

**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 Howard Technology Solutions, a division of Howard Industries Inc. ("Vendor").

**RECITALS**

WHEREAS, the Vendor is in the business of selling certain Technology Hardware, Software, and Related Services, 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 Technology Hardware, Software, and Related Services 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. 2495 for Technology Hardware, Software, and Related Services; 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. 2495 (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 VA25190, 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. 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](mailto:rfp@ORCities.org)

If to Vendor:

Howard Technology Solutions  
36 Howard Drive  
Ellisville, MS 39437  
ATTN: Brandey Boyd  
Email: [bboyd@howard.com](mailto:bboyd@howard.com)

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:

Signed by:  
Signature: Patricia M. Mulvihill  
0BD4F25C35F54D0...  
Printed Name: Patricia M. Mulvihill  
  
Title: Executive Director  
LEAGUE OF OREGON CITIES  
  
Dated: April 3, 2025 | 7:29 AM PDT

VENDOR:

DocuSigned by:  
Signature: Brandey Boyd  
B319D302AF64444...  
Printed Name: Brandey Boyd  
  
Title: Bids and Contracts Manager  
HOWARD TECHNOLOGY SOLUTIONS  
  
Dated: April 3, 2025 | 6:03 AM PDT

**ATTACHMENT A**

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

**PRODUCTS, SERVICES, SPECIFICATIONS AND PRICES**

This schedule will show the base minimum discount offered of 3% off hardware. Initial discounts are based on a quantity of one. Additional discounts will be considered for greater quantities.

Category	Subcategory	Product Lines	Discount
Category 1: IT Hardware Solutions	Subcategory	Product Lines	Discount
Computing Solutions	Desktops, Kiosks Solution	Howard, Dell, Lenovo, HP, Acer, Ncomputing Solutions, Howard Kiosk Solutions	3%-18%
Computing Solutions	Notebooks, Netbooks, Tablets	Howard, Dell, Lenovo, HP, Fujitsu, Toshiba, Acer, Getac, Asus, Samsung, Garmin, Panasonic, Wacom; Microsoft Surface	3%-18%
Computing Solutions	Management Solutions	Altiris, Kaspersky, Faronics, Solarwinds	3%
Computing Solutions	Antivirus	Symantec, McAfee, Sophos, Kaspersky	3%
Computing Solutions	Mobile Presentation/Carts	Howard, Datamation, Spectrum, Earthwalk, Bretford, Avermedia, Anthro, Ergotron, iRovee, Bait, Jar Systems, Anywhere Carts, Marvel, VFI, Luxor, Powergistics, Tripplite, Copernicus Educational Products, LocknCharge, BlackBox, CEF	3-15%
AudioVisual and Instructional Solutions	Interactive Classroom Solutions	BenQ, Epson, Boxlight-Mimio, 3M, Acer, Canon, Infocus, Mitsubishi, NEC, Optoma, Planar, Samsung, Sharp, Viewsonic, Sanyo, Clear Touch Interactive, Newline, Hovercam, Bait, Qomo, GalaxyNext; Swivl	3%-21%
AudioVisual and Instructional Solutions	Wireless Interactive Pads	Boxlight-Mimio, Elmo, Qomo	3%-21%
AudioVisual and Instructional Solutions	Projectors and Bulbs	BenQ, Epson, Boxlight-Mimio, 3M, Acer, Canon, Infocus, Mitsubishi, NEC, Optoma, Planar, Samsung, Sharp, Viewsonic, Sanyo, Sony, Casio, Hitachi, Qomo; ELMO	3%-21%
AudioVisual and Instructional Solutions	Projector Screens	Da-Lite, Draper, Elite Screens	3%- 21%
AudioVisual and Instructional Solutions	Document Cameras	Avermedia, Elmo, Lumens, Boxlight-Mimio, Qomo, Samsung, HoverCam	3%-21%
AudioVisual and Instructional Solutions	Personal Response Systems	Boxlight-Mimio	3%-21%
Audiovisual and Instructional Solutions	Audio Solutions	Howard, FrontRow, Panasonic, Cetacea, Califone, OWi, Bose, Crowne Audio, iKlip, Sennheiser, Shure, Audio Enhancement; Atlona; Biamp	3%-21%
AudioVisual and Instructional Solutions	Control Systems	Crestron, Extron, SP Controls, Frontrow, Altinex, NTI	3%-21%
AudioVisual and Instructional Solutions	Mounts	Chief, C2G, Premier Mounts, A-V Mounts; Epson; Tripp Lite; Peerless	3%-21%
Audiovisual and Instructional Solutions	Cables	C2G, MonoPrice, Comprehensive, MicroFlex	3%-21%
AudioVisual and Instructional Solutions	Furniture	Spectrum, Middle Atlantic, VFI, Worthington Direct	3%- 21%
AudioVisual and Instructional Solutions	Monitors and TVs	3M, Acer, AOC, Asus, BenQ, HP, Hyundai, Lacie, Lenovo, LG, NEC, Planar, Samsung, Viewsonic; SunBrite; Sharp	3-10%

