Contract Number T11-COR-543

for

Adobe Products and Services

between the

Department of Information Services

And

CompuCom Systems, Inc.

Effective Date: December 31, 2010

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Exhibit B - Contractor's Response to DIS's RFQQ number T11-RFQQ-008

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CONTRACT NUMBER T11-COR-543

for

Adobe Products and Services

PARTIES

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through the Department of Information Services, an agency of Washington State government ("Purchaser" or "DIS") located at 1110 Jefferson St. SE, PO Box 42445, Olympia, WA 98504-2445, and CompuCom Systems, Inc. a corporation licensed to conduct business in the state of Washington ("Contractor"), located at 7171 Forest Lane, Dallas, TX 75230, for the purpose of providing Adobe Products and Services.

RECITALS

WHEREAS, The state of Washington, acting by and through DIS, issued a Request for Quotations and Qualifications, T11-RFQQ-008, dated September 22, 2010, (Exhibit A) for the purpose of purchasing Adobe Products and Services in accordance with its authority under chapter 43.105 RCW.

WHEREAS, CompuCom Systems, Inc. submitted a timely Response to the DIS' RFQQ, T11-RFQQ-008 (Exhibit A).

WHEREAS, DIS evaluated all properly submitted Responses to the above-referenced RFQQ and has identified CompuCom Systems, Inc. as the Apparently Successful Vendor.

WHEREAS, DIS has determined that entering into a Contract with CompuCom Systems, Inc. will meet the State's needs and will be in the State's best interest.

NOW THEREFORE, DIS awards to CompuCom Systems, Inc. this Contract, the terms and conditions of which shall govern Contractor's furnishing to DIS the Adobe Products and Services. This Contract is not for personal use.

This Contract is an optional use contract that neither financially binds the State nor otherwise obligates the State to purchase any Product hereunder. Nor does this Contract prevent the State from purchasing similar Products from other sources; *provided that* all legal acquisition requirements are satisfied. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1. Definition of Terms

The following terms as used throughout this Contract shall have the meanings set forth below.

"Business Days/"Business Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Confidential Information" shall mean information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, and agency security data.

"Contract" shall mean this document, all schedules, exhibits, and all amendments hereto.

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"Contractor" shall mean CompuCom Systems, Inc., its employees and agents. Contractor also includes any firm, provider, organization, individual, or other entity performing the business activities under this Contract. It shall also include any Subcontractor retained by Contractor as permitted under the terms of this Contract.

"Contractor Account Manager" shall mean a representative of Contractor who is assigned as the primary contact person whom the Purchasing Administrator will work with for the duration of this Contract and as further defined in the section titled **Contractor Account Manager**.

"Customer(s)" shall mean agencies, institutions, school districts and political subdivisions of the state of Washington (e.g., counties, cities, public utility districts), as defined in the Interlocal Cooperation Act, chapter 39.34 RCW, and public benefit nonprofit corporations who are DIS customers.

"Delivery Date" shall mean the date by which the Products ordered hereunder shall be delivered as set forth in the section titled **Delivery**.

"DIS" shall mean the same as Purchaser.

"DIS Contracting Officer" shall mean the Director of DIS, or the person to whom signature authority has been delegated in writing.

"Effective Date" shall mean December 31, 2010

"End User" shall mean the same as Customer.

"Equipment" shall mean the Adobe products as set forth in this Contract.

"Exhibit A" shall mean the DIS RFQQ number T11-RFQQ-008, dated September 22, 2010.

"Exhibit B" shall mean the Contractor's Response to DIS's RFQQ number T11-RFQQ-008, dated September 22, 2010.

"Manufacturer" shall mean Adobe, Inc.

"Order" or **"Order Document"** shall mean any official document and attachments thereto specifying the Products and/or Services to be purchased from Contractor under this Contract.

"Price" shall mean charges, costs, rates, and/or fees charged for the Products and Services under this Contract and shall be paid in United States dollars.

"Product(s)" shall mean any software or service warranties offered through Adobe, Inc.

"Proprietary Information" shall mean information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

"Purchaser" shall mean the state of Washington DIS, Technology Brokering Services.

"Purchasing Administrator" shall mean the person designated by DIS as responsible for the maintenance and administration of the Contract, notices, reports and any other pertinent documentation or information, as well as purchasing the Products and Services. The Purchasing Administrator may also conduct periodic financial audits related to the Contract.

