

**OFFICE SUPPLIES AND PRODUCTS**  
**MASTER PRICE AGREEMENT**

This Master Purchase Agreement effective as of September 17, 2012 (the "Effective Date") is by and between the LEAGUE OF OREGON CITIES ("Purchaser") and STAPLES BUSINESS ADVANTAGE, A DIVISION OF STAPLES CONTRACT & COMMERCIAL, INC. ("Supplier").

**RECITALS**

WHEREAS, the Supplier is in the business of selling certain products and related services, as further described herein; and

WHEREAS, the Supplier desires to sell and the Purchaser desires to purchase certain products and related services all upon and subject to the terms and conditions set forth herein; and

WHEREAS, the Supplier desires to extend the terms of this Master Price Agreement to members of National Purchasing Partners, LLC, also dba FireRescue GPO and Public Safety GPO.

NOW, THEREFORE, Supplier and Purchaser, intending to be legally bound, hereby agree as follows:

**ARTICLE 1 - CERTAIN DEFINITIONS**

1.1 "Parties" shall mean the Purchaser and Supplier; "Party" shall mean either the Purchaser or the Supplier.

1.2 "Agreement" shall mean to this Master Price Agreement, including the main body of this Agreement and Attachments A-F attached hereto and by this reference incorporated herein, including Purchaser's Request for Proposal RFP No. 525 (herein "RFP") and Supplier's Proposal submitted in response to the RFP (herein "Supplier's Proposal") as referenced and incorporated herein as though fully set forth (sometimes referred to collectively as the "Contract Documents").

1.3 "Applicable Law(s)" shall mean all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind, including, but not limited to, those relating to (i) affirmative action and equal employment opportunity, (ii) nondiscrimination based on race, color, creed, religion, sex, age, ethnic origin or existence of a disability, (iii) wages and hours, (iv) workers' compensation and unemployment insurance, (v) labor and employment conditions, (vi) occupational safety and health and (vii) the environment and the use and handling and disposal of toxic and/or hazardous substances and materials.

1.4 "Employee Taxes" shall mean all taxes, assessments, charges and other amounts whatsoever payable in respect of, and measured by the wages of, the Supplier's employees (or subcontractors), as required by the Federal Social Security Act and all amendments thereto and/or any other applicable federal, state or local law.

1.5 "Purchaser's Destination" shall mean such delivery location(s) or destination(s) as Purchaser may prescribe from time to time.

1.6 "Products" shall mean the products and/or services to be sold by Supplier hereunder as identified and described on Attachment A hereto and incorporated herein, as may be updated from time to time by Supplier to reflect products and/or services offered by Supplier generally to its customers.

1.7 "Purchase Order" shall mean any authorized written, electronic, telephone or fax order sent or made by Purchaser pursuant hereto, including, but not limited to, written purchase orders, requisitions sent by fax machine, and orders in such other form and/or mode of transmission as Purchaser and Supplier may from time to time agree. Each Purchase Order will specify the following items: National Purchasing Partners contract number, specific Products requested (by id number), unit price per Product, quantity, delivery schedule, destination (with contact/recipient), and total price of the Purchase Order. Each Purchase Order issued under this Agreement shall be made part of, and be incorporated into this Agreement, and shall reference this Agreement on the face of each Purchase Order. Should any Purchase Order not conform to or satisfy the terms of this Agreement, Supplier shall have five (5) business days after receipt to reject the Purchase Order. By not rejecting the Purchase Order within five (5) business days, Supplier will have accepted the Purchase Order. Acceptance by Supplier is limited to the provisions proposed by Supplier or Purchaser. In addition, the Parties agree that this Agreement and accepted Purchase Orders constitute a contract for the sale of goods and/or services and satisfy all statutory and legal formalities of a contract.

1.8 "Unemployment Insurance" shall mean the contribution required of Supplier, as an employer, in respect of, and measured by, the wages of its employees (or subcontractors) as required by any applicable federal, state or local unemployment insurance law or regulation.

1.9 "National Purchasing Partners" or "NPP" is a subsidiary of two nonprofit health care systems and provides group purchasing marketing and administrative support for governmental entities and non-profit institutions within the membership. National Purchasing Partners' membership includes participating public and non-profit entities in the United States and Canada. National Purchasing Partners also does business as FireRescue GPO and Public Safety GPO.

1.10 "Participating Agencies" shall mean members of National Purchasing Partners that Supplier has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.5 and Attachment C herein.

## **ARTICLE 2 – AGREEMENT TO SELL**

2.1 Supplier hereby agrees to sell to Purchaser such Products as Purchaser may order from time to time by Purchase Order, all in accordance with and subject to the terms, covenants and conditions of this Agreement. Purchaser agrees to purchase those Products ordered by Purchaser by Purchase Order in accordance with and subject to the terms, covenants and conditions of this Agreement.

2.2 All Purchase Orders issued by Purchaser to Supplier for Products during the Term (as hereinafter defined) of this Agreement are subject to the provisions of this Agreement as though fully set forth in such Purchase Order. In the event that the provisions of this Agreement conflict with any Purchase Order issued by Purchaser to Supplier, the provisions of this Agreement shall govern. No other terms and conditions, including, but not limited to, those contained in Supplier's standard printed terms and conditions, on Supplier's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Agreement, any Purchase Order, or any transactions occurring pursuant hereto or thereto, unless this Agreement shall be specifically amended to adopt such other terms and conditions in writing by the Parties.

2.3 Notwithstanding any other provision of this Agreement to the contrary, Purchaser shall have no obligation to order or purchase any Products hereunder and the placement of any Purchase Order shall be in the sole discretion of Purchaser. Without limiting the generality of the foregoing, the actual quantity of Products to be purchased hereunder shall be determined by Purchaser in its sole discretion. This Agreement is not exclusive. Supplier expressly acknowledges and agrees that Purchaser may purchase at its sole discretion, products which are identical or similar to the Products described in this Agreement from any third party.

