

Meeting Date
July 26, 2016



AGENDA	
Section	Consent
Item No.	II C.4

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Permission to Execute Integrated Supply Agreement, National Joint Purchasing Alliance (NJPA) Contract #061015-GPC
DEPT/OFFICE:	Fire Rescue

Requested Action:

It is requested that the Board authorize Fire Rescue to enter into Agreement with Genuine Parts Company, d/b/a NAPA Auto Parts to establish a source of supply for certain auto and truck parts; and to provide an Integrated Business Solutions services. It is further requested that the Board approve the Chair to execute the resulting contract, amendments and contract renewals upon approval by the County Attorney's Office and Risk Management and authorize all necessary budget changes required to execute.

Summary Explanation & Background:

Fire Rescue is requesting approval to utilize the National Joint Purchasing Agreement (NJPA) to contract with NAPA Auto Parts-Integrated Business Solutions (NAPA IBS) to manage the Department's parts inventory at Fire Rescue Fleet. National Joint Powers Alliance (NJPA) is a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21. NJPA is a public agency that serves as a member-focused cooperative for over 50,000 member agencies nationally. The Brevard County Purchasing Group Cooperative has acknowledged the value of the contract, and the service benefits of utilizing NAPA IBS for Fleet Parts management. The Board recently approved a similar contract with NAPA IBS for Central Services/Fleet Services.

Fire Rescue Fleet Services is responsible for the maintenance and repair of over 150 fire, EMS, and support vehicles, with an FY 15/16 parts and equipment budget of \$655,000.00. The Parts Stock Room is managed by one (1) employee who maintains the current parts inventory. Additional parts are acquired daily through local purchasing contracts or other vendors. As with the Central Fleet contract, NAPA IBS will purchase the existing inventory and then provide an on-site Parts Manager. This will allow Fire Rescue to reclassify the existing storekeeper position to a mechanic, thus increasing the Department's repair and maintenance capabilities. Additional benefits include dramatically reducing the number of purchase orders and invoices handled by the Department, an increase in on-demand parts availability, and reduced vehicle downtime through the use of the nationwide NAPA parts acquisition capabilities. NAPA's capabilities will be especially advantageous in securing difficult to find parts for our current engine and ladder fleet.

Based upon the NAPA IBS analysis of the Department's parts operation, they estimate a one-time parts inventory purchase from the Department at approximately \$175,000.00, and an annual cost savings in parts of approximately \$150,000 per year. When all costs of the NAPA Parts Management contract are considered, NAPA estimates a net hard dollar savings for the Department at approximately \$16,000 annually. This contract presents a unique opportunity for the Department to improve parts availability, decrease overall costs, and reclassify the no longer needed storekeeper position to that of a much needed mechanic to service and maintain vehicles.

Fiscal Impact: Estimated \$16,000 annual savings for Fire Rescue Department

Contact: Mark Schollmeyer, Fire Chief/Director  
633-2056 Ext. 52555  
mark.schollmeyer@brevardfl.gov

Clerk to the Board Instructions:

Exhibits Attached: Integrated Supply Agreement

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager		Frank Abbate, Assistant County Manager			Department Director / Extension		
Stockton Whitten		Assistant County Manager			Mark Schollmeyer, Fire Chief/Director 633-2056, extension 52555		

**SECTION I - The following information must be completed on all new contracts submitted to the Board.**

1. Contractor: Genuine Parts Company D/B/A: NAPA Auto Parts	
2. Fund/Account #:	Department Name: Brevard County Fire Rescue
4. Contract Description: Integrated Fleet Supply Agreement	
5. Contract Monitor: Fred Jodts, Division Chief/Carrie Cotter	6. Mail Stop #: 50
7. Dept./Office Director: Mark Schollmeyer, Fire Chief/Director	8. Contract Type:
ACTION DATE: 30 days from entry	ACTION REQUIREMENT: Need complete data

**SECTION II - The following departments must approve all contracts submitted to the Board:**

COUNTY OFFICE	APPROVAL		INITIALS	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	6-20-16
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	6/22/2016
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	6/21/16

If any office denies approval, the package will be returned immediately to the User Agency.