Category	Subcategory	Product Lines	Discount
Networking Infrastructure Solutions	VoiP	Cisco, Zultys, Digium, Vertical, Avaya, CallFire	3%-10%
Networking Infrastructure Solutions	Continuity Solutions	Cisco	3%-10%
Networking Infrastructure Solutions	Network Infrastructure	Brocade, Cisco, HP, Enterasys, Extreme, Juniper	3%-10%
Networking Infrastructure Solutions	Wireless	Xirrus, Enterasys, Cisco, Aerohive, Extreme, HP, Meraki, AirTight, Aruba, Ubiquiti, Ruckus, Cradlepoint, Mersive	3%-10%
Networking Infrastructure Solutions	Mobile Device Management	AirWatch, Filewave	3%-10%
Networking Infrastructure Solutions	Cooling, Power Protection, and LAN Storage Products	APC, Tripplite, Cyber Power Systems, Inc.; AVTech, FiberPower	3%-10%
Networking Infrastructure Solutions	Backup Solutions	CommVault, Backbone, Exagrid, SpectraLogic, VMWare, HP, Unitrends, Cybernetics, Veeam	3%-10%
Networking Infrastructure Solutions	Servers	Howard, Lenovo, Fujitsu, IBM, HP, ForeScout, Dell, Bradford Networks	3%-17%
Networking Infrastructure Solutions	Storage Solutions	Tegile, AdvancedHPC, Buffalo, Overland, SpectraLogic, Dell, IX Systems, Cradlepoint	3%-10%
Networking Infrastructure Solutions	Email Archiving Solutions	Barracuda, ArcMail, Edgewave	3%-10%
Networking Infrastructure Solutions	Security Solutions	Symantec, McAfee, Fortinet, Astaro, Sophos, Barracuda, Panda, Palo Alto, BlueCoat, Lynx Systems (available to New Jersey K-12 ONLY), Edgewave, ForeScout, Nomadix, Front Door, Verkada	3%-10%
Networking Infrastructure Solutions	Disaster Recovery Products	EMC2, Vmware, Howard, Omnilert	3%-10%
Networking Infrastructure Solutions	Bandwidth Management	Allot	3%-10%
Networking Infrastructure Solutions	Network Security	Palo Alto, Lightspeed, iBoss, Array Networks, WatchGuard, Edgewave, SonicWall, Securly, Neustar, Metasploit, Tenable	3%-10%
Networking Infrastructure Solutions	Network Access Control	Impulse Point, Array Networks	3%-10%
Network Video Solutions	Video Surveillance	Video Insight, Milestone, Cisco, Axis, Samsung; Transcend; Trendnet, Verkada	3%-21%
Network Video Solutions	Video Streaming	Vbrick, Discover Video; Hall Research; IBeyond	3%-21%
Network Video Solutions	Video Conferencing	Polycom, Lifesize, BlueJeans, Aver, ZOOM	3%-21%
Network Video Solutions	Digital Signage	Visix, Viewsonic, Daktronics, Fair-Play, Discover Video	3%-21%
Virtualization	Desktop Virtualization	Vmware, Ncomputing, Viewsonic, Citrix, HVE	3%
Virtualization	Server Virtualization	Vmware, Citrix, Bradford Networks	3%

Category	Subcategory	Product Lines	Discount
Accessories	Hardware	Blu-Ray, Cameras, Camcorders, Printers and Supplies (including 3D Printers), Ink, Toner, Keyboards, Mice, Scanners, ID Card Supplies, Power Devices, Hard Drives, Motherboards, Memory, Speakers, Amplifiers, Headphones, Microphones, Audio Mixers, <b>VR</b> Headsets; Acousticmagic; QSC; TOA Electronics; Plantronics; Vaddio; Tannoy; Audix; West Penn Wire, Logitech, Acropoint	3%
Accessories	Software	Operating Systems, Networking, Security, Utilities, Office Productivity; KnowledgeCity Learning Solutions; Litmus Software; ExactTarget; Officetracker; FreedomScientific; PDQ; AccessData; Faronics; Echosign	3%
Accessories	Networking	IP Telephony, Modems, Routers, Bridges, Hubs, Switches, Video Conferencing, Cables, Cards, Adapters; Logitech; RCI, Cradlepoint, Liberty	3%
Accessories	Storage	Flash/Memory Drives, Adapters, Cables, Enclosures, RAID Arrays, CD/DVD Removable Media	3%
Accessories	Bags	Brenthaven, Golla, Greensmart, Incase, Marware, Mobile Edge, STM, Tucano, Higher Ground, MaxCases, Case Logic, Lenovo	3%
Accessories	Office Supplies	All	3%