"RCW" shall mean the Revised Code of Washington.

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"RFQQ" shall mean the Request for Quotations and Qualifications used as a solicitation document to establish this Contract, including all its amendments and modifications, Exhibit A hereto.

"Response" shall mean Contractor's written Response to Purchaser's RFQQ for Adobe Products and Services, Exhibit B, hereto.

"Services"/"Related Services" shall mean those Adobe services related to the Products being acquired that are appropriate to the scope of this acquisition and includes such things as maintenance, upgrades, technical support services, etc.

"Specifications" shall mean the technical and other specifications set forth in the RFQQ, Exhibit A, any additional specifications set forth in Contractor's Response, Exhibit B, and the specifications set forth in Contractor's Product documentation, whether or not Contractor produces such documentation before or after this Contract's Effective Date.

"Standard of Performance" shall mean the criteria that must be met before Product Acceptance, as set forth in the section titled **Standard of Performance and Acceptance.**

"State" shall mean the state of Washington acting through the Department of Information Services.

"Subcontractor" shall mean one not in the employment of Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term "Subcontractor" means Subcontractor(s) of any tier.

"Vendor" shall mean the entity performing the business activities under this Contract.

"Warranty Period" shall mean the period of time as set forth in the section titled **Equipment Warranty** wherein Contractor warrants that the Equipment shall be in good operating condition and shall conform to the Specifications.

Contract Term

2. Term

2.1. This Contract's initial term shall be two (2) years, commencing upon the Effective Date.

2.2. After the initial two-year period, the State at its sole option may extend this Contract for up to three (3) additional years. The total term of this Contract will not exceed five (5) years.

3. Survivorship

All purchase transactions executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled **Overpayments to Contractor; Contractor Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Date Warranty; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Contractor's**

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Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and **Limitation of Liability**, shall survive the termination of this Contract.

Pricing, Invoice and Payment

4. Pricing

4.1. Contractor agrees to provide the Products and Services at the following discount(s) off of the Adobe Estimated Retail Pricing ("ERP") Price List. No other Prices shall be payable to Contractor.

[illegible]	Vendor discount
Adobe branded Software Products (ASP) (including media and documentation)	15%
Maintenance Options (MO)	14%

With respect to CLP Products and DIS' participation in the current Adobe CLP Program, CompuCom will apply these discounts to pricing DIS receives under the Adobe CLP Program.

4.2. Vendor agrees to allow DIS to have Adobe verify Vendor's Price lists on a quarterly basis.

4.3. All shipping and handling costs necessary are included in the price of the item. Vendor agrees not to assess any additional shipping and handling charges beyond the price of the item.

4.4. If Adobe or Contractor reduces Prices or increases discounts for any of the Products or Services during the term of this Contract, Purchaser shall have the immediate benefit of such lower Prices for new purchases. Contractor shall send notice to the Purchasing Administrator with the reduced Prices within fifteen (15) Business Days of the reduction taking effect.

4.5. At least sixty (60) calendar days before the end of the then-current term, Contractor may propose Price adjustments in writing, Price adjustments shall be taken into consideration by Purchasing Administrator when determining whether to extend this Contract.

4.6. Vendor shall provide monthly, at no charge, an electronic, current product and price catalog for all licensed and non-licensed Products and Services in an Excel spreadsheet, to the Purchasing Administrator.

4.7. Vendor shall provide the DIS Purchasing Administrator an electronic copy of the then-current Adobe CLP Government Reseller Cost Schedule within three (3) days of request by DIS. This electronic copy shall comply with DIS' then-current database standard.

5. Advance Payment Prohibited

No advance payment shall be made for the Products and Services furnished by Contractor pursuant to this Contract.

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6. Taxes

6.1. Purchaser shall pay sales and use taxes, if any, imposed on the Products and Services acquired hereunder. Contractor shall pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. Purchaser, as an agency of Washington State government, is exempt from property tax.

6.2. Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

6.3. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

7. Invoice and Payment

7.1. Contractor shall submit properly itemized invoices to the Technology Brokering Services Manager, Department of Information Services, PO Box 42453, Olympia, WA 98504-2445. Invoices shall provide and itemize, as applicable:

a) DIS Contract number T11-COR-543;
b) Contractor name, address, phone number, and Federal Tax Identification Number;
c) Description of Products or Services, including quantity ordered, model and serial numbers;
d) Date(s) of delivery;
e) Price for each item, or Adobe's list Price for each item and applicable discounts;
f) Net invoice Price for each item;
g) Applicable taxes;
h) Total invoice Price; and
i) Payment terms including any available prompt payment discount.

