

**LEAGUE OF OREGON CITIES****MASTER PRICE AGREEMENT**

This Master Price Agreement is effective as of the date of the last signature below (the "Effective Date") by and between the LEAGUE OF OREGON CITIES, an Oregon public corporation under ORS Chapter 190 ("LOC" or "Purchaser") and Mutualink, Inc. ("Vendor").

**RECITALS**

WHEREAS, the Vendor is in the business of selling certain Software Solutions for Government, as further described herein; and

WHEREAS, the Vendor 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, through a solicitation for Software Solutions for Government the Vendor was awarded the opportunity to complete a Master Price Agreement with the LEAGUE OF OREGON CITIES as a result of its response to Request for Proposal No. 2360 for Software Solutions for Government; and

WHEREAS, the LEAGUE OF OREGON CITIES asserts that the solicitation and Request for Proposal meet Oregon public contracting requirements (ORS 279, 279A, 279B and 279C et. seq.); and

WHEREAS, Purchaser and Vendor desire to extend the terms of this Master Price Agreement to benefit other qualified government members of National Purchasing Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov;

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

**ARTICLE 1 – CERTAIN DEFINITIONS**

1.1 "Agreement" shall mean 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 No. 2360 (herein "RFP") and Vendor's Proposal submitted in response to the RFP (herein "Vendor's Proposal") as referenced and incorporated herein as though fully set forth (sometimes referred to collectively as the "Contract Documents").

1.2 "Applicable Law(s)" shall mean all applicable federal, state, tribal, and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind.

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

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

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

1.6 "Purchase Order" shall mean any authorized written order for Products and Services sent by Purchaser to Vendor via mail, courier, overnight delivery service, email, fax and/or other mode of transmission as Purchaser and Vendor may from time to time agree.

1.7 "Unemployment Insurance" shall mean the contribution required of Vendor, 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.

1.8 "National Purchasing Partners" or "(NPP)" is a subsidiary of two nonprofit health care systems. The Government Division of NPP, hereinafter referred to as "NPPGov", provides group purchasing marketing and administrative support for governmental entities within the membership. NPPGov's membership includes participating public entities across North America.

1.9 "Lead Contracting Agency" shall mean the LEAGUE OF OREGON CITIES, which is the governmental entity that issued the Request for Proposal and awarded this resulting Master Price Agreement.

1.10 "Participating Agencies" shall mean members of National Purchasing Partners for which Vendor has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.6 and Attachment C herein. For purposes of cooperative procurement, "Participating Agency" shall be considered "Purchaser" under the terms of this Agreement.

1.11 "Party" and "Parties" shall mean the Purchaser and Vendor individually and collectively as applicable.

## **ARTICLE 2 – AGREEMENT TO SELL**

2.1 Vendor hereby agrees to sell to Purchaser such Products and Services 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 and Services ordered by Purchaser by Purchase Order in accordance with and subject to the terms, covenants and conditions of this Agreement.

2.2 Vendor may add additional products and services to the contract provided that any additions reasonably fall within the intent of the original RFP specifications. Pricing on additions shall be equivalent to the percentage discount for other similar products. Vendor may provide a web-link with current product listings, which may be updated periodically, as allowed by the terms of the resulting Master Price Agreement. Vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is equal or superior to the original products offered, is discounted in a similar or to a greater degree, and if the products meet the requirements of the solicitation. No products may be added to avoid competitive procurement requirements. LOC may reject any additions without cause.

2.3 All Purchase Orders issued by Purchaser to Vendor 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. The Vendor retains authority to negotiate above and beyond the terms of this Agreement to meet the Purchaser or Vendor contract requirements.

2.4 Notwithstanding any other provision of this Agreement to the contrary, the Lead Contracting Agency shall have no obligation to order or purchase any Products and Services hereunder and the placement of any Purchase Order shall be in the sole discretion of the Participating Agencies. This Agreement is not exclusive. Vendor expressly acknowledges and agrees that Purchaser may purchase at its

sole discretion, Products and Services that are identical or similar to the Products and Services described in this Agreement from any third party.

2.5 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) The RFP;
- (iii) Vendor's Proposal;

#### 2.6 Extension of contract terms to Participating Agencies:

2.6.1 Vendor agrees to extend the same terms, covenants and conditions available to Purchaser under this Agreement to Participating Agencies, that have executed an Intergovernmental Cooperative Purchasing Agreement ("IGA") as may be required by each Participating Agency's local laws and regulations, in accordance with Attachment C. Each Participating Agency will be exclusively responsible for and deal directly with Vendor on matters relating to ordering, delivery, inspection, acceptance, invoicing, and payment for Products and Services in accordance with the terms and conditions of this Agreement as if it were "Purchaser" hereunder. Any disputes between a Participating Agency and Vendor will be resolved directly between them under and in accordance with the laws of the State in which the Participating Agency exists. Pursuant to the IGA, the Lead Contracting Agency shall not incur any liability as a result of the access and utilization of this Agreement by other Participating Agencies.

