



## SUBCONTRACTOR AGREEMENT

THIS SUBCONTRACTOR AGREEMENT (this “Agreement”) is made and shall be effective as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (“Dealer” or “Prime”) and Ricoh USA, Inc. (“Ricoh” or “Subcontractor”).

### **Background**

Dealer and Ricoh are parties to a certain Dealer Agreement, pursuant to which Ricoh has appointed Dealer as an authorized dealer of Ricoh manufactured Products in a defined Territory (as those terms are defined in the Dealer Agreement). Dealer and Ricoh desire to enter into a mutually beneficial contractual and working relationship in order to provide certain managed print services, managed document services, consulting and other services (“Services”) to Dealer customers, with Dealer serving as prime contractor and Ricoh serving as subcontractor, all on the terms and conditions set forth herein. In consideration of the foregoing, Dealer and Ricoh, intending to be legally bound, hereby agree as follows:

1. Subcontractor Relationship. Ricoh acknowledges that Dealer, from time to time, may authorize subcontractors having complimentary and qualified skills to assist Dealer in promoting and obtaining project work opportunities for Services to Dealer customers. Ricoh desires to provide its professional skills and expertise to Dealer and its customers, and Dealer, as prime contractor, desires to engage Ricoh, as subcontractor, for such purpose.
2. Dealer Marketing Materials. Dealer may, from time to time, in the exercise of its sole discretion, elect to engage Ricoh to provide certain pre-sales activities (including customer qualification, drafting of statements of work or service orders) to Dealer customers for the purpose of Dealer providing Services to such customers. Ricoh agrees to utilize such materials solely in its capacity as a subcontractor to Dealer in the event customer engages Dealer to provide Services and for any subsequent subcontracting engagement.
3. Ricoh Services. Ricoh agrees to provide the specific services described in a Statement of Work or Service Order (each an “Order Form”) attached hereto as Exhibit A (the “Ricoh Services”) in connection with the Dealer customer Services engagement referenced thereon. The Order Form may be pursuant to a Master Services Agreement or

other master agreement (each a “MSA”) in which case the MSA will also be attached hereto with the Order Form as Exhibit A. Ricoh shall provide the Ricoh Services in a professional manner, consistent with applicable industry standards. Unless specifically designated in writing as an authorized agent for Dealer, Ricoh may not, and shall have no power or authority to, enter into or negotiate any commitment, agreement or understanding with any sub-subcontractor or third party on behalf of Dealer.

4. Independent Contractor; Insurance. Ricoh acknowledges that no employer-employee relationship is intended or exists hereunder or otherwise between Ricoh and Dealer. Ricoh agrees to carry and maintain in full force and effect all insurance coverage reasonably necessary and appropriate under applicable State and Federal laws, including, but not limited, to automobile liability, worker’s compensation and unemployment insurance coverage. Upon request, Ricoh shall provide Dealer with a certificate of insurance evidencing its insurance coverage.
5. Confidentiality. Ricoh agrees that it will regard as confidential all information communicated to or received by Ricoh in the course of or in connection with its provision of Ricoh Services hereunder, whether received from Dealer or any customer of Dealer. Ricoh agrees to safeguard and maintain the confidentiality of all such information and that it will not, without Dealer’s prior written consent, make any oral or written disclosures, except to persons who may from time to time be designated by Dealer as authorized to receive such information, or otherwise use any such information for any purpose other than the limited purpose contemplated by its service engagement. These restrictions shall not apply to information (1) generally known to the public or obtainable from public sources, (2) previously in the possession of Ricoh, or (3) approved by Dealer in writing for release without restriction.
6. Non-Solicitation. (a) As a material condition to the engagement of Ricoh by Dealer, for so long as

Dealer is an authorized dealer of Ricoh, Ricoh shall not solicit Dealer's employees or customers for any purpose whatsoever; provided, however, Ricoh shall be permitted to perform Services directly to a Dealer customer if Dealer chooses (i) not to provide such Services itself and/or (ii) not to engage Ricoh as a subcontractor to provide such Services to a Dealer customer. Upon encountering an opportunity for Services for a Dealer customer, Ricoh shall provide written notice to Dealer outlining the specifics of such Services and Dealer shall have ten (10) business days in which to respond as to whether Dealer will perform the Services itself and whether it will engage Ricoh as a subcontractor. Dealer's failure to respond within such ten (10) day period shall permit Ricoh to provide the Services directly to a Dealer customer.

