State, their officials, employees, their agents, servants, guests and subcontractors, if any, are reasonably covered in the event of injury or death.
- c. The State of Maryland will be named as an additional insured on the policies of all commercial general liability and other types of insurance evidencing this coverage. Certificates of insurance evidencing this coverage will be provided prior to the commencement of any activities in the Participating Addendum. All insurance policies shall be endorsed to include a clause that requires the insurance carrier or broker to provide the Primary Contact thirty (30) days advance notice of any cancellation and notice of non-renewal.

d. All insurance policies must be with a company licensed to do business in Maryland. The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Contractor.

29. **Economic Benefit:** The State has the expectation that this Participating Addendum will benefit the State of Maryland's economy, and that, wherever possible, a percentage of Participating Addendum and Contract dollars will be recycled into Maryland's economy; that jobs for Maryland residents will result from this Participating Addendum; that tax revenues will be generated for Maryland and its political subdivisions; and subcontracting dollars will be committed to Maryland small businesses and Minority Business Enterprises as those terms are defined under §14-501(c) and §14-301(f) of the State Finance and Procurement Article of the Maryland Annotated Code.

30. **Living Wage:**

a. A State contract for services valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. This Participating Addendum has been deemed to be a Tier 1 area contract.

b. Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least \$12.91 per hour.

c. The Contractor shall comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland, including the submission of payroll reports to the Commissioner of Labor and Industry and the posting in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

d. The Contractor shall make any subcontractor on this Participating Addendum aware of the Living Wage law requirements.

31. **Commercial Nondiscrimination:**

a. As a condition of entering into this Participating Addendum, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate

in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Participating Addendum and may result in termination of this Participating Addendum, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

b. Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DoIT, in all subcontracts.

c. As a condition of entering into this Participating Addendum, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Participating Addendum and may result in Participating Addendum termination, disqualification by the State from participating in State contracts, and other sanctions.

32. **Nonvisual Accessibility Warranty:** The Contractor warrants that the information technology and Services provided in performance of this Participating Addendum: (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access does not increase the cost of the information technology by more than five (5) percent. For purposes of this section, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

33. **Mercury and Products That Contain Mercury:** In accordance with §14-406 of the State Finance and Procurement Article of the Maryland Annotated Code, Contractor shall provide

products and equipment that are mercury free or contain the least amount of mercury necessary to meet product or equipment performance standards.

34. **Reporting process and requirements:** Contractor shall provide electronic reports to the Primary Contact by the 28th day of the month following the reporting period regarding purchase of equipment or service, in a format approved from time to time by the State.

35. **Administrative:**

a. Primary Contact The work to be accomplished under this Participating Addendum shall be performed under the direction of the Primary Contact. All matters relating to the interpretation of this Participating Addendum shall be referred to the Primary Contact for determination. DoIT may change the Primary Contact at any time by written notice to the Contractor. The Participating Entity's primary contact for this Participating Addendum is:

Edward Bannat
45 Calvert Street
Annapolis, MD 21401
410.260.7662 Phone
410.974.5615 Fax
ebannat@maryland.gov

b. Notices All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State:
Edward Bannat
45 Calvert Street
Annapolis, MD 21401
410.260.7662 Phone
410.974.5615 Fax

If to the Contractor:
T-Mobile USA, Inc.
12920 S.E. 38th Street
Bellevue, Washington 98006
425.378.4040 Fax
Attention: President
With a copy to: Legal Department

36. **American Recovery and Reinvestment Act of 2009 ("ARRA"):** If or when Contractor is notified in writing 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 14824-29 (or subsequent changes or modifications to these requirements as published by the Federal OMB) that are legally required of vendors as providers of goods and services to recipients or sub-recipients of ARRA funds. Each

Participating Entity is responsible for informing Contractor in writing prior to ARRA funds being used for a purchase or purchases under the Contract. Contractor will provide the required report, if any, to the ordering entity with the invoice presented to the Participating Entity for payment. Contractor will provide the required report, if any, to the Participating Entity with the invoice presented to the Participating Entity for payment. Contractor, as it relates to purchases under the Contract, is not a sub-contractor, recipient, sub-recipient or sub-grantee, but simply a vendor, as defined in the OMB guidelines, and assumes no responsibilities under ARRA beyond those required of a vendor.

37. **Entire Agreement:** This Participating Addendum together with the documents incorporated herein by reference, 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 Participating Addendum, together with its exhibits, shall not be added to or incorporated into this Participating Addendum 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 Participating Addendum and the WSCA Master Service Agreement shall prevail and govern in the case of any such inconsistent or additional terms.

38. **WSCA Contract Number:** All Purchase Orders issued by Purchasing Entity within the jurisdiction of this Participating Addendum shall include a reference to State Of Nevada and the WSCA Master Service Agreement for Services of Independent Contractor, Contract 1907.

39. **Purchase Orders:** The Purchasing Entity, upon issuance of valid Purchase Orders, will be bound by the terms and conditions of the WSCA Master Service Agreement including, without limitation, the obligation to pay Contractor for Service and Equipment provided. The parties acknowledge and agree that orders submitted to Contractor from a Purchasing Entity are authorized Purchase Orders under the WSCA Master Service Agreement, provided they are within the scope of the WSCA Master Service Agreement.

40. **Shipment and Risk of Loss:** In addition to the requirements under Section 17 of the WSCA Master Service Agreement, Contractor pays for returned products unless otherwise agreed.

41. **Authority to Enter into Participating Addendum:** By signing below, the corresponding party's representative represents that such person is duly authorized by Contractor or Participating State, as applicable, to execute this Participating Addendum on behalf of the respective party, and that the Contractor and Participating State agree to be bound by the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date set forth above.

Participating State: State of Maryland

Contractor: T-Mobile USA, Inc.

By: _____
(SEAL)

By: _____

Name: Elliot Schlanger

Name: Matt Millen

Title: Secretary
Department of Information Technology

Title: VP, Business Sales
Sector

Date: 11/15/2012

Date: 10/24/2012

Approved for form and legal sufficiency this 15th day of November, 2012.

Assistant Attorney General

Reviewed and Approved as to Form:
T-Mobile USA, Inc. Legal Dept.