2.6.2 *This Solicitation meets the public contracting requirements of the Lead Contracting Agency 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, tribal, and state solicitation requirements.*

2.6.3 Vendor acknowledges execution of the Vendor Administration Fee Agreement, Contract Number VA24060, with NPPGov, pursuant to the terms of the RFP.

2.7 Oregon Public Agencies are prohibited from use of Products and Services offered under this Agreement 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. Vendor 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.

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

3.1 The initial contract term shall be for three (3) calendar years from the Effective Date of this Agreement ("Initial Term"). Upon termination of the original three (3) year term, this Agreement shall automatically extend for up to three (3) successive one (1) year periods; (each a "Renewal Term"); provided, however, that the Lead Contracting Agency and/or the Vendor may opt to decline extension of the MPA by providing notification in writing at least thirty (30) calendar days prior to the annual automatic extension anniversary of the Initial Term.

3.2 Either Vendor or the Lead Contracting Agency 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, PAYMENT AND DELIVERY**

4.1 Purchaser shall pay Vendor for all Products and Services ordered and delivered in compliance with the terms and conditions of this Agreement at the pricing specified for each such Product and Service on Attachment A, including shipping. Unless Attachment A expressly provides otherwise, the pricing schedule set forth on Attachment A hereto shall remain fixed for the Initial Term of this Agreement; provided that manufacturer pricing is not guaranteed and may be adjusted based on the next manufacturer price increase. Pricing contained in Attachment A shall be extended to all NPPGov, Public Safety GPO, First Responder GPO and Law Enforcement GPO members upon execution of the IGA.

4.2 Vendor 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 and Services purchased during the applicable invoice period and any other information reasonably requested by Purchaser, and must otherwise comply with the provisions of this Agreement. Invoices shall be addressed as directed by Purchaser.

4.3 Unless otherwise specified, Purchaser is responsible for any and all applicable sales taxes. Unless alternative arrangements are established, Attachment A or Vendor's Proposal (Attachment D) shall specify any and all other taxes and duties of any kind which Purchaser is required to pay with respect to the sale of Products and Services covered by this Agreement and all charges for packing, packaging and loading.

4.4 Except as specifically set forth on Attachments A and F, Purchaser shall not be responsible for any additional costs or expenses of any nature incurred by Vendor in connection with the Products and Services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc. ("Incidental Expenses").

4.5 Price reductions or discount increases may be offered at any time during the contract term and shall become effective upon notice of acceptance from Purchaser.

4.6 Notwithstanding any other agreement of the Parties as to the payment of shipping/delivery costs, and subject to Attachments A, D, and F herein, Vendor shall offer delivery and/or shipping costs prepaid FOB Destination. If there are handling fees, these also shall be included in the pricing.

4.7 Unless otherwise directed by Purchaser for expedited orders, Vendor shall utilize such common carrier for the delivery of Products and Services as Vendor may select; provided, however, that for expedited orders Vendor shall obtain delivery services hereunder at rates and terms not less favorable than those paid by Vendor for its own account or for the account of any other similarly situated customer of Vendor.

4.8 Vendor shall have the risk of loss of or damage to any Products until delivery to Purchaser. Purchaser shall have the risk of loss of or damage to the Products after delivery to Purchaser. Title to Products shall not transfer until the Products have been delivered to and accepted by Purchaser at Purchaser's Destination.

#### **ARTICLE 5 – INSURANCE**

5.1 During the term of this Agreement, Vendor 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 Oregon and any other state or jurisdiction where Products and Services are sold hereunder. Such certificates of insurance shall be made available to the Lead Contracting Agency upon 48 hours' notice. BY SIGNING THE AGREEMENT PAGE THE VENDOR AGREES TO THIS

**REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS MASTER PRICE AGREEMENT.**

5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the Lead Contracting Agency. The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Lead Contracting Agency under such policies. Vendor shall be solely responsible for the deductible and/or self-insured retention and the Lead Contracting Agency, at its option, may require Vendor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

5.3 Vendor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Vendor's employees engaged in the performance of the work or services, as well as Employer's Liability insurance. Vendor waives all rights against the Lead Contracting Agency and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Vendor pursuant to this Agreement.

5.4 Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty days (30 days) prior written notice to the Lead Contracting Agency.