**SECTION III - CONTRACT MANAGEMENT DATABASE CHECKLIST**

DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund and GL Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional renewals/extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in database (Initial Contract Form with County Attorney/Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>
<b>Note:</b> Insurance Certificates uploaded under collapsible/expandable <u>Monitor Bar Section</u> Change Order/Task Order uploaded under collapsible/expandable <u>Monitor Bar Section</u> Contract Renewal documents uploaded under collapsible/expandable <u>Renewal /Bar Section</u>	
<b>NOTE:</b> This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form, Executed/Attested Contract to department for contract to be entered and uploaded into the Contract Management System. See AO-29 for additional information.	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

July 27, 2016

MEMORANDUM

TO: Chief Mark Schollmeyer, Fire Rescue Director

RE: Item II.C.4., Permission to Execute Integrated Supply Agreement with Genuine Parts Company d/b/a NAPA Auto Parts, National Joint Purchasing Alliance (NJPA) Contract #061015-GPC to Provide Integrated Business Solutions Services

The Board of Commissioners, in regular session on July 26, 2016, executed Integrated Supply Agreement with Genuine Parts Company d/b/a NAPA Auto Parts to establish a source of supply for certain auto and truck parts, and to provide Integrated Business Solutions services; authorized the Chairman to execute the resulting contract, amendments, and contract renewals, upon approval by the County Attorney's Office and Risk Management; and authorized all necessary budget changes required to execute. Enclosed is a certified Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Contracts Administration  
Finance  
Budget

## **INTEGRATED SUPPLY AGREEMENT**

**THIS INTEGRATED SUPPLY AGREEMENT** (this "Agreement") is made by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "CUSTOMER"), and Genuine Parts Company, a Georgia corporation (d/b/a NAPA Auto Parts) ("NAPA"), to be effective as of the 26 day of July, 2016 (the "Effective Date").

### WITNESSETH:

WHEREAS, pursuant to a competitive bidding and selection process by the National Joint Powers Alliance (hereinafter, "NJPA"), a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21, NJPA and NAPA executed contract #061015 on July 21, 2015 (hereinafter, "NJPA Contract"), attached hereto as Exhibit A, to establish a source of supply for certain auto, truck and bus parts as well as to provide Integrated Business Solutions services; and

WHEREAS, by becoming a participating member of NJPA (hereinafter, "Member"), CUSTOMER and its related entities (hereinafter, "User Agencies") are authorized to utilize the pricing and incentives available to NJPA Members set forth in the NJPA Contract; and

WHEREAS, CUSTOMER desires to become a User Agency under such NJPA Contract and desires to receive integrated business solutions services from NAPA; and

WHEREAS, CUSTOMER and NAPA agree that the NJPA Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the NJPA Contract shall govern the relationship of the parties; and

WHEREAS, NAPA desires to provide integrated business solutions services and to establish inventories in CUSTOMER's locations to service the fleet parts needs of CUSTOMER and to serve as the primary supplier of automotive replacement parts and other supplies and/or equipment (the "Inventory") to serve the needs of CUSTOMER; and

WHEREAS, CUSTOMER desires to provide space for the Inventory on the premises of CUSTOMER for use by NAPA ("On Site Store") and agrees that NAPA will be its primary supplier of the Inventory pursuant to the terms herein.

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

**1. DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) **Primary Supplier** shall mean the parts supplier that provides a minimum of ninety percent (90%) of the Inventory needs of CUSTOMER.
- (b) **NAPA Owned Store** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" which is wholly owned by NAPA.
- (c) **NAPA Jobber** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" with respect to which NAPA maintains no ownership interest.

2. **CUSTOMER'S CURRENT LOCATIONS.** NAPA will establish On Site Store(s) at the CUSTOMER'S following location(s):

351 Wenner Way, Cocoa FL 32926  
Manager: Division Chief Support Services

Additional locations of the CUSTOMER may be added to this Agreement but only by a written amendment executed and agreed to by both the CUSTOMER and NAPA. Notwithstanding the foregoing language, CUSTOMER agrees to, and hereby grants, NAPA the right of first refusal on any and all new or additional locations of CUSTOMER that are to be serviced by a similar supply entity.

3. **SCOPE OF THE WORK.**  
**DUTIES AND RESPONSIBILITIES OF NAPA.** NAPA shall have the following duties and responsibilities during the term of this Agreement:

(a) NAPA will operate the On Site Store(s) and provide the Inventory to CUSTOMER's now existing location(s). NAPA shall provide all personnel required to operate the On Site Store(s).

(b) In those circumstances when delivery is required by CUSTOMER, NAPA will provide parts to CUSTOMER's locations on a route operated by NAPA on a daily schedule. In addition, NAPA will accelerate delivery on those items CUSTOMER requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the CUSTOMER's location(s) which are requesting part(s).

(c) NAPA shall provide all computers and reports necessary to monitor monthly expenses as they pertain to the daily operation of the On Site Store(s). NAPA shall provide computer ordering and cataloging to each On Site Store through its proprietary TAMS (Total Automotive Management System), which it cannot assign nor leave with CUSTOMER upon termination or expiration of this Agreement.

(d) NAPA shall provide an Operating Costs Statement of the parts operations to the CUSTOMER on approximately the 25<sup>th</sup> day of each month for each On Site Store.

(e) NAPA shall provide back-up emergency service during non-working hour contingencies. The overtime expense (calculated at time and one half) will be charged on a cost basis to CUSTOMER. NAPA will provide a list of personnel, including telephone numbers, who will respond to emergency service requests.

