

## SOURCEWELL PARTICIPATING AGREEMENT

This Sourcewell Participating Agreement (“Participating Agreement”) by and between State of Iowa (“Contractor”) and Staples Contract & Commercial LLC, (“Staples”) is made effective as of August 1, 2020 (the Participating Agreement Effective Date”) and is attached to and governed by the Sourcewell Agreement(s) specifically marked and identified in Section 3.2 below (“Sourcewell Agreement(s)”) between Staples and Sourcewell. Buyer and Staples are collectively referred to herein as the “Parties”. All capitalized terms used herein shall have the meaning assigned to them in the Sourcewell Agreement unless otherwise defined herein.

**WHEREAS**, Buyer, a member of Sourcewell (as defined below), and Staples desire to enter into this Participating Agreement pursuant to which Contractor may participate in the Sourcewell Program to purchase Products (as defined below).

**NOW, THEREFORE**, in consideration of the foregoing mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

- 1. Participation:** Use of this specific Sourcewell cooperative contract 012320-SCC by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state’s statutes to use State of Iowa contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

Within the State of Iowa, all state agencies, state facilities, cities, counties or education entities or any entity funded in part with state tax dollars, are eligible purchasers and authorized to purchase Products and Services under the terms of this Participating Addendum in lieu of a separate competitive selection process.

- 2. Previous Participating Agreement(s).** The Parties acknowledge and agree that this Participating Agreement shall replace and supersede any previous Participating Agreement including any amendments attached thereto as of the Participating Agreement Effective Date set forth in paragraph 1 above.
- 3. Term.** The term of this Participating Agreement with respect to Contractor shall commence on the Participating Agreement Effective Date and shall be coterminous upon the earlier of (i) termination or expiration of the Sourcewell Agreement, or (ii) the date at which Contractor ceases to be a Member of Sourcewell (“Participating Agreement Term”). In the event that the Participating Agreement terminates or expires pursuant to (i) or (ii) above, Staples agrees to offer Contractor the option to enter into a separate agreement with Staples only, provided, however, Staples and Contractor mutually agree upon the terms and conditions of such separate agreement.
- 4. Definitions.**
  - 4.1 Sourcewell.** The Sourcewell is public agency serving as a national government/education contracting agency. Sourcewell was created and organized under the “Service Cooperative” section of the Minnesota Statute, M.S. 123A.21. Sourcewell is governed by publicly elected officials while cooperatively serving all

municipal and educational agencies nationally under the authority of the Minnesota Joint Exercise of Powers laws M.S. 471.59.

**4.2 Sourcewell Program.** The specific program(s) checked below:

- Supplies Program.** Office, school, and other workplace-related supplies and services offered for sale by Staples to Sourcewell members that are included in the Sourcewell national contract solution for the procurement of OFFICE SUPPLY CATALOG SOLUTIONS pursuant to RFP award #012320-SCC as amended from time to time.
- Furniture Program.** Furniture with related accessories and services offered for sale by Staples to Sourcewell members that are included in the Sourcewell national contract solution for the procurement of FURNITURE WITH RELATED ACCESSORIES AND SERVICES pursuant to RFP award #121919-SCC as amended from time.

**4.3 Products.** All items included in the Sourcewell Program that Contractor purchases or may purchase from Staples.

**5. Purchase Orders.** Unless otherwise agreed by the parties in writing, all purchase orders issued by Member during the Term of this Participating Agreement shall be governed only by the terms and conditions of this Participating Agreement notwithstanding any preprinted language on Member's purchase order or Staples' acknowledgement thereof.

**6. Contractor Representations and Warranties.** Contractor hereby represents and warrants that:

- 6.1** it is a governmental entity as defined in Minnesota Statute 471.59 or it is a nonpublic school administrative unit or non-profit eligible to participate in the Sourcewell Program pursuant to Minnesota Statute 123a.21;
- 6.2** it is a Sourcewell member and will maintain its Sourcewell membership during the Participating Agreement Term;
- 6.3** it has the local legal ability to recognize and participate in joint exercise of powers activities under the applicable state and federal procurement laws; and
- 6.4** as a member of Sourcewell, Contractor may participate in the Sourcewell Program, provided, however, Contractor acknowledges that it (i) will be bound in all respects by the terms and conditions of the Sourcewell Agreement and terms and conditions of this Participating Agreement

**7. Prices.** Prices for Products are available at the time of purchase on [www.StaplesAdvantage.com](http://www.StaplesAdvantage.com) or as otherwise provided by the Sourcewell Program. The pricing terms and discount matrix from the Master Agreement 012320-SCC shall flow down this PA. The participating State of Iowa will be giving the immediate benefit of any nationwide published commercial price list decrease. See attached Exhibit A

**8. Rebates.** In lieu of receiving the standard annual Sourcewell volume rebate for purchases made under the Sourcewell Furniture Program #121919-SCC, the State of Iowa will receive a 2.5% volume rebate for those items of such Contractors' Net Sales pursuant to this agreement annually based on an annual period of August 1 through July 31, to be paid within forty-five (45) calendar days after each annual period ending July 31 directly to the Participating State, made payable to the "Iowa Department of Administrative Services".