2.4 In case of any conflict or inconsistency between any of the Contract Documents, the documents shall prevail and apply in the following order of priority:

- (i) This Agreement;
- (ii) Supplier's Proposal; and
- (iii) The RFP.

Supplier has provided a list of Exceptions to the RFP Solicitation identified in Supplier's Proposal. Supplier's list of Exceptions is approved in its entirety.

## 2.5 Extension of contract terms to National Purchasing Partners, LLC

2.5.1 Pursuant to Section 1.0 of the RFP, Supplier agrees to extend the same terms, covenants and conditions available to Purchaser under this Agreement to other government agencies that are members of National Purchasing Partners, also dba FireRescue GPO and Public Safety GPO, that have executed a National Purchasing Partners IGA as a Participating Agency, and that wish to access this Agreement in accordance with Attachment C which is attached hereto and incorporated herein by reference ("Participating Agencies"). Each Participating Agency will be exclusively responsible for and deal directly with Supplier on matters

relating to ordering, delivery, inspection, acceptance, invoicing, and payment for Products in accordance with the terms and conditions of this Agreement as if it were "Purchaser" hereunder. Any disputes between a Participating Public Agency and Supplier will be resolved directly between them under and in accordance with the laws of the State in which the Participating Public Agency exists. Pursuant to 1.3A) of the RFP, LEAGUE OF OREGON CITIES shall not incur any liability as a result of the access and utilization of this Agreement by other NPP Participating Agencies.

2.5.2 *This Solicitation meets Oregon public contracting requirements and may not be appropriate under or meet Participating Agencies' procurement laws. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.*

2.5.3 Supplier acknowledges execution of a Vendor Administration Fee Agreement with National Purchasing Partners, LLC, pursuant to Section 1.3C) of the RFP.

2.6 Oregon Public Agencies are prohibited from use of products and services offered under this contract that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Service's Procurement List ("Procurement List") pursuant to ORS 279.835-.855. See [www.OregonRehabilitation.org/qrf](http://www.OregonRehabilitation.org/qrf) for more information. Supplier shall not sell products and services identified on the Procurement List (e.g., reconditioned toner cartridges) to Purchaser or Participating Agencies within the state of Oregon or to public institutions in other states with similar restrictions.

### **ARTICLE 3 – TERM AND TERMINATION**

3.1 The term of this Agreement shall commence on the date hereof and shall continue for four (4) years, expiring on May 31, 2016 (the "Original Term"), subject to any earlier termination as provided herein. Notwithstanding the foregoing, upon termination of the original four (4) year term, the Purchaser and the Supplier, at the Purchaser's option and with the prior written approval of the Supplier, extend the term of this Agreement up to a maximum of three (3), one (1) year options. The Purchaser shall be notified in writing by the Supplier, through NPP, of the Supplier's intention to extend the term of this Agreement period at least thirty (30) calendar days prior to the expiration of the Original Term, and during such thirty-day period the Purchaser shall notify the Supplier, through NPP, whether or not the Purchaser consents to the extension.

3.2 Either Party may terminate this Agreement by written notice to the other Party if the other Party breaches any of its obligations hereunder and fails to remedy the breach within thirty (30) days after receiving written notice of such breach from the non-breaching Party.

### **ARTICLE 4 – PRICING, INVOICES, AND PAYMENT**

4.1 Purchaser shall pay Supplier for all Products ordered and delivered in compliance with the terms and conditions of this Agreement on the terms and at the discounts specified for each such Product on Attachment A. Subject to paragraph 4.6, Attachment A and Supplier's Proposal, prices for items listed on the core items list or in the Supplier's Catalog (excluding paper, paper related items, computer supplies, and petroleum products, such as toner, ink and trash liners for example) shall remain firm for a period of one (1) year and, thereafter, may be adjusted on each anniversary of the Effective Date of this Agreement. The prices for paper, paper related items, computer supplies, and petroleum products, such as toner, ink and trash liners for example, may be adjusted with thirty (30) days notice to the Purchaser. The reasonableness of proposed price adjustments will be determined by reviewing the documents submitted by the Supplier from the manufacturer(s). Unless otherwise directed by Purchaser for expedited orders, Supplier shall utilize such common carrier for the delivery of Products as Supplier may select; provided, however, that for expedited orders Supplier shall obtain delivery services hereunder at rates and terms not less favorable than those paid by Supplier for its own account or for the account of any other similarly situated customer of Supplier.

4.2 Supplier shall submit original invoices to Purchaser in form and substance and format reasonably acceptable to Purchaser. All invoices must reference the Purchaser's Purchase Order number, contain an itemization of amounts for Products purchased during the applicable invoice period and any other information reasonably requested by Purchaser, and must otherwise comply with the provisions of this Agreement and such reasonable requirements as may be prescribed by Purchaser from time to time. Invoices shall be addressed as directed by Purchaser.

4.3 Unless Attachment A or Supplier's Proposal (Attachment D) expressly provides otherwise, the prices specified on Attachment A (i) exclude all taxes and duties of any kind which Supplier is required to pay with respect to the sale of Products covered by this Agreement and (ii) include all charges for packing, packaging and loading.

4.4 Notwithstanding any other agreement of the Parties as to the payment of shipping/delivery costs, except as otherwise provided on Attachment A or Supplier's Proposal, there are no delivery and freight charges for any of the products offered by Supplier, with the exception of Alaska and Hawaii destinations.