Category 2: Software Solutions	Subcategory	Product Lines	Discount
Software	General	Microsoft, Adobe, Quark, Autodesk, VMWare, Zerto; ASPG; SmartFTP; EndNote	<b>Z%</b>
Software	Audio Music Creation	Ableton, Cakewalk, Grass Valley, M-Audio, MakeMusic, Native Instruments, Roxio, Sibelius, Sony Creative, Nero	Z%
Software	Video Creation	Avid, Adobe, Sony Creative, Autodesk Media and Entertainment, Nero, Pinnacle, <b>roxio</b> ; Mediasite	Z%
Software	KIZ Software	HMH, Inspiration, Knowledge Adventure, Maplesoft, Sibelius, Dorling Kindersley, Leapfrog, Hapara, LANSchool, GoGuardian, EduTek Solutions, LLC, BitDefender, TeamViewer, Classlink	Z%

Category	Subcategory	Product Lines	Discount
Software	Higher Ed Software	Absolute, Autodesk, Corel, Design Science, Filemaker, Final Draft, IMSI, Maplesoft, Mindjet, Nova, Parallels, Palo Alto, PTC, Techsmith, Wolfram; PowerProduction; MicroSurvey	2%
Software	Student Licensing	Student Edition Sku's - Nuance, Quark, Adobe, Adobe Student Licensing, Google Management	2%
Software	Accessories	Anoto, Belkin, Cento, DLO, Iskin, Livescribe, Micro Innovation, Phillips, <b>PNY</b> , Sandisk, Tribeca, Vistablenet, Wacom, Cases	2%
Software	Training	Lynda.com, Total Training, Certipoint	2%

Category 4: Associated Training & Services	Subcategory	Product Lines	Discount
Installation and Integration Services	Managed Services	Network Consulting, Erate Eligibility	Not To Exceed \$250.00/hour
Installation and Integration Services	Installation Services	Audio Visual and Computing, Distance Learning, Video Conferencing, Wireless Access, Network/Data Center, Cabling	Not To Exceed \$250.00/hour
Installation and Integration Services	Onsite Technicians/IT Outsourcing		Not To Exceed \$250.00/hour
Installation and Integration Services	Programming Services	Control Systems, Video Conferencing	Not To Exceed \$250.00/hour
Installation and Integration Services	Support Services	OnCall, HTTP, Technology Management, Custom Imallini:	Not To Exceed \$250.00/hour
Installation and Integration Services	Training/Professional Development	Instructional Technologies, 21st Century Classrooms, Curriculum Training	Not To Exceed \$250.00/hour
Installation and Integration Services	Physical Security/Video Surveillance Services	Milestone, Axis, Cisco	Not To Exceed \$250.00/hour
Installation and Integration Services	Consulting	Wireless Surveys, Network Assessments, Outsources Labor	3%
Professional Development	Daily On-Site Rate	Howard	Not to Exceed \$3500/day
Professional Development	Hourly Virtual Training	Howard	Not to Exceed \$250/hour (4 hour minimum)

Category 5: Other Products/Services	Subcategory	Product Lines	Discount
Howard Med Carts	Mobile Carts	Howard	5%

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

**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.**

## GENERAL TERMS AND CONDITIONS OF SALE

These General Terms and Conditions of Sale (these "Terms") govern the sale of products ("Products") and services ("Services") by Howard Technology Solutions, a division of Howard Industries, Inc. ("Howard"), to the purchaser of same ("Purchaser") (each a "Party", and, collectively, the "Parties"). These Terms are subject to change without prior notice, except that the version in effect at the time Purchaser places an order will govern the order in question unless otherwise agreed in writing by Howard and Purchaser. Notwithstanding anything herein to the contrary, if a written contract signed by both Howard and Purchaser is in existence covering the sale and purchase of such Products and/or Services, the terms and conditions of said contract shall govern as between the Parties to the extent of any conflicts between this Agreement and such contract. To the extent applicable law prohibits or dictates certain terms between the Parties contrary to those set forth in this Agreement, the terms of this Agreement shall be deemed modified to conform therewith.