Send to:  
State of Iowa  
Department of Administrative Services - Central Procurement and Fleet Enterprise  
Attention: DAS – CPFSE COO  
1305 E. Walnut St.  
Des Moines, IA 50319

For the avoidance of doubt, the aforesaid rebate shall not apply to any excluded items. Excluded items include but are not limited to; non-stock or special-order items such as janitorial equipment, technology hardware products, custom print items, custom promotional products, Managed Print Services (MPS), gift cards, and retail store purchases.

- 8.1** “Net Sales” - Net Sales will be defined as the gross sales price of the applicable products and services sold under this contract, less taxes, duties, any rebates actually paid, discounts and allowances actually taken, rejections and returns to the extent credit is given or paid and also excluding purchases made via staples.com, or any Staples retail channel.
- 8.2** Payment of all discounts, incentives and/or rebates paid hereunder is contingent upon Buyer paying all invoices within the agreed-upon payment terms.

- 9. Quarterly Usage Reporting Requirement:** Contractor shall provide an electronic detailed quarterly report on ALL sales made under this Contract via e-Mail to the Master Agreement Administrator Name Julie Janssen email Julie.Janssen@iowa.gov. The initiation and submission of the quarterly reports are the responsibility of the OEM. There will be no prompting or notification provided by the Master Agreement Administrator. Failure to comply with this requirement may result in Master Agreement cancellation. Quarterly reports must coincide with the quarters in the fiscal year as outlined below:

Quarter #1: July 1 through September 30, due annually by October 30  
Quarter #2: October 1 through December 31, due annually by January 30  
Quarter #3: January 1 through March 31, due annually by April 30.  
Quarter #4: April 1 through June 30, due annually by July 30.

The report file format shall be Microsoft Excel compatible format. The report at minimum shall include the date of sale, customer name and address, full product description, SKU Numbers, quantity, invoice number, product description, product item number, quantity, unit and extended invoices unit and extended invoice prices.

- 10. Non Exclusivity:** Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict state and other governmental entities from acquiring similar, equal or like goods and/or services from other contracted entities or sources.
- 11. Payment Terms NET 60:** Payment for completion of a contract order is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 60 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted

by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

- 12. Compliance with the Law; Nondiscrimination in Employment:** The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers.

Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

**13. Sales Tax**

Section 423.3(31) of the Iowa Code, purchases of tangible personal property and services by the State of Iowa for public purposes and all sales of goods, wares, or merchandise and services sold to and used by the State of Iowa for public purposes are exempt from the state sales and use taxes.

- 14. Conflict.** In the event of conflict between this Participating Agreement and the Sourcewell Agreement, the terms and conditions of this Participating Agreement shall take precedence.

- 15. Termination.** Either Party may terminate this Participating Agreement for any reason upon at least thirty (30) calendar days' prior written notice to the other Party.

**[Signature page follows.]**

**IN WITNESS WHEREOF**, the Parties have executed this Participating Agreement under seal as of the Participating Agreement Effective Date.

**STATE OF IOWA**

By its authorized agent:

Julie Janssen  
(Signature)

Name: Julie Janssen

Title: Purchasing Agent III

Date: 07/28/2020

**Address for Notices:**

Hoover Building, 3<sup>rd</sup> Floor

1305 E Walnut Street

Des Moines, Iowa 50319

ATTN: \_\_\_\_\_

Telephone: 515-281-5602

Facsimile: 515-725-2064

Email: Julie.Janssen@iowa.gov

**STAPLES CONTRACT & COMMERCIAL LLC**

By its authorized agent:

Laura A. McAllester  
(Signature)

Name: Laura A. McAllester

Title: Regional Vice President

Date: Aug 3, 2020

**Address for Notices:**

Staples Contract & Commercial LLC

500 Staples Drive

Framingham, MA 01702

ATTN: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

**with a copy to:** General Counsel (Ref: \_\_\_\_\_ )