7.2. Payments shall be due and payable within thirty (30) calendar days after receipt and Acceptance of Products or Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

7.3. Incorrect or incomplete invoices shall be returned by Purchaser to Contractor for correction and reissue.

7.4. The DIS Contract number T11-COR-543 shall appear on all bills of lading, packages, and correspondence relating to this Contract.

7.5. Purchaser shall not honor drafts, nor accept goods on a sight draft basis.

7.6. If Purchaser fails to make timely payment, Contractor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of one dollar ($1). Payment shall not be considered late if payment is deposited electronically in Contractor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of Acceptance of the Equipment or receipt of Contractor's properly prepared invoice, whichever is later.

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8. Overpayments to Contractor

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

Vendor's Responsibilities

9. Authorized Reseller Certification

Contractor must maintain Adobe reseller certification for the duration of this Contract. Contractor shall provide DIS evidence of Contractor's Adobe reseller certification upon request.

10. Products and Services

10.1. All Products supplied by Vendor for delivery shall be of new and original manufacture, with the exception of Vendor-supplied application program media, if applicable.

10.2. Vendor shall provide the DIS Purchasing Administrator at least thirty (30) day advance notice of any changes to the Adobe Product List.

10.3. Vendor shall report Customer purchase data received from DIS, which Vendor will receive from DIS with the purchase order(s), to Adobe, in the manner specified by Adobe Systems.

10.4. All Vendor communication with Customers shall be submitted to DIS for review and approval prior to submission to Customers.

11. Ordering

11.1. Vendor shall accept DIS purchase orders as order documents. Properly completed purchase orders must be processed by the Vendor and submitted using Vendor's reporting method to Adobe within two (2) business days of receipt of purchase order.

11.2. For order documents that are not properly completed, Vendor must notify DIS of those errors within one (1) business day. Once DIS corrects order document errors and submits corrected order documents to Vendor, Vendor must use corrected orders in conjunction with Vendor's reporting method to submit orders to Adobe within two (2) business days of receipt of the corrected order.

11.3. Vendor shall accept only purchase orders originating from DIS, not those originating directly from Customer(s).

11.4. Vendor shall accept purchase orders up until and including the fifth (5th) Business Day of the month following the month in which those copies are first run. However, orders for special promotions and product discontinuations will be sumbitted by Purchaser by the end date of that offer.

11.5. Vendor shall provide DIS, at no charge, remote access to an on-line order tracking system for the purpose of tracking all DIS orders placed with Vendor.

11.6. Damages resulting from Vendor's gross negligence and intentional acts or omissions in the course of processing orders or failure to process orders with Adobe shall be Vendor's

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sole responsibility. Application of liquidated damages in lieu of other damage calculations shall be at Purchaser's sole discretion.

12. Shipping

12.1. Vendor shall pay all shipping and handling charges associated with delivery of Products to DIS, Olympia, Washington. The method of shipment and delivery must be consistent with the nature of the Product and the hazards of transportation. Vendor will be responsible to ship by whatever means necessary to meet the delivery requirements set forth in this RFP.

12.2. Vendor shall pay all shipping and handling charges associated with delivery of Products to alternate destinations (other than to DIS, Olympia, Washington) anywhere within the State of Washington. Alternate destination will be specified by the DIS at time of order.

13. Product Delivery

13.1. Delivery of Non-Licensed Products shall be within four (4) Business Days of Vendor's receipt of order.

13.2. If delivery exceeds four (4) Business Days, Vendor shall have Adobe certify in writing that there is no Product available through any channel source because of Product constraints; otherwise liquidated damages may apply.

13.3. Elapsed delivery time shall measured from the time an order is accepted, either verbally or in writing by Vendor, to the time product is delivered to DIS, Olympia, Washington, or alternate delivery Customer site, at DIS' discretion.

13.4. Liquidated damages, as described in Section 44, may be assessed for failure to meet the prescribed delivery schedule.

13.5. Vendor shall ensure that each box is individually identified by the appropriate DIS purchase order number, and that all packages are accompanied by a packing slip, which shows the DIS purchase order number and identifies all items included in the shipment.