**ARTICLE 6 – INDEMNIFICATION AND HOLD HARMLESS**

6.1 Vendor agrees that it shall indemnify, defend and hold harmless Lead Contracting Agency, its respective officials, directors, employees, members and agents (collectively, the "Indemnitees"), from and against any and all damages, claims, losses, expenses, costs, obligations and liabilities (including, without limitation, reasonable attorney's fees), suffered directly or indirectly by any of the Indemnitees to the extent of, or arising out of, (i) any breach of any covenant, representation or warranty made by Vendor in this Agreement, (ii) any failure by Vendor to perform or fulfill any of its obligations, covenants or agreements set forth in this Agreement, (iii) the negligence or intentional misconduct of Vendor, any subcontractor of Vendor, or any of their respective employees or agents, (iv) any failure of Vendor, its subcontractors, or their respective employees to comply with any Applicable Law, (v) any litigation, proceeding or claim by any third party relating in any way to the obligations of Vendor under this Agreement or Vendor's performance under this Agreement, (vi) any Employee Taxes or Unemployment Insurance, or (vii) any claim alleging that the Products and Services or any part thereof infringe any third party's U.S. patent, copyright, trademark, trade secret or other intellectual property interest. Such obligation to indemnify shall not apply where the damage, claim, loss, expense, cost, obligation or liability is due to the breach of this Agreement by, or negligence or willful misconduct of, Lead Contracting Agency or its officials, directors, employees, agents or contractors. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph. The indemnity obligations of Vendor under this Article shall survive the expiration or termination of this Agreement for two years.

6.2 LIMITATION OF LIABILITY: IN NO EVENT SHALL 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.

6.3 The same terms, conditions and pricing of this Agreement may be extended to government members of National Purchasing Partners, LLC. In the event the terms of this Agreement are extended to other government members, each government member (procuring party) shall be solely responsible for the ordering of Products and Services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring parties or unrelated purchasing parties harmless from any liability that may arise from action or inaction of the procuring party.

#### **ARTICLE 7 – WARRANTIES**

Purchaser shall refer to Vendor's Proposal for all Vendor 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 Vendor's sole cost and expense, elect either to (i) return any damaged, non-conforming or defective Products to Vendor for correction or replacement, or (ii) require Vendor 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 Vendor fails promptly to make the necessary inspection, removal and replacement, Purchaser, at its option, may inspect the Products and Vendor 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 Vendor 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, Vendor 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 Vendor agrees to comply with all Applicable Laws and at Vendor's expense, secure and maintain in full force during the term of this Agreement, 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, Vendor 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 Any knowledge or information which Vendor or any of its affiliates shall have disclosed or may hereafter disclose to Purchaser, and which in any way relates to the Products and Services covered by this Agreement shall not, unless otherwise designated by Vendor, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions, as part of the consideration for this Agreement.

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

Subject to Vendor's reasonable security and confidentiality procedures, Purchaser, or any third party retained by Purchaser, may at any time upon prior reasonable notice to Vendor, during normal business hours, audit the books, records and accounts of Vendor to the extent that such books, records and accounts pertain to sale of any Products and Services hereunder or otherwise relate to the performance of this Agreement by Vendor. Vendor shall maintain all such books, records and accounts for a period of at least three (3) years after the date of expiration or termination of this Agreement. The Purchaser's right to audit under this Article 12 and Purchaser's rights hereunder shall survive the expiration or termination of this Agreement for a period of three (3) years after the date of such expiration or termination.

## **ARTICLE 13 - REMEDIES**

Except as otherwise provided herein, any right or remedy of Vendor or Purchaser set forth in this Agreement shall not be exclusive, and, in addition thereto, Vendor 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 14 - RELATIONSHIP OF PARTIES**

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

## **ARTICLE 15 - 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 Lead Contracting Agency:

LEAGUE OF OREGON CITIES  
1201 Court St. NE  
Suite 200

Salem OR 97301  
ATTN: Kevin Toon  
Email: rfp@ORCities.org

If to Vendor:

Mutualink, Inc.  
1269 S Broad Street  
Wallingford, CT 06492  
ATTN: Dawn Odams Hannigan  
Email: dodams@mutualink.net

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

#### **ARTICLE 16 - FORCE MAJEURE**

Except for Purchaser's obligation to pay for Products and Services delivered, 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 nature, 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 17 - 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 18 - 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 Vendor without prior written notice to Purchaser which shall not be unreasonably withheld or delayed.