**DUTIES AND RESPONSIBILITIES OF CUSTOMER.** CUSTOMER shall have the following duties and responsibilities during the term of this Agreement:

(a) CUSTOMER shall provide, at its sole expense, usable space for NAPA's On Site Store(s) and the Inventory. CUSTOMER shall provide access to restroom facilities for NAPA employees. Further, CUSTOMER shall furnish, at its sole expense, all utilities for the On Site Store(s) including: water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s) whatsoever.

(b) CUSTOMER shall use NAPA as its Primary Supplier of the Inventory under this Agreement. CUSTOMER reserves the right to purchase any item outside this Agreement where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in NAPA no longer being CUSTOMER's Primary Supplier.

(c) Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of CUSTOMER. There shall be no intermingling of CUSTOMER's parts or other inventory with NAPA's parts or inventory. Access to the secured On Site Store(s) shall be restricted to NAPA employees and authorized NAPA representatives only. Once per year NAPA shall utilize a third party to perform an Inventory count in the On Site Store while accompanied by NAPA. CUSTOMER'S employees, contractors or agents shall not be permitted to enter the secured On-Site Store area unless accompanied by a NAPA employee or other authorized NAPA representative.

(d) CUSTOMER shall, at all times during the term of this Agreement, at CUSTOMER'S sole expense, maintain in good condition and repair (so as to prevent any damage or injury to NAPA's employees, the Inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).

(e) CUSTOMER shall provide information regarding equipment and fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet and the addition of new vehicles to the fleet.

4. **TERM.** This Agreement shall begin on the Effective Date and shall end when the NJPA Contract terminates or expires or when terminated earlier in accordance with the applicable terms and conditions stated herein. As the NJPA Contract is renewed or extended, this Agreement may be renewed or extended for a period of time equal to or shorter than the period of time the NJPA Contract is renewed or extended upon the mutual written agreement of the Parties.

5. **PAYMENT TERMS/PRICING.** NAPA shall invoice the CUSTOMER for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. CUSTOMER shall remit payment to NAPA for all invoices in accordance with the Florida Prompt Payment Act, Florida Statute section 218.70, et seq. No prompt pay discount is available under this Agreement.

The overall goal of CUSTOMER's pricing plan is to achieve a ten percent (10%) net profit for NAPA (the "Net Profit Target") based on the following elements:

- (a) **Product Costs.** Product Costs shall be further divided into "**NAPA Product Costs**," which is the pricing of NAPA supplier manufactured products, and "**Non-NAPA Product Costs**," which is the pricing of products which have not been manufactured by NAPA suppliers but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement.
- (b) **Outside Purchases or Services Costs.** Outside Purchases or Services Costs is the pricing of those parts or services not traditionally stocked or performed by NAPA.
- (c) **Operational Costs.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, and all equipment supplied by NAPA. An example of an Operating Costs Statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the Operating Costs Statement set forth on Exhibit B are subject to change based on actual monthly costs and expenses incurred relative to the operation of the On Site Store(s).
- (d) **Management Fee.** CUSTOMER shall be billed a Management Fee (as defined below) on a monthly basis in accordance with the terms below.

**PRICING PLAN SUMMARY**

NAPA Product Costs	Billed to CUSTOMER at current jobber net store acquisition cost.
Non-NAPA Product Costs and Outside Purchases and Services	Billed to CUSTOMER at NAPA's cost plus a zero percent (0%) gross profit rate.
Operational Costs	Billed to CUSTOMER at cost.
Management Fee	Billed to CUSTOMER in accordance with the terms below.
Net Profit Target	10% Net Profit for NAPA

NAPA Product Costs shall be billed to the CUSTOMER at current jobber net store acquisition cost. Non-NAPA Product Costs and Outside Purchases/Services shall be set by NAPA to yield a gross profit of zero percent (0%). Operational costs will be charged to CUSTOMER at cost, with all such charges for Operational Costs to be

included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for operational costs on an "in arrears" basis.

CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to ten percent (10%) of the Total Monthly Net Sales (as defined below) during the preceding month (the "Management Fee"). For purposes hereof, "Total Monthly Net Sales" means the total dollar amount of all products (both NAPA and Non-NAPA) and outside purchases and services sold to the CUSTOMER during the preceding month at the costs set forth in the pricing plan summary above less purchase returns.

The parties agree to work together in good faith to promptly resolve any disputed invoices. NAPA will provide parts credit to the CUSTOMER for any defective or warranty parts at the time they are returned to NAPA (through the parts counter) with a credit memo invoice issued to the CUSTOMER.