13.6. DIS will accept partial orders to expedite delivery.

14. Product Replacement/Return

14.1. Vendor shall replace Product shipments found to be defective by Customer within seven (7) Business Days' notification by DIS.

14.2. Vendor shall be responsive to the return of defective shipments and mis-shipped or incorrectly ordered Non-Licensed Products purchased under the resulting Contract in accordance with Adobe's then-current return policy.

14.3. Vendor must provide DIS with a Return Merchandise Authorization (RMA) within eight (8) Business Hours for Non-licensed Products, and five (5) business days for Licensed Products from the time a product return request is initiated by DIS.

15. Four Hour Response

Vendor shall provide guaranteed four (4) hour phone or email response to all phone calls placed with an authorized Vendor representative regarding pricing information, placing of orders, order status, return merchandise authorization or other related business matters for calls that are not immediately answered by an authorized customer representative. Vendor must provide a problem resolution plan within (5) business days from the date of Vendor's response to DIS.

16. Site Security

While on Purchaser's premises, Vendor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

17. RFQQ Mandatory Provisions and Technical Requirements

The mandatory RFQQ provisions are incorporated into and are essential substantive terms of this Contract. Products and Services provided under this Contract shall meet or exceed all of the mandatory technical requirements of the RFQQ.

18. Contractor Commitments, Warranties and Representations –

18.1 Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

18.2 End-user warranties, liabilities and licensing shall be provided as a pass-through from the manufacturer.

19. Protection of Purchaser's Confidential Information

19.1. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes ("Confidential Information"). Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser.

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Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

19.2. Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

19.3. Contractor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Contractor's records shall be subject to inspection, review or audit in accordance with **Review of Contractor's Records.**

19.4. Purchaser reserves the right to monitor, audit, or investigate the use of Purchaser Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

19.5. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Contract Administration

20. Legal Notices

20.1. Any notice or demand or other communication required or permitted to be given under this Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, certified mail, return receipt requested or via facsimile, to the parties at the addresses and fax numbers provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Contractor at:

CompuCom Systems, Inc.

Attn: Legal Department
7171 Forest Lane
Dallas, TX 75230

Phone: (916) 580-3258
Fax: (800) 366-9994

To Purchaser at:

State of Washington
Department of Information Services
Attn: Contracts Administrator
PO Box 42445
Olympia, WA 98504-2445

Phone: 360-902-3551
Fax: 360-586-1414

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20.2. Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

20.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to this Contract is served upon Contractor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

21. Contractor Account Manager

Contractor shall appoint an Account Manager for DIS' account under this Contract who shall provide oversight of Contractor activities conducted hereunder. Contractor's Account Manager shall be the principal point of contact for DIS concerning Contractor's performance under this Contract. Contractor shall notify the Purchasing Administrator, in writing, when there is a new Contractor Account Manager assigned to this Contract. The Contractor Account Manager information is:

Contractor Account Manager: Peggy Bournstein		
Address: 7171 Forest Lane, Dallas TX		
Phone: (916) 580-3258	Fax: (800) 366-9994	E-mail: peg.bournstein@compucom.com

22. Purchasing Administrator

The Technology Brokering Services Manager shall be the Purchasing Administrator for this Contract and shall provide oversight of the activities conducted hereunder. Purchasing Administrator shall be the principal contact for Contractor concerning business activities under this Contract. Purchaser shall notify Contractor, in writing, when there is a new Purchasing Administrator assigned to this Contract.

23. Section Headings, Incorporated Documents and Order of Precedence

23.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

23.2. Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

a) Schedules A & B;
b) DIS RFQQ dated September 20, 2010;
c) Contractor's Response to DIS' RFQQ dated September 22, 2010;
d) The terms and conditions contained on Purchaser's Order Documents, if used; provided however will not modify the terms of the Contract; and
e) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to effect the sale of Equipment to Purchaser.

23.3. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:

a) Applicable federal and state statutes, laws, and regulations;
b) Sections of this Contract;
c) DIS' RFQQ dated September 20, 2010;
d) Contractor's Response to DIS' RFQQ dated September 22, 2010;
e) The terms and conditions contained on Purchaser's Order Documents, if used; and
f) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to effect the sale of Equipment to Purchaser.

24. Entire Agreement

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, Price, quality, or Specifications of this Contract shall be effective without the written consent of both parties.