#### **ARTICLE 19 - SEVERABILITY**

To the extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Applicable Law. If any provision of this Agreement is declared invalid or unenforceable, by judicial determination or otherwise, such provision shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement 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 20 - INCORPORATION; ENTIRE AGREEMENT**

20.1 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 Vendor's Proposal, the provisions shall be interpreted, to the extent possible, as if they do not conflict. If such an interpretation is not possible, the provisions set forth in the main body of this Agreement shall control.

20.2 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 21 - 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 22 - MODIFICATIONS**

This Agreement may be modified or amended only in writing executed by Vendor and the Lead Contracting Agency. The Lead Contracting Agency and each Participating Agency contracting hereunder acknowledge and agree that any agreement entered into in connection with any Purchase Order hereunder shall constitute a modification of this Agreement as between the Vendor and the Participating Agency. Any modification of this Agreement as between Vendor and any Participating Agency shall not be deemed a modification of this Agreement for the benefit of the Lead Contracting Agency or any other Participating Agency.

#### **ARTICLE 23 - GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon or in the case of a Participating Agency's use of this Agreement, the laws of the State in which the Participating Agency exists, without regard to its choice of law provisions.

[Signature page to follow]

## **ARTICLE 24 - COUNTERPARTS**

This Agreement may be executed in counterparts all of which together shall constitute one and the same Agreement.

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

PURCHASER:

DocuSigned by:  
Signature: Patricia M. Mulvihill

0BD4F25C35F54D0...  
Printed Name: Patricia M. Mulvihill

Title: Executive Director  
LEAGUE OF OREGON CITIES

Dated: April 19, 2024 | 9:27 AM PDT

VENDOR:

Signature: Mark Hatten

Printed Name: Mark Hatten

Title: CEO/Chairman  
MUTUALINK, INC.

Dated: April 18, 2024

**ATTACHMENT A**

to Master Price Agreement by and between **VENDOR** and **PURCHASER**.

**PRODUCTS, SERVICES, SPECIFICATIONS AND PRICES**

| SOFTWARE SOLUTIONS FOR GOVERNMENT  |                                   |
|--|-----------------------------------|
| Product Category   | Percentage (%) off<br>List Price* |
| <b>SOFTWARE SOLUTIONS – Category 1</b>   | 10%                               |
| <b>ASSOCIATED HARDWARE AND ANCILLARY EQUIPMENT,<br/>ACCESSORIES, AND TRAINING - Category 2</b> | 10%                               |
| <b>OTHER - Category 3</b>  | 10%                               |

Pricing contained in this Attachment A shall be extended to all NPPGov members upon execution of the Intergovernmental Agreement.

Participating Agencies may purchase from Vendor's authorized dealers and distributors, as applicable, provided the pricing and terms of this Agreement are extended to Participating Agencies by such dealers and distributors.

**ATTACHMENT B**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**ADDITIONAL SELLER WARRANTIES**

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

**ATTACHMENT C**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**PARTICIPATING AGENCIES**

The Lead Contracting Agency in cooperation with National Purchasing Partners (NPPGov) entered into this Agreement on behalf of other government agencies that desire to access this Agreement to purchase Products and Services. Vendor must work directly with any Participating Agency concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing, and payment. The Lead Contracting Agency shall not be held liable for any costs, damages, etc., incurred by any Participating Agency.

Any subsequent contract entered into between Vendor and any Participating Agency 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 directed to execute an Intergovernmental Cooperative Purchasing Agreement ("IGA"), as set forth on the NPPGov web site, [www.nppgov.com](http://www.nppgov.com). The IGA allows the Participating Agency to purchase Products and Services from the Vendor in accordance with each Participating Agency's legal requirements as if it were the "Purchaser" hereunder.

**ATTACHMENT D**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**Vendor's Proposal**

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

**(The Vendor's Proposal is incorporated by reference herein.)**

**ATTACHMENT E**

**to Master Price Agreement by and between VENDOR 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 by reference herein.)**

**ATTACHMENT F****to Master Price Agreement by and between VENDOR and PURCHASER.****ADDITIONAL VENDOR TERMS OF PURCHASE, IF ANY.****End-User License Agreement****MUTUALINK, INC. -  
END-USER SOFTWARE LICENSE (EULA) FOR MASTER LICENSES**

**BY DOWNLOADING OR INSTALLING OR USING THE SOFTWARE YOU ARE AGREEING TO TERMS OF THIS LICENSE. IF YOU DO NOT AGREE WITH THE TERMS OF THIS LICENSE DO NOT DOWNLOAD OR USE THIS SOFTWARE OR ACCESS THE ASSOCIATED APPLICATION SERVICES, OR IF DOWNLOADED IMMEDIATELY REMOVE THE SOFTWARE FROM YOUR CLIENT COMPUTING DEVICE.**