4.5 Except as specifically set forth on Attachment A or Supplier's Proposal, Purchaser shall not be responsible for any additional costs or expenses of any nature incurred by Supplier in connection with the provision of the Products, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc. ("Incidental Expenses"). To the extent that Attachment A expressly requires Purchaser to reimburse Supplier for Incidental Expenses, and notwithstanding anything else set forth in this Agreement, including Attachment A, Purchaser shall not be responsible for any such reimbursement unless the expenses to be reimbursed are (i) approved, in each instance, in advance by Purchaser; and (ii) substantiated by appropriate receipts and related documentation. It is acknowledged and agreed that Purchaser may, as a condition of its approval of any such Incidental Expense reimbursement, require in each instance Supplier to utilize suppliers or service providers prescribed by Purchaser, which may include suppliers or service providers which are affiliated with Purchaser.

4.6 Price reductions or discount increases may be offered at any time during the contract period and shall become effective upon notice of acceptance by the Purchaser. The Supplier agrees, subject to the provisions of Section 2.13, Category 23 or Hot List of the RFP and Supplier's Proposal, to make the same proposal terms and price, exclusive of rebates, incentives, freight and transportation fees available to the Participating Agencies.

### **ARTICLE 5 - INSURANCE**

During the term of this Agreement, Supplier shall maintain at its own cost and expense (and shall cause any subcontractor to maintain) insurance policies providing insurance of the kind and in the amounts generally carried by reasonably prudent manufacturers in the industry, with one or more reputable insurance companies licensed to do business in the states where Products are to be sold hereunder.

### **ARTICLE 6 - INDEMNIFICATION**

To the fullest extent permitted by law, each Party shall indemnify, defend (at the Party's sole expense) and hold harmless the other Party, affiliated companies of the other Party, their partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors and assigns ("Indemnified Parties"), from and against any and all third-party claims for bodily injury or death, damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including, but not limited to, investigative and repair costs, attorneys' fees and costs and consultants' fees and costs) ("Claims") which arise or are in any way connected with the products or services performed or provided by the Party or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the Indemnified Party, its employees or agents, whether active or passive. The Indemnifying Party shall not be obligated to indemnify and defend the other Party for claims found to be due to the sole negligence or willful misconduct of Indemnified Parties. In addition, Supplier shall indemnify, defend (at Supplier's sole expense) and hold harmless the Indemnified Parties, from and against any claim by a third party alleging that the Products or any part thereof infringe any third party's U.S. patent, copyright, trademark, trade secret or other intellectual property interest, but Supplier shall not be liable for infringement claims related to nonstandard or special-order product, the design of which is provided to Supplier by Purchaser. The provisions of this Article shall survive the expiration or termination of this Agreement.

**LIMITATION OF LIABILITY: IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR INJURIES TO PERSONS OR TO PROPERTY OR LOSS OF PROFITS OR LOSS OF FUTURE BUSINESS OR REPUTATION, WHETHER BASED ON TORT OR BREACH OF CONTRACT OR OTHER BASIS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

## **ARTICLE 7 - WARRANTIES**

Purchaser shall refer to Supplier's Proposal for all Supplier and manufacturer express warranties, as well as those warranties provided under Attachment B herein.

## **ARTICLE 8 - INSPECTION AND REJECTION**

8.1 Purchaser shall have the right to inspect and test Products at any time prior to shipment, and within a reasonable time after delivery to the Purchaser's Destination. Products not inspected within a reasonable time after delivery shall be deemed accepted by Purchaser. The payment for Products shall in no way impair the right of Purchaser to reject nonconforming Products, or to avail itself of any other remedies to which it may be entitled.

8.2 If any of the Products are found at any time to be defective in material or workmanship, damaged, or otherwise not in conformity with the requirements of this Agreement or any applicable Purchase Order, as its exclusive remedy, Purchaser may at its option and at Supplier's sole cost and expense, elect either to (i) return any damaged, non-conforming or defective Products to Supplier for correction or replacement, or (ii) require Supplier to inspect the Products and remove or replace damaged, non-conforming or defective Products with conforming Products. If Purchaser elects option (ii) in the preceding sentence and Supplier fails promptly to make the necessary inspection, removal and replacement, Purchaser, at its option, may inspect and sort the Products and Supplier shall bear the cost thereof. Payment by Purchaser of any invoice shall not constitute acceptance of the Products covered by such invoice, and acceptance by Purchaser shall not relieve Supplier of its warranties or other obligations under this Agreement.

8.3 The provisions of this Article shall survive the expiration or termination of this Agreement.

## **ARTICLE 9 - SUBSTITUTIONS**

Except as otherwise permitted hereunder, Supplier may not make any substitutions of Products, or any portion thereof, of any kind without the prior written consent of Purchaser.

## **ARTICLE 10 - COMPLIANCE WITH LAWS**

10.1 Supplier agrees to comply with all Applicable Laws. Without limitation of the foregoing sentence, Supplier shall comply with all applicable equal employment opportunity, affirmative action, and all other contract clauses required by Applicable Law and shall, at Supplier's expense, secure and maintain in full force during the Term of this Agreement, any and all licenses, permits, approvals, authorizations, registrations and certificates, if any, required by Applicable Laws in connection with the performance of its obligations hereunder. At Purchaser's

request, Supplier shall provide to Purchaser copies of any or all such licenses, permits, approvals, authorizations, registrations and certificates.

10.2 Purchaser has taken all required governmental action to authorize its execution of this Agreement and there is no governmental or legal impediment against Purchaser's execution of this Agreement or performance of its obligations hereunder.

## **ARTICLE 11 - PUBLICITY / CONFIDENTIALITY**

11.1 No news releases, public announcements, advertising materials, or confirmation of same, concerning any part of this Agreement or any Purchase Order issued hereunder shall be issued or made without the prior written approval of the Parties. Neither Party shall in any advertising, sales materials or in any other way use any of the names or logos of the other Party without the prior written approval of the other Party.