A valid written quotation, statement of work, specifications and/or other similar document(s) issued by Howard describing the Products and/or Services to be purchased by Purchaser from or through Howard (collectively, the "Quotation"), together with these Terms (collectively, this "Agreement"), comprise the entire agreement between Howard and Purchaser relating to the Products or Services that are the subject of such Quotation, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties and communications, both written and oral, concerning such Products and Services. In the event of any inconsistency or conflict between these Terms and the Quotation, the Quotation shall control. Purchaser's submission of a purchase order constitutes Purchaser's acceptance of, and agreement with, the terms and conditions of this Agreement as exclusively governing its purchase of the subject Products and/or Services. Purchaser must submit a purchase order in a form reasonably required by Howard. Purchaser's purchase order shall reference the applicable Quotation number and identify, consistent with the Quotation, the specific Products and/or Services ordered, quantities, delivery dates, shipping information and other similar project-specific terms that may vary from order to order, and no other terms of Purchaser, including any general, standard or pre-printed terms and conditions of Purchaser's purchase order, shall have any force or effect whatsoever. For the avoidance of doubt, Howard objects to, and is not bound by, any terms or conditions that are in addition to, differ from, or modify the terms and conditions of this Agreement as defined herein, and no action by Howard (including acknowledgement, acceptance or fulfilment of a purchase order) shall be construed as acceptance of any such additional or differing terms or conditions. Notwithstanding anything to the contrary, it is expressly understood that Howard may, in its sole discretion, accept, reject or elect not to fulfill any purchase order without penalty or liability to Purchaser.

### Price; Shipping; Delivery

All price quotes by Howard are in U.S. Dollars and are valid for thirty (30) days. All orders are subject to prior credit approval by Howard. Howard hereby reserves the right to unilaterally withdraw and/or revise any Quotation or quoted prices at any time, including in the event its manufacturing or procurement costs increase due to the imposition by the United States or any other country of new or higher tariff(s) or other similar taxes, duties, fees or charges, or if Purchaser requests changes to the schedule or scope of any project or fails to meet its obligations hereunder. Unless different shipping terms are set forth on the Quotation or otherwise agreed to by Howard in writing, all Product pricing is F.O.B. Howard's or its supplier's or designee's facility for domestic Purchasers and

EXW Howard's or its supplier's or designee's facility for international Purchasers and does not include transportation, shipping, packaging, handling, loading, unloading or insurance fees or costs, sales, use or excise taxes, or any other similar taxes, fees or charges of any kind imposed by any governmental authority related to the Products ("Shipping Costs"), all of which are the sole responsibility of Purchaser. Howard may agree to make additional or different shipping arrangements per Purchaser's request, but, in any event, all Shipping Costs will be paid by Purchaser unless agreed to by Howard in writing.

The Products will be packaged using Howard's or its supplier's or designee's standard methods for packaging. There may be only one destination per order. Howard may, in its sole discretion, without liability or penalty, make partial shipments of Products. Each shipment will constitute a separate sale, and Purchaser shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Purchaser's order. If Products are not picked up in accordance with the agreed upon shipment dates and delivery location, such order(s) shall be treated as cancelled.

Purchaser is responsible for inspecting all Products at the time of delivery. All displays and televisions must be opened and checked for damage at the time of delivery. Any obviously-damaged boxes should be opened and contents inspected for damage at time of delivery. Any damage must be reported to the carrier and to Howard immediately. Purchaser will be responsible for full replacement cost of any damaged Product that Purchaser accepts for delivery without conducting the timely inspection described above.

### Title and Risk of Loss

Title and risk of loss to the Products shall pass when delivered to the carrier at Howard's or its supplier's or designee's facility or other agreed-upon delivery location. Purchaser hereby grants Howard a security interest in the Products and their proceeds until paid for in full. Title to software will remain with the licensor of such software, and Purchaser's rights therein will be as set forth in the end-user license or other applicable agreement between Purchaser and such licensor.

### No Damages for Delay

Howard shall use commercially reasonable efforts to meet requested delivery dates or performance schedules for Products and Services, but Purchaser shall not be entitled to monetary compensation for any delay unless otherwise expressly agreed to in a writing signed by Howard. Purchaser hereby waives and releases Howard from liability for any and all losses, costs, expenses, or other damages arising out of any delays in delivery or performance.

### Payment

Unless other payment terms are set forth in the Quotation or are otherwise agreed to in a writing signed by Howard, payments for domestic orders are due net thirty (30) days from date of invoice, without any right to set-off for any amount by reason of a claim or dispute with Howard. International Purchasers will typically be required to pay for orders in full, via wire transfer, prior to commencement of fulfillment of the order. All payments must be in U.S. Dollars. The full agreed-upon price for Products, including AV or other equipment which will be installed at a later date, will typically be invoiced upon delivery of the Products, whether delivered to the Purchaser's facility or to another location designated by the Purchaser. Payment of 50% of the total agreed-upon cost for Services performed on a project will be due and payable upon 75% of Project completion. The remaining 50% of the agreed-upon labor cost for the project will be due and payable upon completion and Purchaser sign-off. Howard reserves

the right in its discretion to invoice for Services monthly or progressively depending on the nature of a particular project or other circumstances. A 3% surcharge will be added to payments made by credit card. Notwithstanding the above, Howard reserves the right, at its option, to modify the above payment terms, including, for example, permitting payment after production but prior to delivery, upon delivery and/or by irrevocable letter of credit issued or confirmed by a bank in the United States acceptable to Howard. Late payments shall bear interest from and after the due date at a monthly rate equal to five percent (5%). In the event Purchaser is in breach of this Agreement, is late on any payment(s) or if Howard believes Purchaser is or may be unable to pay, or for any other reason in Howard's sole discretion, Howard may: (i) accelerate the due date of all outstanding invoices and require that all outstanding invoices, including any interest thereon, be immediately due and payable in full; (ii) stop all work under any order until Howard receives either payment or assurances of payment satisfactory to Howard; (iii) require prepayment for purchase orders; and/or (iv) delay shipments.