THIS END-USER LICENSE MAY BE PART OF OR ISSUED PURSUANT TO A MASTER COMMERCIAL SOFTWARE LICENSE OR OTHER FORM OF CONTRACT WITH LICENSE TERMS ("MASTER LICENSE") BETWEEN MUTUALINK, INC. ("MUTUALINK") AND THE NAMED LICENSEE (THE "LICENSEE"), THE TERMS OF WHICH GOVERN YOUR USE AND OPERATION AS AN AUTHORIZED USER ("YOU") OF CERTAIN SOFTWARE ("LICENSED SOFTWARE") AND ACCESS TO AND UTILIZATION OF ASSOCIATED APPLICATION, NETWORK ACCESS, AND DATA SERVICES (THE "SERVICES"), AND WITH THE LICENSED SOFTWARE, THE "LICENSED SOFTWARE AND SERVICES") AS PERMITTED UNDER THE MASTER LICENSE BY THE LICENSEE AND ITS AUTHORIZED END-USERS ("AUTHORIZED USERS"). THE FAILURE OF THE LICENSEE TO COMPLY WITH THE MASTER LICENSE OR TIMELY PAY LICENSE AND SERVICE FEES AS SPECIFIED UNDER THE MASTER AGREEMENT MAY RESULT IN THE TERMINATION OF AN AUTHORIZED USER'S RIGHT TO USE THE LICENSED SOFTWARE AND SERVICES AND BEING DENIED ACCESS TO USE IT. MUTUALINK IS NOT REQUIRED TO PROVIDE ADVANCE NOTICE TO PERMITTED INDIVIDUAL USERS REGARDING TERMINATION OR DENIAL OF ACCESS.

**ORGANIZATIONAL END-USERS/AUTHORIZED END-USERS OF LICENSEE:** IF YOU ARE AN AUTHORIZED USER OF LICENSED SOFTWARE AND SERVICES, YOUR USE OF IS PERMITTED ONLY AS AN AUTHORIZED USER SUBJECT TO COMPLIANCE WITH THE TERMS OF THIS LICENSE AND THE TERMS OF THE MASTER LICENSE. YOUR PERMITTED USE IS ALSO SUBJECT TO THE AUTHORIZATION, PERMISSION AND RULES OF USE ESTABLISHED BY THE LICENSEE. THE FAILURE TO ADHERE TO THE TERMS OF THIS LICENSE MAY RESULT IN THE IMMEDIATE TERMINATION OF THIS LICENSE AS WELL AS RESULT IN A VIOLATION OF THE MASTER LICENSE. YOUR USE OF THIS SOFTWARE IS STRICTLY LIMITED TO USE IN CONNECTION WITH AUTHORIZED INTERNAL BUSINESS OR GOVERNMENT FUNCTIONS OF THE LICENSEE.

**WHAT THIS APPLIES TO:** THIS LICENSE APPLIES TO ALL SOFTWARE AND SERVICES DESIGNED AND INTENDED FOR OPERATION BY AN AUTHORIZED USER UPON SPECIFIED COMPUTING CLIENTS, INCLUDING MOBILE WIRELESS COMPUTING AND COMMUNICATIONS DEVICES SUCH AS AND INCLUDING APPLE IOS® (IPHONE® AND IPAD™) DEVICES, ANDROID BASED MOBILE PHONES AND TABLETS ("MOBILE PLATFORM VERSIONS") AND PERSONAL COMPUTER DEVICES RUNNING OPERATING PLATFORMS SUCH AS WINDOWS OR COMPATIBLE LINUX DISTRIBUTIONS. THE LICENSED SOFTWARE COVERED BY THIS LICENSE INCLUDES, AS APPLICABLE, VERSIONS OF MUTUALINK EDGE™ AND LNK360™ SOFTWARE FAMILIES, IOPST® AND ANY OTHER SOFTWARE PRODUCTS AND RELATED OR ASSOCIATED SERVICES THAT MAY BE ACCESSED THROUGH ANY SOFTWARE CLIENT OR APPLICATION OR THROUGH A BROWSER.

**IMPORTANT NOTE REGARDING COPYRIGHT MATERIALS:** THE LICENSED SOFTWARE AND SERVICES HAVE UNCTIONS THAT ENABLE THE SHARING AND REPRODUCTION OF DIGITAL MATERIALS AND IS LICENSED ONLY FOR SENDING AND THE REPRODUCTION OF NON-COPYRIGHTED MATERIALS. MATERIALS IN WHICH THE LICENSEE HAS OWNERSHIP, OR THIRD PARTY'S COPYRIGHT WORKS OR MATERIALS WITH AUTHORIZATION OR PERMISSION.