11.2 In the course of their relationship, the Parties (each, a "Disclosing Party") may disclose to each other written or electronically communicated or stored information under this Agreement which they deem confidential, including, without limitation, pricing and sales information and customer names ("Confidential Information"). Accordingly, the Parties hereby agree as follows: (A) each Party shall not disclose Confidential Information to any other person, firm or corporation (including, without limitation, affiliated corporations and separate business units) except as provided herein, and shall use the same degree of care to avoid publication or dissemination of such Confidential Information as they employ with respect to their own information which they do not desire to have published or disseminated. All Confidential Information shall be retained by each Party in a secure place with access limited to only such of its employees or agents (including consultants, accountants and attorneys) who need to know such information for purposes of this Agreement and each of the foregoing persons shall be informed of the existence and terms of this Section and each Party hereby acknowledges and agrees that it shall be liable to the other for any breach by its employees or agents; and (B) each Party shall not use any Confidential Information in connection with its own marketing or product pricing or other internal purposes except to the extent necessary to fulfill its obligations under the Agreement; and (C) each Party shall not solicit or market any product to any of the other Parties' customers based upon information provided to it by the other Parties (whether by customer list, customer registration or otherwise); and (D) at the conclusion of this relationship or upon demand by another Party, all Confidential Information, including marketing documents, other written notes, diagrams, memoranda, or notes taken by each Party regarding Confidential Information, shall be returned to the Disclosing Party or, at the request of the Disclosing Party, destroyed. The term "Confidential Information" shall not include, and each Party shall have no obligation with respect to, any information which: (i) is already known to it; or (ii) is or becomes publicly known through no wrongful act of it; or (iii) is rightfully received from a third party without restriction and without breach of this Agreement; or (iv) is independently developed by it; or (v) is approved for release by written authorization of the Disclosing Party. The Parties may disclose any Confidential Information received hereunder pursuant to any applicable law, regulation or court order, provided that such disclosure will be limited to the minimum acceptable level of disclosure and that the Party required to disclose such information will immediately notify the Disclosing Party of the imminent disclosure and reasonable cooperate to

minimize or prevent such disclosure to the maximum extent allowed under applicable law, regulation or court order. Each Party acknowledges that disclosure or improper use of the Confidential Information would cause the Disclosing Party immediate and irreparable harm. Each Party agrees that the Disclosing Party will be entitled to equitable relief in addition to any other remedies available to it.

## **ARTICLE 12 - RIGHT TO AUDIT**

Subject to Supplier's audit policy, stated below, and the confidentiality terms of the Article 11.2 above, Purchaser may audit Supplier as follows:

Supplier will, upon not less than fourteen (14) business days' prior written request, make available to Purchaser no more than once per calendar year, at Supplier's corporate offices, during normal business hours, the invoice reports and/or invoice documents from Supplier's online accounting system (referred to as "SmarTool") pertaining to all invoices sent by Supplier and payments made by Purchaser for all Products purchased by Purchaser under this Agreement. Purchaser may employ an independent auditor or Purchaser may choose to conduct such audit on its own behalf. Supplier shall have the right to approve the independent auditor, which approval shall not be unreasonable withheld. Upon approval and after the auditor has executed an appropriate confidentiality agreement, Supplier will permit the audit to review the relevant SmarTool documents. Purchaser shall be responsible for paying the auditor's fees.

## **ARTICLE 13 - DELIVERY REQUIREMENTS**

**TIME IS OF THE ESSENCE WITH RESPECT TO EACH PURCHASE ORDER ISSUED HEREUNDER.** If Supplier for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements hereunder or under any Purchase Order, Supplier shall promptly notify Purchaser in writing. Except as otherwise provided in Article 18 below, if Supplier does not comply with the applicable delivery schedule, in addition to any other remedies it may have, Purchaser may require delivery by fastest method available and any actual out-of-pocket charges or costs resulting from such method (including, but not limited to, premium shipping rates, etc.), if any, must be fully prepaid and/or absorbed by Supplier without additional cost to Purchaser. It is Supplier's responsibility to comply with the delivery schedule applicable to each Purchase Order accepted by Supplier.

## **ARTICLE 14 - RISK OF LOSS AND PASSAGE OF TITLE**

Supplier shall have the risk of loss of or damage to any Products until passage of title to Purchaser. Purchaser shall have the risk of loss of or damage to the Products after title has passed to Purchaser. Title to Products shall not transfer until the Products have been delivered to and accepted by Purchaser at Purchaser's Destination.

## **ARTICLE 15 - REMEDIES**

Except as otherwise provided herein, any right or remedy of Supplier or Purchaser set forth in this Agreement shall not be exclusive, and, in addition thereto, Supplier and Purchaser shall have all rights and remedies under applicable law, including without limitation, equitable relief. The provisions of this Article shall survive the expiration or termination of this Agreement.

### **ARTICLE 16 - RELATIONSHIP OF PARTIES**

Supplier is an independent contractor and is not an agent, servant, employee, legal representative, partner or joint venturer of Purchaser. Nothing herein shall be deemed or construed as creating a joint venture or partnership between Supplier and Purchaser. Neither Party has the power or authority to bind or commit the other.

### **ARTICLE 17 - NOTICES**

All notices required or permitted to be given or made in this Agreement shall be in writing. Such notice(s) shall be deemed to be duly given or made if delivered by hand, by certified or registered mail or by nationally recognized overnight courier to the address specified below:

If to Purchaser:

League of Oregon Cities  
ATTN: Jennie Messmer  
1201 Court St. NE, Suite 200  
Salem, OR 97301-4194

If to Supplier:

Don Hasch  
16501 Trojan Way  
La Miranda, CA 90638

with a copy to:

Bruce R. Busch  
Senior Vice President  
National Purchasing Partners, LLC  
1100 Olive Way, Suite 1020  
Seattle, WA 98101

Either Party may change its notice address by giving the other Party written notice of such change in the manner specified above.