### Purchaser Cooperation and Compliance with Laws

Purchaser shall cooperate and assist Howard by responding promptly to any request for direction, information, materials, approvals, authorizations, decisions and/or access to Purchaser's premises or facilities as may be reasonably necessary to facilitate delivery of Products and/or the performance of the Services by Howard. Purchaser shall comply with all applicable laws in relation to the Services and obtain and maintain all licenses, permissions, authorizations, consents, and permits needed to facilitate performance hereunder.

Howard reserves the right in its discretion to add additional charges and/or to change the quoted price(s) for any project in the event of circumstances warranting such modifications, including: (i) if for any reason Purchaser changes the start date of a project within 5 days of the scheduled start date; (ii) if Howard is delayed during the installation or other stage of a project as a result of lack of accessibility to necessary facilities or equipment, the presence or status of other trades or contractors, faulty or incompatible equipment that is not provided by Howard, or for any other reason beyond Howard's control or responsibility; (iii) if the scope of a project, including as will typically be set forth in a mutually agreed-upon statement of work, is changed for any reason; or (iv) if obstacles or limitations require the use of additional or different measures to achieve installation of equipment pursuant to the manufacturer's recommendations.

### Cancellations

Howard reserves the right to charge Purchaser a 25% restocking fee for cancellation of an order after Howard has commenced fulfillment of the order. Howard reserves the right to cancel an order and charge full purchase price if Purchaser delays shipment for an extended period of time. Howard may, with notice to Purchaser, cancel any outstanding order at any time without any liability to Purchaser.

### Intellectual Property Rights

All rights, title and interest in and to all patents, trademarks, copyrights, trade secrets, know-how and other intellectual property or proprietary rights associated with or relating to the Products and Services and any related deliverables ("IP Rights") shall belong solely and exclusively to, and remain with, Howard or the third-party manufacturer, licensor or provider thereof; Purchaser shall not acquire any IP Rights, whether expressly, by implication, estoppel, or otherwise in the Products or Services. Purchaser shall use the IP Rights only in accordance with the terms of this Agreement, any instructions of Howard, and the terms of any third-party manufacturer, licensor or provider. If Purchaser acquires any IP Rights by operation of law or otherwise, such rights are deemed and are

hereby irrevocably assigned to Howard without further action, and Purchaser shall, execute such documents and do such things as are necessary to enable Howard to protect the IP Rights as described above.

### Confidentiality

All non-public, confidential or proprietary information of Howard, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed to Purchaser in connection with the provision of Products or Services, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement, is confidential, solely for the use of performing hereunder and may not be disclosed or copied unless authorized in advance by Howard in writing. Upon Howard's request, Purchaser shall promptly return all documents and other materials received from Howard. Howard shall be entitled to injunctive relief for any violation of this section.

### Termination

In addition to any other right to terminate or other remedies that may be provided hereunder, Howard may terminate this Agreement with immediate effect upon written notice to Purchaser, if Purchaser:

(a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of the terms or conditions of this Agreement; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

### Warranties; Returns; Remedies

#### Product Warranty

- **Howard's Standard Limited Product Warranties.** The product warranties extended by Howard for Howard-branded Products are exclusively as set forth in Howard's Product- specific written standard limited warranty applicable to the purchased Product which is in force when the Product is shipped (the "**Standard Limited Warranty**"). The Standard Limited Warranty may be included with the Product, and is available at <https://www.howardcomouters.com/support/warranties.cfm>. The applicable Standard Limited Warranty may also be obtained by calling 1-888-912-3151 or emailing [webmaster@howardcomouters.com](mailto:webmaster@howardcomouters.com). The Standard Limited Warranty for each applicable Product, including the limitations, restrictions, exceptions, exclusions, conditions and/or disclaimers contained therein, is fully adopted and incorporated herein by reference.
- **Exclusive Remedy.** THE REMEDIES SET FORTH IN HOWARD'S STANDARD LIMITED WARRANTY APPLICABLE TO A PARTICULAR HOWARD-BRANDED PRODUCT SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AND HOWARD'S ENTIRE LIABILITY FOR ANY BREACH OF ANY WARRANTY RELATED TO SUCH PRODUCT.
- **No Warranty for Third-Party Products.** Howard's Standard Limited Warranty does not cover any products manufactured by a third-party. This includes third-party Products that may be contained or incorporated in, attached to, or packaged together with, Howard-branded



Products, as well as those third-party Products sold, re-sold or otherwise provided by Howard on a stand-alone basis. For the avoidance of doubt, Howard makes no representations or warranties regarding any third-party Products. All third-party Products sold or provided by Howard are sold or provided by Howard "AS- IS".