6. **INDEMNIFICATION.** NAPA shall indemnify and hold harmless CUSTOMER and its agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorney's fees arising out of or resulting from: (i) the negligent acts or omissions or intentional misconduct of NAPA, its employees, officers, directors or agents hereunder; (ii) the breach of any provisions hereunder by NAPA; and (iii) NAPA's violation of any applicable laws, rules and regulations. NAPA's indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for NAPA, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration has been exchanged for this provision. NAPA shall in no way be liable to CUSTOMER for the negligent acts or omissions or intentional misconduct of CUSTOMER, its employees, officers, directors or agents.

7. **MODIFICATIONS TO CONTRACT.** This Agreement, together with any exhibits, constitutes the entire Agreement between the CUSTOMER and NAPA and supersedes all prior written or oral understandings. This Agreement and any exhibits may only be amended or supplemented by a written instrument duly executed by the parties hereto.

8. **INSURANCE - NAPA.** NAPA shall keep in force and at all times maintain during the term of this Agreement:

(a) **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies and in a form reasonably acceptable to CUSTOMER, with limits of not less than One Million Dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage, Personal Injury, and Products and Completed Operations.

(b) **Automobile Liability Insurance:** Automobile Liability coverage shall be in the minimum amount of One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage per accident.

(c) **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, including coverage for its employees located at the On Site Store(s), as required by State of Florida law, shall be provided.

(d) **Insurance Certificates:** NAPA shall provide CUSTOMER with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) reasonably acceptable to the CUSTOMER. Said Liability Policies shall provide that the CUSTOMER be an additional insured to the extent of NAPA's indemnification obligations herein. The CUSTOMER shall be notified in writing by the Carrier of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are reasonably acceptable to the CUSTOMER and licensed and authorized under the laws of the State of Florida.

(e) **Personal Property:** In addition, NAPA shall maintain personal property insurance during the term of this Agreement in an amount sufficient to cover any loss or damage to the Inventory and any other personal property owned by NAPA that is located at the On Site Store(s).

#### 9. INSURANCE – CUSTOMER.

(a) CUSTOMER shall provide at its sole expense "all risks" fire and property insurance on all buildings and/or improvements in which the On Site Store(s) are located throughout the term of the Agreement. Further, CUSTOMER shall, throughout the term of this Agreement, at CUSTOMER'S expense, obtain and maintain in force a policy of commercial general liability insurance, such insurance to be written on an "occurrence" basis with combined single limits for any one injury, including death, and for property of not less than \$1,000,000.00 per occurrence. Said policy shall be issued by responsible company(ies) who are reasonably acceptable to NAPA and authorized to transact business in the State of Florida. CUSTOMER shall further maintain during the term of this Agreement worker's compensation insurance coverage in amounts required by law. CUSTOMER shall provide to NAPA, upon execution of this Agreement, a copy of all Certificates of Insurance evidencing the insurance coverages above.

(b) Nothing in this Agreement shall be construed to waive sovereign immunity, the limited waiver set forth in Florida Statute 768.28, or any of the provisions/caps on payment of claims/judgments set forth in sec. 768.28(5).

#### 10. NO LIENS; UCC-1.

(a) CUSTOMER warrants that it shall take no action, including but not limited to the granting of a security interest, or fail to take any action, which would operate or does operate in any way to encumber the Inventory of NAPA located in the On Site Store(s).

(b) CUSTOMER agrees and acknowledges that Inventory that is delivered and stored on CUSTOMER's property pursuant to this Agreement is Inventory owned by NAPA and further acknowledges and agrees that NAPA may send notice to CUSTOMER's creditors notifying such creditors of the ownership rights of the Inventory.

(c) CUSTOMER acknowledges and agrees that NAPA shall file a UCC-1 statement covering NAPA's Inventory on CUSTOMER's premises, noting that such Inventory is consignment inventory, in order to protect NAPA's interests in its Inventory.

11. **PERSONNEL.** NAPA and CUSTOMER shall attempt in good faith to mutually agree upon the identity of the persons that will be selected to staff the On Site Store(s). In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve CUSTOMER's request by mutual agreement. However, CUSTOMER may require NAPA to remove any person(s) from employment at the On Site Store that the CUSTOMER deems at its sole and reasonable discretion is necessary in order to comply with Federal or State statutes and regulations.

12. **WARRANTY/LIABILITY DISCLAIMER.** All items supplied pursuant to this Agreement are subject to the terms of written warranties provided by the manufacturer of each part, and NAPA shall use reasonable commercial efforts to assist the CUSTOMER in processing all warranty claims that the CUSTOMER may have against a manufacturer. The manufacturer's warranty will be the sole and exclusive remedy of the CUSTOMER in connection with any claims concerning the parts supplied to CUSTOMER pursuant to this Agreement. ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. Copies of the manufacturers' warranties are available to CUSTOMER upon request. For suppliers (or categories of suppliers) of Non-NAPA products that CUSTOMER instructs NAPA to utilize or consider for future purchases, NAPA is under no obligation to (and NAPA disclaims all liability in connection with) investigate product quality, management, ownership, reputation, certifications, qualifications, price competitiveness, or any other related characteristics of the products, individuals or entities at issue.

