

**PARTICIPATING ADDENDUM                      EXECUTION COPY**  
**WSCA-NASPO COOPERATIVE PURCHASING PROGRAM**  
**OFFICE SUPPLIES & SERVICES, Toner, Paper, Recycled-**  
**Content/Green Products and other miscellaneous products.**  
**Administered by the State of Oregon (hereinafter "Lead State")**

MASTER AGREEMENT  
Office Depot, Inc.  
Master Agreement No: 5737  
(hereinafter "Contractor")

And

State of Montana  
(hereinafter "Participating State/Entity")

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1. **Scope:** This addendum covers the *Office Supplies and Services Master Agreement* led by the State of Oregon for use by state agencies and other entities located in the Participating **State/Entity** and authorized by that state's statutes to utilize **state/entity** contracts with the prior approval of the state's chief procurement official.

2. **Participation:** Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** 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.

3. **Participating State Modifications or Additions to Master Agreement:**  
Additions:

**State Participation:** All governmental entities within the Participating State and all registered Cooperative Purchasing Organizations are authorized to purchase products under the terms and conditions of the referenced Master Agreement.

**See Attachments A and B to this Participating Addendum, attached and made part of this Participating Addendum.**

4. **Lease Agreements:** There are no lease agreements under this Participating Addendum.

5. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

**Contractor**

Name	Jim Chatfield
Address	600 N. Military Trail, Boca Raton, FL 33496
Telephone	503-781-2970
Fax	503-520-0182
E-mail	<a href="mailto:James.chatfield@officedepot.com">James.chatfield@officedepot.com</a>

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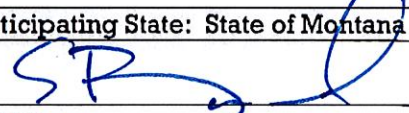
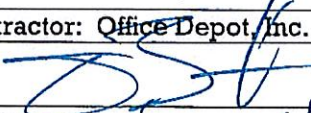
Participating State

Name	Tom Hastings, State of Montana
Address	125 North Roberts, Room 165, Mitchell Building, Helena, MT 59620
Telephone	406-444-0338
Fax	406-444-2529
E-mail	thastings@mt.gov

6. **Subcontractors:** All Contractor dealers and resellers authorized in the State of Montana, as shown on the dedicated Contractor cooperative contract website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The Contractor dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. **Orders:** Any Order placed by a Participating State/ Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: State of Montana	Contractor: Office Depot, Inc.
By: 	By: 
Name: Stephen Baiamonte	Name: Tim Burgett
Title: Administrator	Title: Vice President
Date: 22 JAN 2015	Date: 1/16/15



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[Additional signatures as required by Participating State]

**Check the Box if Participating State/Entity is an existing customer purchasing from the OfficeMax platform**

For questions on executing a participating addendum, please contact:

WSCA-NASPO

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	<a href="mailto:thay@wsca-naspo.org">thay@wsca-naspo.org</a>

**[Please email fully executed PDF copy of this document to [PA@wsca-naspo.org](mailto:PA@wsca-naspo.org) to support documentation of participation and posting in appropriate data bases]**

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**ATTACHMENT A**  
**Limitations on Products that may be offered under this**  
**Participating Addendum**

The following categories of products or individual items ARE NOT included in this Participating Addendum and may NOT be purchased by Montana state agencies under this Participating Addendum.

1. Janitorial supplies;
2. Can Liners;
3. Coarse paper;
4. Food service disposable products;
5. Computer equipment available under NASPO Computer Equipment, Peripherals and Related Services contract;
6. Photocopiers;
7. Office furniture and system component furniture; and
8. Mailing equipment.

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**ATTACHMENT B**  
**Montana Specific Terms and Conditions**

In the event of any conflict between these terms and the Master Price agreement # 5737, the following terms will prevail.

**ACCESS AND RETENTION OF RECORDS:** The Contractor agrees to provide the Participating State's, Montana's Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the Participating State or third party.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the Participating State. (Section 18-4-141, MCA.).

**HOLD HARMLESS/INDEMNIFICATION:** Contractor agrees to protect, defend, and save the Participating State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the Participating State, under this agreement.

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

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**REDUCTION OF FUNDING.** The Participating State must by law terminate this contract if funds are not appropriated or otherwise made available to support the Participating State's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Participating State shall terminate this contract as required by law. The Participating State shall provide Contractor the date the Participating State's termination shall take effect. The Participating State shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Participating State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Participating State's termination takes effect. This is Contractor's sole remedy. The Participating State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues

**REPORTING:** The Contractor shall submit quarterly and annual electronic reports that provide, at a minimum, the following information:

- a. Detailed usage reports by agency's individual user and ordering location, indicating the number items sold, including total dollar amounts on a quarterly basis.
- b. Fill rate information by agency and individual ordering location, including the number of orders submitted, orders processed, back orders, partially filled orders and re-orders on a quarterly basis.
- c. Annual report of contract usage by agency's individual user, including product description, total quantity sold of each item, total dollars expended, and the name of the agency purchasing the item. The annual usage report will be due by July 31 each calendar year.

Reported volumes and dollar totals may be checked by the Participating State's State Procurement Bureau against State records for verification.

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**ADMINISTRATIVE FEE**

The Contractor(s) shall submit to the Participating State's State Procurement Bureau an Administrative Fee in the amount of two percent (2%) of the total sales from this contract, less any additional shipping costs that are in excess of the contract price (including freight charges and insurance), returns, and, if applicable, taxes. Administrative fees must be submitted for each calendar quarter in the form of a check or ACH. The Administrative Fee must be submitted within 45 calendar days of the end of each quarter. Pricing has been adjusted to reflect Administrative Fee. Price to end user will reflect the adjustment. Notwithstanding the adjustment, all pricing updates and other terms and conditions of pricing shall be as set forth in the WSCA-NASPO/State of Oregon Contract #PA 5737.

**EXCLUSIVE CONTRACT**

This contract is to provide state agencies with an expedited means of procuring office supply products. This contract is considered to be an "Exclusive" use contract and state agencies must obtain the specified office supply from the Contractor. However, the Contractor and Participating State acknowledge and agree that Montana law provides that an agency may, without meeting statutory competitive bidding requirements, purchase an office supply from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered under this contract if the office supply conforms in all material respects to the terms, conditions, and quality offered through this contract. (18-4-302(3), MCA.) The Montana University System has optional use of this contract.

**NO MINIMUM USAGE/AGENCY OBLIGATION**

The Participating State's State Procurement Bureau does not guarantee any minimum usage totals, and it is the individual agency's responsibility to comply with the terms of the contract.