- **Product Returns.** Howard's return policies and related information applicable to the Products are available at <https://www.howardcomputers.com/support/returnpolicy.cfm> and may also be obtained by emailing [webmaster@howardcomputers.com](mailto:webmaster@howardcomputers.com) or calling 1-888-912-3151. Said policies and related information are fully adopted and incorporated herein by reference.

### Services Warranty

- **Limited Services Warranty.** Howard warrants that it will perform the Services: (a) in a professional and workmanlike manner; and (b) in accordance with the terms and conditions set forth in the applicable Quotation. In the event of a breach by Howard of this limited warranty, Howard shall use reasonable commercial efforts to cure the breach. If Howard determines that it cannot cure the breach, Howard may, at its option, terminate the Services and refund to Purchaser any fees paid by Purchaser for the Services to which such breach relates, less a deduction equal to the fees for receipt or use of Services on a pro-rata basis. Howard may suspend or terminate any Services without incurring any obligation or liability if Howard believes in its sole discretion that Purchaser has failed to comply with any of the terms or conditions of this Agreement. The foregoing remedy shall not be available unless Purchaser provides written notice of such breach within thirty (30) days after provision of the Services to which such breach relates.
- **Exclusive Remedy.** THE REMEDY SET FORTH ABOVE SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AND HOWARD'S SOLE AND EXCLUSIVE LIABILITY FOR ANY BREACH OF THE SAID LIMITED SERVICES WARRANTY.
- **No warranty for Third-Party Solutions.** Howard makes no, and expressly disclaims all, warranties with respect to Third-Party Solutions (defined below) made available by Howard for purchase by Purchaser hereunder. In purchasing a Third-Party Solution, Purchaser relies solely on the service descriptions, warranties and/or terms and conditions of the provider or licensor of the Third-Party Solution and not on any statements, descriptions or other representations regarding the Third-Party Solution that may be made by Howard. All Third- Party Solutions offered by Howard are provided by Howard "AS- IS". For further information, see Third-Party Solutions section, below.

### Warranties Disclaimer

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES FOR THE PRODUCTS AND SERVICES REFERENCED ABOVE, HOWARD MAKES NO WARRANTIES WHATSOEVER CONCERNING ANY PRODUCTS OR SERVICES SOLD OR PROVIDED TO PURCHASER, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR INFRINGEMENT OR PERFORMANCE TO STANDARDS SPECIFIC TO ANY PARTICULAR LOCALE, WHETHER EXPRESS OR IMPLIED OR ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. PURCHASER ACKNOWLEDGES THAT IT HAS NOT

RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY HOWARD, OR ANY OTHER PERSON ON HOWARD'S BEHALF, EXCEPT AS SPECIFICALLY DESCRIBED IN THIS AGREEMENT.

WITHOUT LIMITATION TO THE FOREGOING, HOWARD MAKES NO REPRESENTATION OR WARRANTY THAT THE PRODUCTS OR SERVICES OR ANY RELATED SOFTWARE OR DELIVERABLES WILL: (i) MEET PURCHASER'S REQUIREMENTS; (ii) BE COMPATIBLE WITH ANY SOFTWARE, HARDWARE, SYSTEM, NETWORK OR OTHER SERVICES; (iii) BE SECURE, ERROR-FREE, ACCURATE OR RELIABLE; (iv) BE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS OR CODE; (v) OPERATE WITHOUT INTERRUPTION; OR (vi) ACHIEVE ANY INTENDED RESULTS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY PURCHASER FROM HOWARD OR OTHERWISE THROUGH THE SERVICES OR DELIVERABLES SHALL CREATE ANY WARRANTY.

### Limitation of Liability

IN NO EVENT SHALL HOWARD OR ITS SUPPLIERS BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, LIQUIDATED OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES, DIMINUTION IN VALUE, OR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, ARISING OUT OF OR RELATING TO THE PRODUCTS OR SERVICES OR A BREACH OF THIS AGREEMENT, WHETHER OR NOT PURCHASER DISCLOSED THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE OR IF THE POSSIBILITY OF SUCH DAMAGES COULD HAVE REASONABLY BEEN FORESEEN, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED OR THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. MOREOVER, IN NO EVENT SHALL HOWARD'S OR ITS SUPPLIER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY PRODUCTS OR SERVICES OR THIS AGREEMENT EXCEED THE TOTAL OF THE AMOUNTS PAID BY PURCHASER UNDER THE APPLICABLE ORDER.