Notwithstanding the foregoing, in the event that any product does not conform to the manufacturer's warranty, CUSTOMER may return such product to NAPA, and NAPA will at the time of return, as CUSTOMER's sole and exclusive remedy and NAPA's sole liability, process CUSTOMER's warranty claim with the manufacturer of the defective/non-conforming product and issue a credit or refund to CUSTOMER for the price of the defective/non-conforming product. If, however, the manufacturer later rejects the CUSTOMER's warranty claim, NAPA will bill the CUSTOMER for the amount of the credit or refund issued to the CUSTOMER for the returned product, and CUSTOMER will pay such amount to NAPA in accordance with the payment terms set forth in Section 5 above.

13. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

14. **GOVERNING LAW.** This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

15. **COMPLIANCE WITH STATUTES.** It shall be the Contractor's responsibility to be aware of and comply with all applicable federal, state and local laws.

16. **VENUE.** Venue for any legal action by any party to this agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be nonjury.

17. **ASSIGNMENTS/ALTERNATIVE SUPPLIERS.**

(a) NAPA shall not assign any portion of this agreement without the written permission of the CUSTOMER. Likewise, CUSTOMER shall not assign any portion of this Agreement without the written permission of NAPA.

(b) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. If CUSTOMER and NAPA mutually agree that it is in the best interest of the parties for CUSTOMER to be serviced by a NAPA Jobber, then CUSTOMER, NAPA and the NAPA Jobber will execute that certain Assignment in the form of Exhibit C attached hereto.

18. **TERMINATION.**

(a) This Agreement may be terminated immediately, unless otherwise stated in this Section 18, by either party for cause: (i) in the event that the other party fails or refuses to pay any amounts due under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; (ii) in the event that the other party fails or refuses to perform any other obligation required under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or (iii) in the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.

(b) Immediately upon termination of the Agreement for any reason, CUSTOMER shall pay to NAPA all undisputed amounts due and owing to NAPA at the time of termination.

(c) Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property or information owned by the other party that are in such party's possession.

(d) CUSTOMER shall allow NAPA full and unrestricted access to enter into the On Site Store(s) and immediately remove all equipment and other items of personal property owned by NAPA without being deemed guilty of trespass or any other violation of the law. All inventory records, sales history, sales analysis and all other information generated by NAPA under this Agreement will be returned to CUSTOMER.

19. **TERMINATION FOR CONVENIENCE.**

(a) Either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.

(b) Final payment and return of property, etc., shall be as provided in Paragraph 18(b) through (d) above.

20. **BUY-BACK OF INVENTORY.** Upon termination, expiration, or non-renewal of the Agreement, NAPA shall have the option to require CUSTOMER to purchase all non-NAPA Inventory owned by NAPA and located in the On Site Store(s) at

NAPA's current acquisition cost, and CUSTOMER shall have the option to purchase all NAPA Inventory, owned by NAPA and located in the On Site Store(s) at NAPA's current acquisition cost. Upon CUSTOMER's request, NAPA shall provide CUSTOMER with a listing of all NAPA and non-NAPA Inventory owned by NAPA and located in the On Site Store(s).

21. **INDEPENDENT CONTRACTOR.** NAPA shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute NAPA or any of its agents or employees to be the agent, employee or representative of the CUSTOMER.

22. **RIGHT TO AUDIT RECORDS.** The CUSTOMER and its auditors, at CUSTOMER's sole cost and expense, shall be entitled to audit the books and records of NAPA to the extent that such books and records relate to the performance of this Agreement upon providing to NAPA at least ten (10) days prior written notice. Said records shall be made available, upon request, for audit purposes to the CUSTOMER and its auditors. Such books and records shall be maintained by NAPA for a period of five (5) years from the date of final payment under this Agreement unless a shorter period is otherwise authorized in writing. Audits will be limited to once per calendar year.

23. **PUBLIC RECORDS.** Both parties understand that Brevard County/Customer is subject to the Florida Public Records Law, Chapter 119, Florida Statutes and all other applicable laws. If records provided or created by NAPA under this Agreement do not fall under a specific exemption under Florida or federal law, the records provided, created or maintained by NAPA under this Agreement must be provided to anyone making a public records request. It will be NAPA's duty to identify the information which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

Should any person or entity make a public records request of the Customer which requires or would require the Customer to allow inspection or provide copies of records which NAPA maintains are exempt under the Public Records Law or otherwise confidential, it shall be NAPA's obligation to provide the County within 72 hours (not including weekends and legal holidays), of notification by the Customer to NAPA of the records request, of the specific exemption or confidentiality provision to allow the Customer to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the Customer face any kind of legal action to require or enforce inspection or production of any records provided by NAPA to the Customer which NAPA maintains are exempt or confidential from such inspection/production as a public record, NAPA shall hire and compensate attorney(s) who shall represent the interests of the Customer as well as NAPA in defending such action. NAPA shall also pay any costs to defend such action and shall pay any costs and attorneys fees which may be awarded pursuant to Fla. Stat. 119.12.