25. Authority for Modifications and Amendments

No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by Purchaser and Contractor Contracting Officers. Only Purchaser Contracting Officer shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract on behalf of Purchaser.

26. Independent Status of Contractor

In the performance of this Contract, the parties shall act in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that this Contract shall create an independent Contractor relationship. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW, or Title 51 RCW.

27. Governing Law

This Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute shall not govern any aspect of this Contract or any license granted hereunder, and instead the law as it existed prior to such enactment shall govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

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28. Subcontractors

Contractor may, with prior written permission from Purchaser, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Contractor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to Purchaser for any breach in the performance of Contractor's duties. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor. Contractor shall be liable for any loss or damage to Purchaser, including but not limited to personal injury, physical loss, harassment of Purchaser employees, or violations of the **Patent and Copyright Indemnification** and **Protection of Purchaser's Confidential Information** sections of this Contract occasioned by the acts or omissions of Contractor's Subcontractors, their agents or employees. The **Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information, Publicity** and **Review of Contractor's Records** sections of this Contract shall apply to all Subcontractors.

29. Assignment

27.1 With the prior written consent of DIS, which consent shall not be unreasonable withheld, Contractor may assign this Contract including the proceeds hereof, provided that such assignment shall not operate to relieve Contractor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser that may arise from any breach of the sections of this Contract, or warranties made herein including but not limited to, rights of setoff.

27.2 Purchaser may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve Purchaser of any of its duties and obligations hereunder.

30. Publicity

30.1. The award of this Contract to Contractor is not in any way an endorsement by the State of Contractor or the Products and shall not be so construed by Contractor in any advertising or other publicity materials.

30.2. Contractor agrees to submit to Purchaser, all advertising, sales promotion, and other publicity materials relating to this Contract or any Product furnished by Contractor wherein Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of Purchaser's name therewith may, in Purchaser's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Purchaser *prior* to such use.

30.3. Either Party may use the other Party's name and logo (except for the State seal) in advertising, sales promotion, and other publicity materials relating to this Contract, without royalty, provided that this Contract and the relationship between the parties is not misrepresented.

31. Review of Contractor's Records

31.1. Contractor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to Minority and Women's Business Enterprise participation, protection and use of Purchaser's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Contractor shall retain all such records for six (6)ears after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for either one (1) year following the termination of litigation, including all appeals, or six (6)) years from the date of expiration or termination of this Contract, whichever is later.

31.2. All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchasing Administrator and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the State. During this Contract's term, Contractor shall provide access to these items within Thurston County. Contractor shall be responsible for any audit exceptions or disallowed costs incurred by Contractor or any of its Subcontractors.

31.3. Contractor shall incorporate in its subcontracts this section's records retention and review requirements.

31.4. It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Contractor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review unless the cost or any other material issue under this Contract is calculated or derived from these factors.

General Provisions

32. Patent and Copyright Indemnification

32.1. Subject to Section 18.2 Contractor, at its expense, shall defend, indemnify, and save Purchaser and End User harmless from and against any claims against Purchaser or End User that any Product supplied hereunder, or Purchaser's or End User's use of the Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Contractor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by Purchaser or End User provided that Purchaser or End User:

a) Promptly notifies Contractor in writing of the claim, but the failure to provide timely notice shall only relieve Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor; and

b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations.

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32.2. If such claim has occurred, or in Contractor's opinion is likely to occur, Purchaser or End User agrees to permit Contractor, at its option and expense, either to procure for Purchaser or End User the right to continue using the Product or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Product is enjoined by a court and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, shall take back the Product and provide Purchaser a refund of the Product's depreciated value. No termination charges shall be payable on such returned Product, and the Purchaser shall pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a usefull life of three (3) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by Purchaser shall be refunded by Contractor.

32.3. Contractor has no liability for any claim of infringement arising solely from:

a) Contractor's compliance with any designs, specifications or instructions of End User;
b) Modification of the Product by End User or a third party without the prior knowledge and approval of Contractor;
c) Use of the Product in a way not specified by Contractor; or,
d) Use of the Product with equipment not supplied by Contractor; unless the claim arose against Contractor's Product independently of any of these specified actions.

33. Save Harmless

Contractor shall defend, indemnify, and save Purchaser and End User harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons or damage to real or tangible personal property of such third parties arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents.

34. Industrial Insurance Coverage

Prior to performing work under this Contract, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. Purchaser shall not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and services under this Contract.