### Third-Party Solutions

Many of the Services made available by Howard are provided by third-parties and are offered by Howard as a reseller. This may include but is not limited to software or software-based solutions or applications or services such as on-premises or enterprise software, Software-as-a-Service or cloud-based, web-based, on-demand or hosted software, which is developed, licensed, produced, maintained, provided, serviced or supported by one or more third-parties, including but not limited to such software and/or related support or other services that may be governed by a direct agreement between Purchaser and the third-party provider or licensor of same in the form of a warranty, end-user license or other agreement, or terms of sale, use or service, etc., of the third-party provider or licensor (collectively, "Third-Party Solutions"). Howard's role as a reseller of a Third-Party Solution does not indicate an affiliation with or endorsement by Howard of the Third-Party Solution or of any third-party. Howard makes no, and expressly disclaims all, warranties with respect to Third-Party Solutions; all Third-Party Solutions sold by Howard are provided by Howard "AS- IS". Notwithstanding anything to the contrary herein, Purchaser agrees it will look solely to the provider, licensor or servicer of any such Third-Party Solution for any losses or claims arising from or relating to the Third-Party Solution, and Purchaser hereby releases Howard from responsibility or liability to Purchaser in connection therewith, including for negligent selection of such third-party or Third-Party

Solution, even if Howard resells, distributes, invoices or collects payment from Purchaser with respect to such Third-Party Solution.

Without limiting the above, Howard has no obligation to ensure that any Third-Party Solution or the use thereof by Purchaser complies with any applicable law, including any data security law. Purchaser is solely responsible for determining whether the administrative, technical, and physical controls implemented by the third-party provider, licensor or servicer of any such Third-Party Solution are adequate to ensure the confidentiality, security, and availability of Purchaser's data, including to protect Purchaser's data from unauthorized access, acquisition, disclosure, destruction, or alteration, or from any loss, unavailability, misuse, or damage in accordance with applicable law and/or any requirements of Purchaser. HOWARD HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF ANY PURCHASER DATA OR SOFTWARE OR FOR THE PAYMENT OF ANY RANSOM IN CONNECTION WITH ANY THIRD-PARTY SOLUTION.

### Waiver

No waiver by Howard of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Howard. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

### Relationship of the Parties; No third-Party Beneficiaries

The legal relationship between the Parties shall be that of buyer and seller, i.e., independent contractors, and shall not be understood so that either Party is deemed a partner or an agent of the other Party, nor will it confer upon either Party the right or power to bind the other Party in any contract or to the performance of any obligations as to any third party. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

### Force Majeure

Howard shall not be liable or responsible to Purchaser, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing hereunder when and to the extent such failure or delay is caused by or results from any act or omission of Purchaser or its agents, subcontractors, consultants, or employees or acts or circumstances otherwise beyond the reasonable control of Howard, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

### Governing Law; Jurisdiction; Venue; Waiver of Jury Trial; Limitations Period

This Agreement shall be exclusively governed by and exclusively construed in accordance with the

laws of the State of Mississippi, without giving effect to its principles of conflicts of laws. All disputes that may arise between the Parties shall be exclusively litigated in an applicable state court located in the Second Judicial District of Jones County, Mississippi or the United States District Court for the Southern District of Mississippi located in Hattiesburg, Mississippi. Each Party hereby consents to the exclusive jurisdiction and venue of such courts and waives any right it may otherwise have to object to or challenge the appropriateness of such forums on the basis of the doctrine of forum non conveniens or otherwise. The Parties expressly waive all rights to trial by jury and consent to a bench trial. Except in the case of nonpayment, no action related to this Agreement may be brought more than two (2) years after it accrues.

### Subcontractors

Howard shall have the right, from time to time, in its sole discretion, to engage third parties as subcontractors to perform hereunder or to otherwise provide Services or Products, or any part or component thereof.

### Miscellaneous

Purchaser shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Howard. Any purported assignment or delegation in violation of this section is null and void. No assignment or delegation relieves Purchaser of any of its obligations under this Agreement. The rights and remedies provided Howard hereunder are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity. The terms of this Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party. If any provision of this Agreement is invalid or unenforceable under any statute, regulation, ordinance, executive order, or other rule of law, the term will be deemed reformed or deleted as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions will remain in full force and effect. The provisions of this Agreement, which by their nature should apply beyond their terms will remain in force after any termination, cancellation, completion or expiration of this Agreement.

Ver. 11/13/23

## Howard Technology Solutions Returns Policy

All products sold are new unless otherwise stated and include the manufacturer's standard warranty. Any item found to be defective and reported to HTS within 30 days of receipt is eligible for return, with the exception of some consumables. All items which arrive damaged and reported to HTS within 5 days of receipt will have a damaged freight claim filed on the customer's behalf. All items requested for return outside these time limits are subject to the manufacturer's warranty and must be reported directly to the manufacturer. HTS makes no guarantees on returns as all returns are subject to the return policy of their individual manufacturer and supplier.