24. **FORCE MAJEURE / DAMAGE OF PREMISES.**

(a) Whenever performance by either party of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies or by any other

cause not within the reasonable control of such party and not occasioned by its negligence, then such performance shall be excused and the performance of such obligations under this Agreement shall be suspended for the duration of such prevention and for a reasonable time thereafter.

(b) NAPA may terminate this Agreement immediately in the event that the CUSTOMER's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the CUSTOMER's premises unusable for the On Site Store(s) in the reasonable judgment of NAPA.

25. **SUCCESSORS AND ASSIGNS.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld

26. **UNAUTHORIZED ALIEN WORKERS.** CUSTOMER will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The CUSTOMER shall consider NAPA's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

27. **FEDERAL TAX ID NUMBER.** NAPA shall provide to the CUSTOMER its Federal Tax ID Number.

28. **EMPLOYMENT.** NAPA shall not engage the services of any person or persons now employed by the CUSTOMER, including any department, agency, board or commission thereof, to provide services relating to this Agreement without written consent from the CUSTOMER.

29. **PUBLIC ENTITY CRIMES.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

30. **CONSTRUCTION OF AGREEMENT.** The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.

31. **NOTICE.** Notice under this Agreement shall be given by certified mail or hand delivery as follows: Brevard County 2725 Judge Fran Jamieson Way C303, Viera,

FL 32940 and Notice shall be given to NAPA by certified mail or hand delivery as follows: Patrick Wolfe, Division Office, 11718 N. Florida Avenue, Tampa, FL 33612.

32. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

33. **NJPA CONTRACT.** CUSTOMER and NAPA acknowledge and agree that the NJPA Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the NJPA Contract shall govern the relationship of the parties.

**[Signatures appear on following page]**

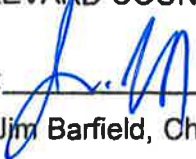
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

ATTEST:



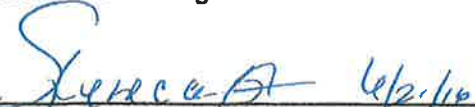
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

By:   
Jim Barfield, Chairman


Approved by the Board on: 7/26/16

Reviewed for Legal Form and Content:

  
Becky Behl-Hill, Assistant County Attorney

ATTEST:

GENUINE PARTS COMPANY  
dba NAPA Auto Parts

By:   
Signature

By: 

Date: 7/14/2016

Date: July 14, 2016

ERIC MAURZY, IBS OPS MGR  
Name & Title, Typed or Printed

PATRICK WOLFE  
DIVISION VICE PRESIDENT  
Name & Title, Typed or Printed

GENUINE PARTS COMPANY  
Name of Company, Corp., etc.

2999 Wildwood Parkway  
Mailing Address

ATLANTA, GA 30339  
City, State, Zip

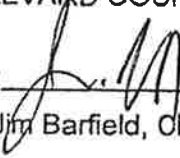
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

ATTEST:



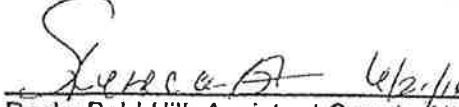
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

By:   
Jim Barfield, Chairman

Approved by the Board on: 7/26/16

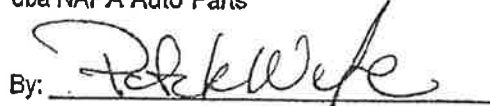
Reviewed for Legal Form and Content:

  
Becky Behl-Hill, Assistant County Attorney

ATTEST:

GENUINE PARTS COMPANY  
dba NAPA Auto Parts

By:   
Signature

By: 

Date: 7/14/2016

Date: July 14, 2016

ERIC MAURZY, IBS OPS MGR  
Name & Title, Typed or Printed

PATRICK WOLFE  
DIVISION VICE PRESIDENT  
Name & Title, Typed or Printed

GENUINE PARTS COMPANY  
Name of Company, Corp., etc.

2999 Wildwood Parkway

Mailing Address

Atlanta, GA 30339

City, State, Zip

STATE OF FLORIDA  
COUNTY OF BREVARD

This is to certify that the foregoing  
is a true and current copy of Signature  
Supply Agreement witness my hand  
and official seal this 14 day of  
July 2016

SCOTT ELLIS, Clerk of Circuit Court :

By:  D.C.

**EXHIBIT A**  
**NJPA CONTRACT**

See attached.