**1. General.** The Licensed Software and Services (including any third party software and services), and the associated content and documentation accompanying the Licensed Software and Services are only licensed, not sold, by Mutualink for use only under the terms of the Master License Agreement between Mutualink and the Licensee through whom you have been authorized to download, install and use executable Licensed Software and Services. The terms of this License are subject to the Master License, as in effect, and your right to use the Licensed Software and Services are governed by the Master License and this License. This License does not give you any rights to possess, operate or use any Licensed Software and Services independent of those rights granted to the Master Licensee under the Master License. Title and intellectual property rights in and to any content displayed by or accessed through the Licensed Software and Services belongs to the respective content owner. Such content may be protected by copyright or other intellectual property laws and treaties and may be subject to terms of use of the third party providing such content. Except as specifically provided, this License does not grant you any rights other rights to use such content.

**2. Permitted License Uses and Restrictions.**

**A.** Subject to the terms and conditions of this License and Master License in effect, you are granted a limited non-transferable license to install, operate and use the Licensed Software in object code form only on computing devices authorized by the Master Licensee. You may not distribute or make the Licensed Software available over a network where it could be used by multiple devices at the same time by users using your credentials. You may not rent, lease, lend, sell, transfer, redistribute or sublicense the Licensed Software or access to the Licensed Services.

**B.** You agree to use the License Software and Services in compliance with all applicable laws, including local laws of the country or region in which you reside or in which you download or use the License Software and Services. The push to talk (PTT), mapping location (Mapping), video sharing (Video), text (Text), and file sharing (File) functionality of the Licensed Software and Services requires broadband Internet access and may not be available in all areas of use or operation. Further, you understand that the performance of Licensed Software and Services requires adequate broadband Internet connectivity to enable the transmission and receipt of data and communications content, and individual wireless carriers may use or implement various broadband data restrictions, throttling, rationing, congestion mitigation or denial schemes and methods to limit broadband data utilization and throughput which may compromise or interfere with the use or operation of the Licensed Software and Services.

**C.** By using the Licensed Software and Services, you agree that Mutualink and the Master Licensee may use and store your application access credentials and other information that you provide, including unique account identifiers, passwords, identifying information for the purpose of authenticating and validating your user identity, your access privileges, and other related matters.

**D.** You may not, and you agree not to, copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the Licensed Software and Services, or any part thereof, or to enable or assist others to do the same. Any attempt to do so is a violation of the rights of Mutualink and its third party licensors. If you breach this restriction, you may be subject to prosecution and damages. This applies whether or not you are acting in your official government or business capacity, to the extent permitted by law.

**3. Limited Consent to Use of Data for Support, Services Delivery and Upgrades/Organizational Licensee Rights versus Authorized Users.** You agree that Mutualink and its authorized agents may collect and use diagnostic, technical, usage and related information, including but not limited to information about your mobile or computing device, operating system and application software, and peripherals, that may gathered to facilitate the provision of software updates, product support, product services and functions, network services and other services to you (if any) related to the Licensed Software and Services, and to verify compliance with the terms of this License and the Master License. Mutualink may also use this information and provide it to business, educational and scientific parties provided it is anonymized in way that it does not personally identify for general research, trend and behavioral analysis, training and education. You understand that your identity and use of the Software and Services is not personal in nature and is related to the internal business or government function of the Licensee, and Mutualink has the right, without any liability to you, to monitor, record, log any and all data generated by your use of the Licensed Software and Services as permitted by the License and as otherwise instructed by the Licensee for its business or governmental purposes. **ALL INFORMATION AND COMMUNICATIONS CREATED, TRANSMITTED OR RECEIVED THROUGH LICENSED SOFTWARE OR LICENSED SERVICES BY AN AUTHORIZED USER OF ANY LICENSEE IS DEEMED BUSINESS OR GOVERNMENT INFORMATION OWNED BY THE LICENSEE AND INDIVIDUAL AUTHORIZED USERS HAVE NO, AND WAIVE ANY, EXPECTATION OF PRIVACY EXCEPT AS MY BE PROVIDED BY APPLICABLE LAW OR YOUR LICENSEE. YOU AGREE MUTUALINK IS NOT LIABLE TO YOU IF MUTUALINK COLLECTS INFORMATION AT THE REQUEST OF LICENSEE AND THE COLLECTION OR USE OF SUCH INFORMATION ON BEHALF OF OR FOR THE BENEFIT OF LICENSEE DOES NOT VIOLATE ANY AGREEMENT, UNDERSTANDING OR DUTY BETWEEN YOU AND YOUR LICENSEE OR MUTUALINK.**