Howard Technology Solutions (HTS) return policy is provided as shown. Any request must be made within the time frame outlined for the respective reason for return. Product return requests to HTS after the designated period will not be processed.

### Restocking Fees

A 15% restocking fee may be charged on any hardware, accessories, peripherals, parts and on electronically delivered software that has not been downloaded. If the merchandise is defective or the return is a direct result of a HTS error, the restocking fee will not apply.

### Software and Consumables

OPENED SOFTWARE, CONFIGURE-TO-ORDER, PERSONALIZED, CUSTOMIZED PRODUCTS AND CONSUMABLES (TONER CARTRIDGES, INK CARTRIDGES AND DIGITAL MEDIA) MAY NOT BE RETURNED FOR REFUND, EXCHANGE OR CREDIT.

Software licenses purchased under any type of volume purchase agreement or any non-Howard customized hardware and/or software product(s) may not be returned at any time.

### Hardware, Parts, Accessories and Peripherals

Unopened software (sealed in original package), accessories, peripherals, parts only and/or hardware may be returned within twenty-one (21) days from the date on the invoice for a credit or refund of the purchase price paid less shipping and handling and applicable restocking fees. Opened product may not be accepted for return or be subject to additional fees to return the product to a saleable state. HTS has sole discretion on opened items that are not defective or the result of an HTS error as to the return ability of that item. Any request for a return of an opened item that is not defective or the result of an HTS error must be made within 15 days of receipt. Any request for a return of an unopened or opened item that is the result of an HTS error must be made within 21 days of product receipt.

### Non-Howard Technology Solutions Branded/Third-Party Products

## Howard Technology Solutions Return Policy

Return policy is available to view online at <http://howardcomputers.com/support/returnpolicy.cfm>

HTS makes no warranties for Software, or Non-Howard Technology Solutions branded products. HTS provides such product "as is". If you discover what you believe is a product defect for any third-party product, you may contact HTS within 21 days of receipt of the product for assistance. After 21 days from product receipt, warranty and service is provided by the product manufacturer and not by Howard Technology Solutions. Please note that products sold through the HTS website that do not bear the Howard Technology Solutions brand name are serviced and supported exclusively by their manufacturers in accordance with the terms and conditions packaged with the products. Howard's Limited Warranty does not apply to products that are not Howard-branded, even if packaged or sold with Howard products.

### Dead On Arrival (DOA) Products

A Howard-branded hardware product is considered DOA if, within 21 days of receipt it shows symptoms of a hardware failure, preventing basic operability, when you first use it after opening the box. If you believe that your product is DOA, please call HTS Technical Support at 1-888-323-3151 within 21 calendar days of the invoice date. HTS Technical Support will determine whether the product is DOA and will process the request by either:

**Replacement:** HTS, at its expense, will ship another of the same product.

**Service:** A pick-up will be arranged with the end user for return of the warranty repair unit. The warranty repair unit will be repaired at an authorized HTS depot facility.

If HTS Technical Support determines that a returned product is not DOA and you have misrepresented a returned product's condition, a handling fee may be imposed.

This DOA policy does not apply to third-party products that do not bear the Howard brand name after 21 days of receipt. You must call the product manufacturer directly with any third-party product issues after that time for assistance.

### APO/FPO Addresses

If you're an APO/FPO customer and you're outside the domestic delivery area, the standard Return and Refund Policy applies - with the exception that you're responsible for shipping the product back to a state-side return address, plus handling, customs, and inventory liability. We recommend that you insure your return against loss.

### Freight Claims

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The recipient of product agrees to report claims for damage, shortage, or errors in material as follows:

Claims for damage and/or shortage caused by shipping must be made by the consignee to the shipper within five (5) calendar days of delivery

All items in question must be kept in their original cartons and at the original delivery point for inspection by the carrier.

If notified, HTS will assist the purchaser as possible with the claim.

Claims involving shortages or errors will not be considered unless noted on the delivery receipt and reported to HTS within five (5) calendar days of delivery.

### Restrictions

PRODUCTS PURCHASED FROM A RESELLER SHOULD BE RETURNED TO THE RESELLER FOR REFUND OR CREDIT.

### Return Procedures

To return products, you must contact Howard service and support at 888-323-3151 or visit <https://www.howardcomputers.com/support/index.cfm> to obtain a Return Merchandise Authorization (RMA) number within the return policy period applicable to the product you want to return.

You must ship the products to Howard within five (5) days of the date that Howard issues the Return Merchandise Authorization Number. You must:

Ship the product(s), and insure the shipment or accept the risk of loss or damage during shipment.

The RMA number must be prominently displayed on the shipping label or visible on the outside of the shipping package.

Return the products in their original packaging, in as-new condition along with any media, documentation, and all other items that were included in the original shipment.