### **ARTICLE 18 - FORCE MAJEURE**

Delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by force majeure. For purposes of this Agreement, "force majeure" shall mean any cause or agency preventing performance of an obligation which is beyond the reasonable control of either Party hereto, including without limitation, fire, flood, sabotage, shipwreck, embargo, strike, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), acts of God, and delays or failure in obtaining raw materials, supplies or transportation. A Party affected by force majeure shall promptly provide notice to the other, explaining the nature and expected duration thereof, and shall act diligently to remedy the interruption or delay if it is reasonably capable of being remedied. In the event of a force majeure situation, deliveries or acceptance of deliveries that have been suspended shall not be required to be made upon the resumption of performance.

#### **ARTICLE 19 - WAIVER**

No delay or failure by either Party to exercise any right, remedy or power herein shall impair such Party's right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving Party and then only to the extent expressly set forth in such writing.

#### **ARTICLE 20 - PARTIES BOUND; ASSIGNMENT**

This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties hereto, but it may not be assigned in whole or in part by Supplier without the prior written consent of Purchaser which shall not be unreasonably withheld or delayed. Supplier shall not delegate its duties under this Agreement nor assign monies due or to become due to it hereunder without prior written consent of Purchaser. Purchaser may freely assign this Agreement to an instrumentality thereof or to a third party responsible for administering this Agreement on behalf of Purchaser.

#### **ARTICLE 21 - SEVERABILITY**

To the extent possible, each provision of this Agreement and any Purchase Order shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement or any Purchase Order issued in accordance with this Agreement is declared invalid or unenforceable, by judicial determination or otherwise, such provision shall not invalidate or render unenforceable the entire Agreement or Purchase Order, but rather the entire Agreement or Purchase Order shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the Parties shall be construed and enforced accordingly.

#### **ARTICLE 22 - INCORPORATION: ENTIRE AGREEMENT**

22.1 All the provisions of the Attachments hereto are hereby incorporated herein and made a part of this Agreement. In the event of any apparent conflict between any provision set forth in the main body of this Agreement and any provision set forth in the Attachments, including the RFP and/or Supplier's Proposal, the provisions shall be interpreted, to the extent possible, as if they do not conflict. In the event that such an interpretation is not possible, the provisions set forth in the main body of this Agreement shall control.

22.2 This Agreement (including Attachments and Contract Documents hereto) constitutes the entire agreement of the Parties relating to the subject matter hereof and supersedes any and all prior written and oral agreements or understandings relating to such subject matter.

### **ARTICLE 23 - HEADINGS**

Headings used in this Agreement are for convenience of reference only and shall in no way be used to construe or limit the provisions set forth in this Agreement.

### **ARTICLE 24 - MODIFICATIONS**

This Agreement may be modified or amended only by a writing executed by both Parties hereto.

### **ARTICLE 25 - GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the state in which the Purchaser exists, without regard to its choice of law provisions.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

**PURCHASER:**

By: [Signature]  
Name: Michael J. McCarty  
Title: Executive Director  
LEAGUE OF OREGON CITIES  
Dated: 9/17/12

**SUPPLIER:**

By: [Signature]  
Name: Jay G. Beltier  
Title: EVP  
STAPLES CONTRACT & COMMERCIAL, INC.  
Dated: 9-12-12



## **ATTACHMENT A**

to Purchase Agreement dated September 17, 2012 by and between **SUPPLIER** and **PURCHASER**.

### **PRODUCTS, SERVICES, SPECIFICATIONS AND PRICES**

Supplier proposes and has used a fixed discount off a published price list for the categories provided in Attachment A of the RFP. Supplier's discount schedule is provided in Attachment A-1, Attachment A Pricing Detail, Attachment B Core List, and Program Furniture Offering tabs of Supplier's Proposal and is by this reference incorporated herein.

Oregon Public Agencies are prohibited from use of products and services offered under this contract that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Service's Procurement List ("Procurement List") pursuant to ORS 279.835-.855. See [www.OregonRehabilitation.org/grf](http://www.OregonRehabilitation.org/grf) for more information. Supplier shall not sell products and services identified on the Procurement List to Purchaser or Participating Agencies within the state of Oregon or to public institutions in other states with similar restrictions.

All prices in Attachment A-1, Attachment A Pricing Detail, and Attachment B Core List include delivery, with the exception of: (A) deliveries to Hawaii and Alaska (Hawaii and Alaska purchasers should contact Supplier for delivery cost); (B) Products that are special orders or orders that will be fulfilled directly from a manufacturer; and (C) and furniture product delivery: (i) that is not made within 40 miles of a major metropolitan city, or (ii) where the end user does not have a proper loading dock, elevator and all other requirements for a normal delivery, or (iii) that cannot be completed with two men and one truck at non-union labor rates during normal business hours, or (iv) where the associated product installation cannot be completed with two men and one truck at non-union labor rates during normal business hours. Supplier shall bear all risk of loss during transit.

Pricing contained in this Attachment A shall be extended to all participating National Purchasing Partner members, including Public Safety GPO and FireRescue GPO, upon execution of the National Purchasing Partners Intergovernmental Cooperative Purchase Agreement Participating Agency Endorsement and Authorization.

## **ATTACHMENT B**

**to Purchase Agreement dated September 17, 2012 by and between SUPPLIER  
and PURCHASER.**

### **ADDITIONAL SELLER WARRANTIES**

To the extent possible, Supplier will make available all warranties from third party manufacturers of Products not manufactured by Supplier, as well as any warranties identified in this Agreement and Supplier's Proposal. See Supplier's Proposal.

## **ATTACHMENT C**

**to Purchase Agreement dated September 17, 2012 by and between SUPPLIER and PURCHASER.**

### **PARTICIPATING AGENCIES**

Purchaser served as the Lead Contracting Agency in cooperation with National Purchasing Partners and on behalf of other government agencies that desire to access the Master Price Agreement. Supplier must deal directly with any Participating Agency concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing, and payment. The Purchaser is acting as "Lead Contracting Agency" for the Participating Agencies and shall not be held liable for any costs, damages, etc., incurred by any other Participating Agency.