**4. Termination.** Your rights under this License will terminate automatically without notice from Mutualink upon the expiration, suspension, or termination of the Master License. It may also be terminated if you fail to comply with any term(s) of this License or the Master License. Upon the termination of this License or in the event your authorization to use the Licensed Software and Services is revoked by the Licensee, you shall cease all use of the Licensed Software and Services, delete the Licensed Software from your mobile or computing device, and destroy all copies, full or partial, of the Licensed Software that you may have. Sections 3, 4, 5, 6, 9 and 10



shall survive any such termination. You understand that the Licensed Software may contain license keys or other mechanisms that may disable the use or functioning of the software upon termination.

##### 5. Disclaimer of Warranties.

A. The Licensed Software and Services are intended solely for trade, business, and governmental use and not for consumer use. Your use of the Licensed Software and Services is licensed solely for the internal trade, business, and governmental use of the Licensee through whom you are authorized as an Authorized User and not for your personal or consumer use. If you use the Licensed Software and Services for personal or consumer use, even if Mutualink is apprised of your intended or actual use, or is permitted by the rules, regulations, requirements, or convenience of your Licensee, even if the Licensed Software and Services is installed and used on your personal mobile or computing device, you agree that such use does not change the characterization and purpose of the Licensed Software and Services. Accordingly, Mutualink makes no warranties to you as an individual or consumer and **ALL WARRANTIES OF WHATSOEVER KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, ARE EXPRESSLY DISCLAIMED.**

B. WITHOUT LIMITING THE FOREGOING AND IN ADDITION THERETO WITH RESPECT TO THE USE OF THE LICENSED SOFTWARE AND SERVICES FOR TRADE, BUSINESS AND GOVERNMENTAL, YOU EXPRESSLY ACKNOWLEDGE AND AGREE, AS A CONDITION TO YOUR PERMITTED USE, THAT USE OF THE LICENSED SOFTWARE AND SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH THE LICENSEE THROUGH WHOM YOU ARE AUTHORIZED AS AN AUTHORIZED USER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSED SOFTWARE AND SERVICES IS PROVIDED "AS IS, WHERE IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND TO YOU, AND THOSE LIMITED WARRANTIES EXPRESSLY PROVIDED IN THE MASTER LICENSE ARE INTENDED SOLELY FOR THE BENEFIT OF LICENSEE.

MUTUALINK DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE LICENSED SOFTWARE AND SERVICES WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE LICENSED SOFTWARE AND SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE LICENSED SOFTWARE AND SERVICES IS OR WILL BE ALWAYS COMPATIBLE WITH VARIOUS OTHER APPLICATIONS OPERATING ON OR CHANGES MADE TO THE OPERATING SYSTEM OF YOUR MOBILE OR COMPUTING DEVICE. YOU AGREE AND UNDERSTAND THAT THE LICENSED SOFTWARE AND SERVICES IS ONLY DESIGNED AND INTENDED TO OPERATE ON THE VERSION OF THE OPERATING SYSTEM AND DEVICES SPECIFIED, AND INSTALLATION AND USE ON OTHER DEVICES OR VERSIONS OF OPERATING SYSTEMS MAY NOT FUNCTION AS INTENDED OR AT ALL. YOU FURTHER ACCEPT THE INHERENT RISKS OF USE OF THE LICENSED SOFTWARE AND SERVICES WITH ALL POSSIBLE FAULTS AND CONDITIONS WHICH MAY IMPAIR ITS OPERATION OR THAT MAY ARISE, INCLUDING FAILURE OR INTERRUPTION OF COMMUNICATIONS TRANSMISSIONS, ERRONEOUS, INACCURATE, INTERRUPTED OR LOSS OF OR OF ACCESS TO GEO-POSITIONING DATA, LOCATION INFORMATION OR OTHER INFORMATION, DELAYS IN OR LACK OF WIRELESS DATA OR COMMUNICATIONS COVERAGE, THIRD PARTY DENIAL OF SERVICE ATTACKS AND OTHER CYBER ATTACKS, THIRD PARTY ORIGINATED MALICIOUS EXECUTABLES, VIRUSES AND TROJAN SOFTWARE, INTERRUPTIONS FROM UNINTENTIONAL OR INTENTIONAL ELECTRONIC INTERFERENCE OR JAMMING OF COMMUNICATIONS, THIRD PARTY CARRIER THROTTLING OF COMMUNICATIONS OR DATA CAPACITY OR DENIAL OF ACCESS DUE TO OVER USE, CONGESTION OR OTHER CONDITIONS, THIRD PARTY SURREPTITIOUS MONITORING OR EAVESDROPPING, UNLAWFUL OR UNAUTHORIZED COPING OR REPRODUCTION OF INFORMATION SENT BY OR THROUGH LICENSED SOFTWARE AND SERVICES BY RECIPIENTS, MESSAGE OR COMMUNICATION DEGRADATION THROUGH PACKET LOSS, TRANSMISSION DELAYS, MISROUTING OR REROUTING OF COMMUNICATIONS, FAILURE OR DAMAGE OR DESTRUCTION TO HARDWARE DEVICES OR EQUIPMENT NECESSARY FOR THE ROUTING, DELIVERY, ACCESSING, AUTHENTICATING OR PROCESSING OF COMMUNICATIONS OR COMMUNICATIONS USERS, SUCH AS, BUT NOT LIMITED TO SERVERS, ROUTERS AND STORAGE DEVICES USED IN CONNECTION WITH THE DELIVERY OF NETWORK, SECURITY, DATA OR APPLICATION RELATED SERVICES. **WITHOUT LIMITING THE FOREGOING, ALL PUBLIC SAFETY, EMERGENCY, HEALTH AND**