35. Uniform Commercial Code (UCC) Applicability

35.1. Except to the extent the sections of this Contract are clearly inconsistent, this Contract shall be governed by any applicable sections of the Uniform Commercial Code (UCC) as set forth in Title 62A RCW.

35.2. In the event of any clear inconsistency or contradiction between this Contract and the UCC, the terms and conditions of this Contract take precedence and shall prevail unless otherwise provided by law.

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36. Antitrust Violations

Contractor and Purchaser recognize that in actual economic practice overcharges resulting from antitrust violations are usually borne by Purchaser. Therefore, Contractor hereby assigns to Purchaser any and all claims for such overcharges as to goods and services purchased in connection with this Contract, except as to overcharges not passed on to Purchaser resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the Price under this Contract.

37. Compliance with Civil Rights Laws

During the performance of this Contract, Contractor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 *et seq.*; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the **Termination for Default** sections, and Contractor may be declared ineligible for further contracts with Purchaser.

38. Severability

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

39. Waiver

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

40. Contractor's Proprietary Information

Contractor acknowledges that Purchaser is subject to chapter 42.17 RCW and that this Contract shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Contractor to be Proprietary Information shall be clearly identified as such by Contractor. To the extent consistent with chapter 42.17 RCW, Purchaser shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, Purchaser shall notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified.

Disputes and Remedies

41. Disputes

41.1. In the event a bona fide dispute concerning a question of fact arises between Contractor and Purchaser and it cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.

41.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within five (5) Business Days. The initiating party shall have five (5) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have five (5) Business Days to negotiate in good faith to resolve the dispute.

a) If the dispute cannot be resolved after five (5) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within five (5) Business Days of receipt of the request, the other party shall designate a panel member. Those two panel members shall appoint a third individual to the dispute resolution panel within the next three (3) Business Days.

b) The Dispute Resolution Panel shall review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

41.3. Both parties agree to be bound by the determination of the Dispute Resolution Panel.

41.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

41.5. Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they shall continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

41.6. If the subject of the dispute is the amount due and payable by Purchaser for Services being provided by Contractor, Contractor shall continue providing Services pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

42. Attorneys' Fees and Costs

42.1. If any litigation is brought to enforce any term, condition, or section of this Contract, or as a result of this Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

42.2. In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of

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mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

43. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

44. Liquidated Damages

44.1. Liquidated Damages – General

a) Any delay by Contractor in meeting the Delivery Date set forth in this Contract will interfere with the proper implementation of Purchaser's programs and will result in loss and damage to Purchaser.

b) As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Purchaser and Contractor agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained shall be the amount set forth in the following subsections and the parties agree that Contractor shall pay such amounts as liquidated damages and not as a penalty.

c) Liquidated damages provided under the terms of this Contract are subject to the same limitations as provided in the section titled **Limitation of Liability**.

44.2. Liquidated Damages – Specific

a) If Contractor does not have the Products delivered by the Delivery Date agreed upon between Purchaser and Contractor, then Contractor shall provide a letter from Adobe confirming that Purchaser's Products are back ordered. If Contractor cannot provide such letter, then Contractor shall provide a revised Delivery Date and pay to Purchaser as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified Delivery Date and/or Installation Date and the date that Contractor actually delivers the Products an amount of two-hundred ($200) per day for each calendar day between the specified Delivery Date and the date Contractor actually delivers such Products.

b) If the revised Delivery Date is more than fifteen (15) calendar days from the original Delivery Date, then by written notice to Contractor, Purchaser may immediately terminate the right of Contractor to deliver the Products and Purchaser may obtain substitute Products from another vendor. In this event, Contractor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all other damages due to such delay, in the amount specified above, until substitute Products are delivered, or a maximum of thirty (30) calendar days from the original Delivery Date, whichever occurs first.

45. Failure to Perform

If Contractor fails to perform any substantial obligation under this Contract, Purchaser shall give Contractor written notice of such Failure to Perform. If after fifteen (15) calendar days from the date of the written notice Contractor still has not performed, then Purchaser may withhold all monies due and payable to Contractor, without penalty to Purchaser, until such Failure to Perform is cured or otherwise resolved.

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46. Limitation of Liability

46.1. The parties agree that neither Contractor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on a patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled **Termination for Default**, and **Review of Contractor's Records** are not consequential, incidental, indirect, or special damages as that term is used in this section.