The subsequent contract shall be construed to be in accordance with and governed by the laws of the State in which the Participating Agency exists. Each Participating Agency is required to execute a National Purchasing Partners Member Intergovernmental Cooperative Purchasing Agreement ("IGA"), all as set forth on the National Purchasing Partners web site, [www.mynpp.com](http://www.mynpp.com), under the Vendor Contract Data Sheet. The IGA allows the Participating Agency to purchase products from the Supplier in accordance with each Participating Agency's legal requirements.

**ATTACHMENT D**

**to Purchase Agreement dated September 17, 2012 by and between SUPPLIER  
and PURCHASER.**

**Supplier's Proposal**

**(The Supplier's Proposal is not attached hereto.)**

**(The Supplier's Proposal is incorporated herein.)**

**ATTACHMENT E**

**to Purchase Agreement dated September 17, 2012 by and between SUPPLIER  
and PURCHASER.**

**Purchaser's Request for Proposal**

**(The Purchaser's Request for Proposal is not attached hereto.)**

**(The Purchaser's Request for Proposal is incorporated herein.)**

## **ATTACHMENT F**

**to Purchase Agreement dated September 17, 2012 by and between SUPPLIER and PURCHASER.**

Supplier will accept returns of stocked office supply Products in salable condition up to thirty (30) Calendar Days after receipt by the Purchaser, including Staples® Brand office supply Products. The Product must be returned to Supplier with its complete and original manufacturer's packaging intact and undamaged, including Universal Product Code (UPC), manuals and parts, and a copy of the packing slip. Any Product that is returned without a promotional item(s), which was included in the original transaction (e.g., buy printer, get free ink) will have the value of the promotional item deducted from the amount refunded. Software Products, including Staples® Brand software Products, must be returned within thirty (30) Calendar Days of receipt by the Purchaser unopened and in salable condition. An opened or defective software Product can be exchanged for the same title and version of the software Product within thirty (30) Calendar Days of receipt by the Purchaser. Subject to manufacturers' returns policies and restrictions, business machines, computers, consumer electronics, networking, peripherals, storage and technology Products, including Staples® Brand Products in each of these categories, must be returned within fourteen (14) Calendar Days of receipt of Product. Unassembled furniture, including Staples® Brand furniture, must be returned within fourteen (14) Calendar Days of receipt of Product. Assembled or custom furniture, including Staples® Brand furniture, may not be returned, except damaged or defective assembled or custom Furniture may be returned within fourteen (14) Calendar Days of receipt of Product. Non-stock Products and custom imprinted Products are not returnable, except damaged or defective non-stock Products and/or custom imprinted Products may be returned within thirty (30) Calendar Days of the Purchaser receiving such Product. The Purchaser may process Product returns online by accessing Supplier's E-Commerce Platform. Returned Products will not be traceable unless the Purchaser follows the return procedures outlined in this paragraph.



**National Purchasing Partners (NPP)  
League of Oregon Cities Contract - RFP525  
Office Supplies & Products**

**Contract Owner** - National Purchasing Partners (NPP). In order to access the pricing and terms of this contract an agency must be a registered member of NPP. Membership is free and the simple enrollment application can be completed online at the NPP website [www.nppgovernment.com](http://www.nppgovernment.com).

**Lead Agency** - League of Oregon Cities - [www.orcities.org](http://www.orcities.org)

The League of Oregon Cities is formed by an intergovernmental agreement among all of Oregon's 242 incorporated cities. The League was founded in 1925 and is governed by a 15-member Board of Directors consisting of four officer positions and 11 directors, nine of whom are elected city officials and two of whom hold an appointed position with a member city. Non-voting positions are reserved for one individual who holds an appointed position with a member city, as well as past presidents who still hold a city elected office.

**Contract Term** – June 1, 2012 – May 31, 2016 (plus three 1 year optional extensions) Total of 7 years possible

**Eligible Customers/Agencies** - NPP Public Agency Members (cities, counties, municipal and state agencies, schools, & higher ed) including League of Oregon Cities member agencies, Washington State Institution of Public Higher Education (WIPHE) members, Fire Rescue & Public Safety GPO members and non-profit organizations.

**National Awarded Supplier** - Staples Contract & Commercial, Inc, operating as Staples Advantage.

**Products Included** - Office, Classroom, Toner, Paper, Facilities, Transactional & Program Furniture. Additionally Print, Promo, Digital Copy, and specials available as Non-Core Items.

**Customer/Member Incentive**

- **Conversion incentive for new, "non-Staples-Advantage" customers = 10% discount** at time of purchase for 90 days following customer implementation.

\*New non-Staples customer incentive applies only to Staples Advantage purchases placed through [www.staplesadvantage.com](http://www.staplesadvantage.com) or [www.eway.com](http://www.eway.com) and do not include manufacturer-direct program furniture purchases, custom print items, retail store purchases, any other custom items, and all special order purchases

### **Contract Pricing**

- Contract League of Oregon Cities (LOC) RFP 525
  - 500 Core Items (Approximate)
  - Approximately 10,000 catalog items net-priced based on established category discounts. Category Discounts range from **10% to 75% in 27 specific categories**
    - No Margin Floors
  - Discounts up to 40% on balance of contract offering
  - Optional individual Customer-Specific Hot List is allowed on high-use items (coordinated through local Staples Advantage representative)

**Rebates** – No Customer Rebates are offered under this contract. Best value is achieved through the product net pricing and overall contract offerings.