Contract Acceptance and Award

(To be completed only by NJPA)

**NJPA 061015 FLEET-RELATED MAINTENANCE EQUIPMENT, SUPPLIES, SERVICES, AND INVENTORY MANAGEMENT SOLUTIONS**

Genuine Parts Company/NAPA Integrated Business Solutions (IBS)  
Proposer's full legal name

Your proposal is hereby accepted and awarded. As an awarded Proposer, you are now bound to provide the defined product/equipment and services contained in your proposal offering according to all terms, conditions, and pricing set forth in this RFP, any amendments to this RFP, your Response, and any exceptions accepted or rejected by NJPA on Form C.

The effective start date of the Contract will be July 21<sup>st</sup>, 20 15 and continue for four years from the board award date. This contract has the consideration of a fifth year renewal option at the discretion of NJPA.

National Joint Powers Alliance® (NJPA)

NJPA Authorized signature:

NJPA Executive Director

Dr. Chad Coquette

(Name printed or typed)

Awarded this 21<sup>st</sup> day of July, 20 15 NJPA Contract Number 061015-GPC

NJPA Authorized signature:

NJPA Board Member

Scott Veronen

(Name printed or typed)

Executed this 21<sup>st</sup> day of July, 20 15 NJPA Contract Number 061015-GPC

Proposer hereby accepts contract award including all accepted exceptions and NJPA clarifications identified on FORM C.

Vendor Name GENUINE PARTS Company / NAPA IBS

Vendor Authorized signature:

(Name printed or typed)

Title: VICE PRESIDENT - NAPA IBS

Executed this 22<sup>nd</sup> day of July, 20 15 NJPA Contract Number 061015-GPC

**EXHIBIT B**

**SAMPLE OPERATIONAL COSTS STATEMENT**

See attached.

**Brevard County Fire Department**

OPERATING STATEMENT	MONTHLY	Month Percentage to Sales	YEARLY	EXPENSE DESCRIPTION
Cost of Parts Purchases	\$ 60,000.00		\$ 720,000.00	Cost of Parts Sold
Markup	\$ -	10.00%	\$ -	Profit earned with Sales
<b>TOTAL SALES</b>	<b>\$ 60,000.00</b>		<b>\$ 720,000.00</b>	<b>Total Part Sales</b>
Executive Salaries	\$ 600.00	1.00%	\$ 7,200.00	Set Fee based on 1.00% of Sales for Management Personnel
Acctg & Data Proc.	\$ 300.00	0.50%	\$ 3,600.00	Set Fee based on 0.50% of Sales for Accounts Receivable and Payable Office Personnel
General Office	\$ 300.00	0.50%	\$ 3,600.00	Set Fee based on 0.50% of Sales for HR, LP, Inventory Control Office Personnel
Manager Payroll	\$ 3,600.00	6.00%	\$ 43,200.00	Gross Pay for Store Manager
Driver Payroll	\$ -	0.00%	\$ -	Gross Pay for Driver
Pensions	\$ 300.00	0.45%	\$ 3,600.00	Set Fee based on 0.45% of Sales for Pension, 401K
Payroll Taxes	\$ 311.00	0.52%	\$ 3,732.00	Combined Employer Paid Payroll Taxes for All Store Employees
Group Insurance & Benefits	\$ 647.00	1.08%	\$ 7,764.00	Combined Employer Paid Benefits for All Store Employees
<b>TOTAL PAYROLL</b>	<b>\$ 6,058.00</b>	<b>10.10%</b>	<b>\$ 72,696.00</b>	<b>Total Payroll Expenses</b>
Delivery Insurance	\$ -	0.00%	\$ -	Insurance for Delivery Vehicle
Maintenance & Fuel	\$ -	0.00%	\$ -	Vehicle Expenses- Fuel, Repairs, Toll
Depreciation - Vehicles	\$ -	0.00%	\$ -	Monthly Depreciation of Vehicles (incl. Tag, Tax/Title)
Depreciation - Fixed Assets	\$ -	0.00%	\$ -	Monthly Depreciation of Stockroom Refurbishment Costs and/or Equipment
Freight & Postage	\$ 90.00	0.15%	\$ 1,080.00	Freight & Postage
Insurance	\$ 88.00	0.16%	\$ 1,056.00	General Liability Insurance, Workman's Comp, Liability for Assets
Store Expense	\$ 350.00	0.58%	\$ 4,200.00	Store Operating Expenses
TAMS	\$ 1,200.00	2.00%	\$ 14,400.00	Computers (Lease or Depreciation) and Support fees
Taxes (Not Income)	\$ 45.00	0.08%	\$ 540.00	Taxes: Sales and use, Personal Property (Inv)
<b>TOTAL MISC. EXPENSES</b>	<b>\$ 1,773.00</b>	<b>2.96%</b>	<b>\$ 21,276.00</b>	<b>Total Misc Operating Expenses</b>
		0.00%	\$ -	
<b>TOTAL EXPENSES</b>	<b>\$ 7,831.00</b>	<b>13.05%</b>	<b>\$ 93,972.00</b>	<b>Total Payroll and Misc Operating Expenses</b>
IBS Management Fee	\$ 6,000.00	10.00%	\$ 72,000.00	
<b>GRAND TOTAL AND EXPENSES</b>	<b>\$ 73,831.00</b>		<b>\$ 885,972.00</b>	<b>Total of Parts, Expenses, and Management Fee</b>

Note: The above numbers represent a calculated projection of monthly and yearly expenses, parts usage, and corresponding IBS management fee. These numbers will vary monthly per actual costs and demand. Monthly billing will include documentation to support the actual charges upon receipt.