46.2. Neither Contractor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Contractor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Contractor, Purchaser, or their respective Subcontractors.

46.3. If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

46.4. Neither party shall be liable for personal injury to the other party or damage to the other party's real or tangible personal property except personal injury or damage to real or tangible personal property proximately caused by such party's respective fault or negligence.

Contract Termination

47. Termination for Default

47.1. If either Purchaser or Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party shall correct the violation or failure within fifteen (15) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. Purchaser reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of any alleged Contractor compliance breach and pending corrective action by Contractor or a decision by Purchaser to terminate the Contract.

47.2. In the event of termination of this Contract by Purchaser, Purchaser shall have the right to procure the Products and Services that are the subject of this Contract on the

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open market and Contractor shall be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract price for the Products and Services and the replacement costs of such Products and Services acquired from another Contractor; (ii) if applicable, all administrative costs directly related to the replacement of this Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other costs to Purchaser resulting from Contractor's breach. Purchaser shall have the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor shall owe Purchaser for Contractor's default.

47.3. If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a **Termination for Convenience.**

47.4. This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

48. Termination for Convenience

When, at the sole discretion of Purchaser, it is in the best interest of the State, Purchaser Contracting Officer may terminate this Contract, in whole or in part, by thirty (30) calendar days written notice to Contractor. If this Contract is so terminated, Purchaser is liable only for payments required by the terms of this Contract for Products and Services received and Accepted by Purchaser prior to the effective date of termination.

49. Termination for Withdrawal of Authority

In the event that Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract by seven (7) calendar days written notice to Contractor. No penalty shall accrue to Purchaser in the event this section must be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar products or services from a third party.

50. Termination for Non-Allocation of Funds

If funds are not allocated to Purchaser to continue this Contract in any future period, Purchaser may terminate this Contract by seven (7) calendar days written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser shall not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then current period. Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time. No penalty shall accrue to Purchaser in the event this section must be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar products or services from a third party.

51. Termination for Conflict of Interest

Purchaser may terminate this Contract by written notice to Contractor if Purchaser determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance

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of contracts. In the event this Contract is so terminated, Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event Contractor breaches this Contract.

52. Termination Procedure

52.1. Unless otherwise provided herein, Purchaser shall pay to Contractor the agreed-upon price, if separately stated, for the Products or Services received and accepted by Purchaser, provided that in no event shall Purchaser pay to Contractor an amount greater than Contractor would have been entitled to if this Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts due Contractor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.

52.2. Contractor shall pay amounts due Purchaser as the result of termination within thirty (30) calendar days of notice of amounts due. If Contractor fails to make timely payment, Purchaser may charge interest on the amounts due at one percent (1%) per month until paid in full.

Contract Execution

53. Authority to Bind

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

54. Counterparts

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto. This contract shall be effective December 31, 2010.

Approved

State of Washington
The Department of Information Services

Signature

Scott Smith
Print or Type Name

TAS, Program Coordinator 12/23/10
Title Date

Approved

CompuCom Systems, Inc.

Signature

Richard A. McDonough
Print or Type Name

VP & Secretary 12/23/10
Title Date

Approved as to Form

State of Washington
Office of the Attorney General

Signature

Print or Type Name

Title Date

Contractor Information
Contractor's UBI Number:
Minority or Woman Owned Business Enterprise Yes _____ No (Certification Number)

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Amendment 13-01
to
Contract T11-COR-543
for
Reseller of Adobe Products and Services

In accordance with Section 25 (*Authority for Modifications and Amendments)* of Contract Number T11-COR-543 ("the Contract"), this Amendment 13-01 is entered into by and between the State of Washington, **Department of Enterprise Services** ("DES") and **CompuCom Systems, Inc.** ("Vendor").

The purpose of this Amendment is to extend the term of the agreement. The parties agree as follows:

1. The State of Washington hereby extends the term of this Master Contract for an additional one (1) year term through December 31, 2013.

All other provisions of Contract T11-COR-543 shall remain in full force and effect.

This Amendment 13-01 shall be effective as of December 30, 2012.

Approved

State of Washington,
Department of Enterprise Services

Signature

Dale Colbert

12-18-12

Unit Manager *Date*

Approved

CompuCom Systems, Inc.

Signature

Randall Wooley

Print or Type Name

Associate General Counsel 12/12/12

Title *Date*