**Delivery** - Staples offers Free next-business-day shipping for most orders under the NPP contract. Exceptions are special order items as well as furniture deliveries beyond 40 miles of a major metropolitan city, or furniture requires more than 2 men and a truck to complete. For project furniture, see the separate furniture delivery commitments.

**Minimum Order Size** - Minimum order size of **\$50.00** per order

**Payment Terms** – Standard Staples Payment Terms as agreed upon with each individual NPP Participating member

**Retail Stores** - Contract pricing is available at Staples retail stores

### **Shipments to Alaska and Hawaii are handled as follows:**

- Shipments up to 159 lbs are shipped UPS 2nd Day Air.
- Shipments over 159 lbs or of non UPS-able items are shipped ocean freight, this also includes any items which are classified as hazmat, including ORM-D.
- Staples policy prohibits us from shipping any fully regulated hazmat items; they must be shipped directly from the vendor.
- Ocean shipments will take on average fourteen days from the date of shipment for delivery
- All orders **will be surcharged 25% to help offset the cost of freight.**

### **NPP Websites**

[www.nppgovernment.com](http://www.nppgovernment.com) & [www.firerescue-gpo.com](http://www.firerescue-gpo.com) & [www.publicsafety-gpo.com](http://www.publicsafety-gpo.com)

### **Staples Website**

[www.staplesadvantage.com](http://www.staplesadvantage.com)

“This document is intended as a reference only and is not an official contract document. Please contact your **Staples Advantage Representative** with any questions pertaining to this contract.”

**NPP Program Furniture** - A complete factory-direct **Business Interiors by Staples** program furniture offering is included in this contract. This offering is in addition to the transactional or catalog furniture available on the StaplesAdvantage.com website.

**Manufacturers Included** – Furniture procured under this specific contract pricing requires that product is sourced directly from the Manufacturer through **Business Interiors by Staples**. Therefore it does not include Staples catalog furniture or online orders (prices for catalog furniture appear on customer ordering website). The following manufacturers are included in our manufacturer-direct furniture offering...

AIS	Gunlocke
Allseating	The HON Company
AllSteel	Jonti-Craft
AmTab	Mayline
Anatome	National Office Furniture
Bretford	National Public Seating
Capitol (USA Capitol)	Paragon
CDF (Scholarcraft)	Safco Products
Community	Scholarcraft
Copernicus	Sedia
Diversified Woodcrafts	Shain Shop Built
Fleetwood	Tennsco
Ghent	Vanerum-Stelter
Global Total Office	Waddell (a GMI Company)
Global Office To Go	Woodware (a GMI Company)
Global Seating To Go	Wisconsin Bench
Global Health Care	

**Program Furniture Service Charge Billing Rates**

- Design Work will be billed at \$55.00/per man hour.
- Non-union charges will apply at a rate of \$37.50/per man hour (standard delivery rate) for delivery/install services above two-man one truck standard.
- Facilities that do not have the requirements necessary for a standard commercial delivery (proper loading dock, elevators, etc) will be billed at a rate equal to \$46.87 /per man hour (125% of quoted labor rate).
- Overtime or after hours work (Monday-Friday) will be billed at a rate of \$56.25/per man hour (150% of standard non-union hourly delivery/install rate).
- Weekend and holiday work shall be billed at an hourly rate of \$75/per man hour (200% of standard non-union hourly delivery/install rate).
- **\*\*Labor rates for reconfiguration, tear down, upholstery cleaning (services rendered not in conjunction with a product purchase) will be quoted based on the specific characteristics of the project and will be handled on a case-by-case basis.**

Prevailing Wage/Union Labor Rates:

- Union rates that are higher than Prevailing Wage will be additionally billed at a rate commensurate with those local union rates.
- Union resources utilized beyond 40 miles of any major metro city for delivery and/or installation will be billed at a rate commensurate with those local union rates that apply to the locale for the particular job.

Design Service Rates:

- Design services include one set of drawings and one revision at no charge per project.

The Dock Delivered Pricing as specified is inclusive ONLY if the following client site criteria are met:

- Site resides within 40 miles of a major metropolitan city.
- End user has a proper loading dock, elevator and all other such requirements for a normal delivery.
- Delivery can be completed with two men and one truck – NON union labor rates during normal business hours.
- Install can be completed with two men and one truck – NON union labor rates during normal business hours.

“This document is intended as a reference only and is not an official contract document. Please contact your **Staples Advantage Representative** with any questions pertaining to this contract.”

**Amendment to Office Supplies and Products  
Master Purchase Agreement**

**Pricing Clarification**

This Amendment to the Master Purchase Agreement is entered into this 30<sup>th</sup> day of October, 2012 by the LEAGUE OF OREGON CITIES ("Purchasers") and STAPLES BUSINESS ADVANTAGE, A DIVISION OF STAPLES CONTRACT & COMMERCIAL, INC. ("Supplier") based upon the sales and/or service of Office Supplies and Products.

**RECITALS**

WHEREAS, Purchaser and Supplier entered into a Master Purchase Agreement on or about September 17, 2012 and by this reference incorporated herein; and

WHEREAS, Attachment A of the Master Purchase Agreement provides for the pricing terms of the contract to National Purchasing Partner (NPP) members; and

WHEREAS, Supplier wishes to clarify the pricing terms to reflect the intent of its response to the original Request for Proposal; and

WHEREAS, Purchaser and Supplier desire that the Master Purchase Agreement shall be amended in part to reflect the parties' desire to clarify the pricing terms itemized on Attachment A of the Master Purchase Agreement;

NOW, THEREFORE, Purchaser and Supplier enter into the following:

**AMENDMENT TO MASTER PURCHASE AGREEMENT**

1. Attachment A to the Master Purchase Agreement shall be amended in its entirety to read as follows:

## “ATTACHMENT A

to Purchase Agreement dated September 17, 2012 by and between SUPPLIER and PURCHASER.