**SAFETY, AND CRITICAL SERVICE PERSONNEL KNOWINGLY ACKNOWLEDGE ALL RISKS INHERENT WITH WIRELESS COMMUNICATIONS AND RELATED APPLICATION SOFTWARE SERVICES AND UNDERSTAND THAT THE POTENTIAL RISK OF INJURY OR DEATH MAY OCCUR DUE TO A LOSS OF COMMUNICATIONS, AND NO USER SHOULD RELY ON A SINGLE METHOD, SERVICE AND/OR DEVICE FOR COMMUNICATIONS.**

6. **Limitation of Liability.** TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL MUTUALINK BE LIABLE TO YOU FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR INJURIES, DAMAGES TO PROPERTY OR OTHER PERSONS, LOSS OF EMPLOYMENT OR WAGES, LOSS OF REPUTATION, SLANDER, LIBEL, EMBARRASSMENT, MENTAL OR EMOTIONAL DISTRESS, UNINTENDED OR ACCIDENTAL COPYRIGHT INFRINGEMENT BY YOUR USING LICENSED SOFTWARE AND SERVICES FUNCTIONS, OR ANY OTHER MATTER, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE LICENSED SOFTWARE AND SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF MUTUALINK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event shall Mutualink be liable to you as an end-user of Licensed Software and Services that is furnished by or through the Licensee or as a result of any other unauthorized means or use even if network or other services are provided to you by mistake. **SOLE AND EXCLUSIVE PRIVACY OF CONTRACT AND ALL RELATED OBLIGATIONS AND/OR DUTIES, IF ANY, LAY SOLELY BETWEEN MUTUALINK AND THE LICENSEE THROUGH WHOM YOU ARE AN AUTHORIZED USER.**

7. **Export Control.** You may not use or otherwise export or re-export the Licensed Software and Services, or any technical information regarding the Licensed Software and Services, except as authorized by United States law and the laws of the jurisdiction in which the Licensed Software and Services was obtained. In particular, but without limitation, the foregoing may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Licensed Software and Services, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture, or production of missiles, and nuclear, chemical, or biological weapons.

8. **Government End Users.** The Licensed Software and Services and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein, or as otherwise specified under a Master License between Mutualink and the government entity so being licensed. Unpublished-rights reserved under the copyright laws of the United States.

9. **Controlling Law and Severability.** Except as otherwise provided under the Master License, this License will be governed by and construed in accordance with the laws of the State of Connecticut, excluding its conflict of law principles. If you bring any claim or action against Mutualink, such claims or actions may only be brought and adjudicated before a federal or state court located in Connecticut, which courts have exclusive jurisdiction without regard to convenience of forum, and you submit to the personal jurisdiction of such courts.

10. **Third Party Notices.** Portions of the Licensed Software and Services utilize or include third party software and other copyrighted material. Acknowledgements, licensing terms and disclaimers for such material are contained in the notice files accompanying the Licensed Software and Services, and your use of the same is governed by their respective terms.

##### Further Information:

All inquiries or questions regarding this License and the terms of the Master License should be directed to your Licensee. Any cases of actual or potential infringement of Mutualink's intellectual property rights or that of its third party licensors, or actual or potential violations of this License or the Master License should be sent to the following address:

Mutualink, Inc.  
1269 South Broad Street  
Wallingford, Connecticut 06492  
Attention: Legal Department  
Email: [legal@mutualink.net](mailto:legal@mutualink.net)  
Facsimile: (203) 774-1034