(b) As a material condition of Ricoh providing the Ricoh Services to Dealer, during the term of this Agreement and for a period of one (1) year following the expiration or termination of this Agreement for any reason, Dealer shall not (i) offer employment to any employee of Ricoh, (ii) attempt to directly or indirectly induce or solicit any employee of Ricoh to terminate his or her employment with Ricoh, or (iii) offer employment to a former employee of Ricoh for the twelve (12) month period immediately following such former employee's termination of employment with Ricoh.

(c) In the event of a breach by Dealer of this Section, Dealer shall, within ten (10) days of such breach, pay Ricoh, in addition to any other fees required hereunder, damages in an amount equal to fifty percent (50%) of the total compensation paid to such employee or former employee in the last twelve (12) months of his or her employment by Ricoh. Money damages may not be an adequate remedy for a breach of this Section by Ricoh or Dealer and, therefore, in addition to any other legal or equitable remedies available to it, Ricoh or Dealer, as applicable shall be entitled to obtain an injunction against such breach. The obligations set forth in this Section are independent covenants and shall survive the termination or expiration of this Agreement.

7. Compensation and Scope of Work. The Ricoh Services to be provided for any engagement shall be described in an Order Form. Ricoh shall receive as compensation for its services the consideration set forth in the Order Form applicable to a particular engagement. All such Order Forms pursuant to which Ricoh shall provide Ricoh Services to Dealer's customer shall be subject to

the terms and conditions of this Agreement and the terms and conditions of this Agreement shall prevail over any inconsistent term of an Order Form.

8. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, RICOH MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY. IN NO EVENT SHALL RICOH BE LIABLE TO DEALER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, EVEN IF RICOH HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. RICOH'S LIABILITY HEREUNDER, IF ANY, SHALL IN NO EVENT EXCEED THE TOTAL OF THE FEES PAID TO RICOH HEREUNDER.
9. Equipment. Ricoh shall supply all equipment, tools, materials and supplies Services to accomplish the Ricoh Services, with the exception of any hardware, software, materials, supplies and space to be furnished by Dealer customers or Dealer, to the extent described in the applicable Order Form.
10. Supervision. Ricoh retains the right and responsibility to control or direct the manner in which the Ricoh Services described herein are to be performed.
11. Expenses; Taxes. Ricoh shall be responsible for all expenses incurred in providing the Ricoh Services hereunder, including, without limitation, telephone expense, long distance charges, payroll taxes, worker's compensation and fringe benefits for employees.
12. Term. This Agreement shall remain in full force and effect until terminated by either party upon thirty (30) days prior written notice; provided, however, that either party may terminate this Agreement at any time in the event of a breach by the other party of any of its representations or obligations hereunder which remains uncured, if curable, for a period of ten (10) days following written notice of such breach. This Agreement,

together with the Exhibits attached hereto, constitutes the entire agreement and understanding between Dealer and Ricoh with respect to the subject matter hereof. This Agreement and all rights hereunder shall inure to the benefit of the respective parties, their successors and assigns.

13. Assignment; Governing Law. This Agreement may not be assigned by either party without the prior written consent of the other. If any clause of this Agreement is determined to be unenforceable under applicable federal or state law, the exclusion of such clause shall not affect the validity or enforceability of this Agreement. The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of the State of Delaware, without regard to its conflict of laws principles.

IN WITNESS WHEREOF, the undersigned duly authorized representatives of Dealer and Ricoh have executed this Agreement, effective as of the date first written above.

RICOH USA, INC.

DEALER

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**EXHIBIT A  
TO SUBCONTRACTOR AGREEMENT**