### PRODUCTS, SERVICES, SPECIFICATIONS AND PRICES

Supplier proposes and has used a fixed discount off a published price list for the categories provided in Attachment A of the RFP. Supplier's discount schedule is provided in Attachment A-1, Attachment A Pricing Detail, Attachment B Core List, and Program Furniture Offering tabs of Supplier's Proposal and is by this reference incorporated herein.

Existing Member Renewal and New non-Staples customer incentives apply only to Staples Advantage purchases placed through [www.staplesadvantage.com](http://www.staplesadvantage.com) or [www.eway.com](http://www.eway.com) and do not include manufacturer-direct program furniture, custom print, retail, or other custom items or special order purchases.

Oregon Public Agencies are prohibited from use of products and services offered under this contract that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Service's Procurement List ("Procurement List") pursuant to ORS 279.835-.855. See [www.OregonRehabilitation.org/qrf](http://www.OregonRehabilitation.org/qrf) for more information. Supplier shall use commercially reasonable efforts to not sell products and services identified on the Procurement List to Purchaser or Participating Agencies within the state of Oregon or to public institutions in other states with similar restrictions.

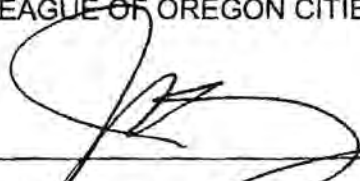
All prices in Attachment A-1, Attachment A Pricing Detail, and Attachment B Core List include delivery, with the exception of: (A) deliveries to Hawaii and Alaska (Hawaii and Alaska purchasers should contact Supplier for delivery cost); (B) Products that are special orders or orders that will be fulfilled directly from a manufacturer; and (C) and furniture product delivery: (i) that is not made within 40 miles of a major metropolitan city, or (ii) where the end user does not have a proper loading dock, elevator and all other requirements for a normal delivery, or (iii) that cannot be completed with two men and one truck at non-union labor rates during normal business hours, or (iv) where the associated product installation cannot be completed with two men and one truck at non-union labor rates during normal business hours. Supplier shall bear all risk of loss during transit.

Pricing contained in this Attachment A shall be extended to all participating National Purchasing Partner members, including Public Safety GPO and FireRescue GPO, upon execution of the National Purchasing Partners Intergovernmental Cooperative Purchase Agreement Participating Agency Endorsement and Authorization.”

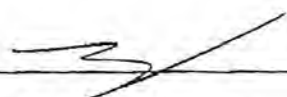
2. **Full Force and Effect.** In each and every other respect, the terms of the Master Purchase Agreement, as amended, entered into between the parties on or about September 17, 2012 shall remain in full force and effect during the term of the agreement and the parties hereto hereby ratify said Master Purchase Agreement in its entirety, as if fully set out herein, along with the modifications identified herein.

**IN WITNESS WHEREOF**, the parties have hereto signed this Amendment on the day and year first above written.

LEAGUE OF OREGON CITIES:

  
Date 10/31/12  
BY: Michael J. McCauley  
ITS: Executive Director, LOC

STAPLES BUSINESS ADVANTAGE, A DIVISION OF STAPLES CONTRACT & COMMERCIAL, INC.:

  
Date 11/6/12  
BY: Neil Ringel, EVP  
ITS:



## **Second Amendment to Office Supplies and Products Master Purchase Agreement**

### **Pricing Clarification**

This Second Amendment to the Master Purchase Agreement is entered into this 30th day of September, 2013 by the LEAGUE OF OREGON CITIES ("Purchasers") and STAPLES BUSINESS ADVANTAGE, A DIVISION OF STAPLES CONTRACT & COMMERCIAL, INC. ("Supplier") based upon the sales and/or service of Office Supplies and Products.

### **RECITALS**

WHEREAS, Purchaser and Supplier entered into a Master Purchase Agreement on September 17, 2012 and by this reference incorporated herein; and

WHEREAS, Purchaser and Supplier entered into an Amendment to the Master Purchase Agreement on or about October 30, 2012 and by this reference incorporated herein; and

WHEREAS, Article 4.1 of the Master Purchase Agreement provides for adjustments to pricing on an annual basis; and

WHEREAS, Supplier wishes to adjust pricing pursuant to the terms of the Master Purchase Agreement on or after September 17, 2013; and

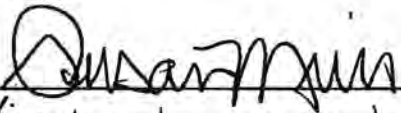
*NOW, THEREFORE*, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Effective Date.** The Effective Date of this Master Purchasing Agreement Amendment shall be Sept 30, 2013.
2. **Products & Pricing.** The products and pricing set forth in the Master Purchasing Agreement are hereby replaced with the updated list of products including the updated discounts/prices set forth in the pricing files attached hereto as:
  - Attachment B–2013 Core List
  - Attachment A-1–2013 Pricing Detail and
  - Contract Furniture Pricing – Attachment D.

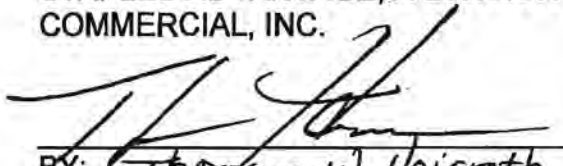
Unless otherwise modified by this Amendment, all terms and conditions contained in the Master Purchasing Agreement shall continue in full force and effect.

**IN WITNESS WHEREOF**, the parties have hereto signed this Amendment on the day and year first above written.

LEAGUE OF OREGON CITIES:

  
Date 10.1.13  
BY: \_\_\_\_\_  
ITS: Member Services Director

STAPLES ADVANTAGE, A DIVISION OF STAPLES CONTRACT & COMMERCIAL, INC.

  
Date 9/20/2013  
BY: \_\_\_\_\_  
ITS: Senior Vice President