EXHIBIT C

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, GENUINE PARTS COMPANY, a Georgia corporation (hereinafter "Assignor"), hereby assigns, transfers, sets over and delivers to [JOBBER/POP], a \_\_\_\_\_ (hereinafter "Assignee"), all of Assignor's rights, obligations and interest, including any options to renew or extend the contract term, in those certain location(s) as set forth below, as governed by the Integrated Supply Agreement dated \_\_\_\_\_ by and between Genuine Parts Company and \_\_\_\_\_ [CUSTOMER] (the "Integrated Supply Agreement").

Location(s): \_\_\_\_\_

Assignee hereby accepts the assignment of the Integrated Supply Agreement, agrees to provide the services and perform all other obligations required to be performed by "NAPA" in said Integrated Supply Agreement at the times and in the manner set forth in said Integrated Supply Agreement, and shall be bound by all other terms, covenants and conditions of said Integrated Supply Agreement with regard to the location(s) set forth above, all with the same force and effect as if Assignee were originally named as "NAPA" therein.

[CUSTOMER] hereby consents to the above assignment of the Integrated Supply Agreement on the terms set forth herein.

The parties hereto agree that the assignment as set forth herein shall be effective as of midnight on \_\_\_\_\_.

IN WITNESS WHEREOF, the undersigned have set their hands this 26 day of JULY, 2016.

ASSIGNOR:

ASSIGNEE:

GENUINE PARTS COMPANY

\_\_\_\_\_ [JOBBER/POP]

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Agreed and acknowledged:

\_\_\_\_\_ [CUSTOMER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



BOARD OF COUNTY COMMISSIONERS

**Brevard County Fire Rescue**  
1040 S. Florida Ave.  
Rockledge FL 32955  
**Inter-Office**

---

**TO:** Bryan Lober, Chair, Board of County Commissioners, District 2  
**FROM:** Pamela Barrett, Administrative Assistant to Fire Chief Mark Schollmeyer *P.B.*  
**DATE:** January 27, 2020  
**SUBJECT:** Second Amendment to BCFR's Agreement with Genuine Parks Company d/b/a NAPA Auto Parts for Fleet Parts, Equipment Supplies, Services and Inventory Management.

---

Attached please find the Second Amendment to the Integrated Supply Agreement with NAPA Auto Parts. ✓

On July 26, 2016, the Board of County Commissioners authorized the Chair to execute amendments and contract renewals upon the approval of the Count Attorney's Office and Risk Management, a copy of that memo is attached.

The County Attorney and Risk Management's approval for this amendment is also attached.

This Second Amendment to BCFR's existing contract with Genuine Parks Company d/b/a NAPA Auto Parts represents an extension to the contract through July 21, 2021, and also represents a vendor-prompted reduction of administrative fees from 10% to 5%, which will reduce our costs by approximately \$7,000 a year for tire purchases.

Please call Brevard County Fire Rescue at 321-633-2056, extension 59742 if you have any questions.

Thank you in advance for your review and time.

/pb

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

# INITIAL CONTRACT REVIEW AND APPROVAL FORM

## SECTION I - GENERAL INFORMATION

<b>1. Contractor:</b> GENUINE PARTS COMPANY d/b/a NAPA AUTO PARTS	
<b>2. Fund/Account #:</b>	<b>3. Department Name:</b> BCFR
<b>4. Contract Description:</b> AUTOMOTIVE PARTS SUPPLY	
<b>5. Contract Monitor:</b> PAMELA BARRETT/DC SCOTT GOLD	<b>7. Contract Type:</b> Select from pulldown:
<b>6. Dept/Office Director:</b> MARK SCHOLLMMEYER, FIRE CHEIF	

## SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

## SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Gold, Scott <small>Digitally signed by Gold, Scott Date: 2019.12.05 11:36:07 -0500</small>	12/05/2019
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lairsey, Matt <small>Digitally signed by Lairsey, Matt Date: 2019.12.10 09:48:21 -0500</small>	12/10/2019
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Schverak, Christine <small>Digitally signed by Schverak, Christine DN: cn=Schverak, Christine email=Christine.Schverak@brevard.gov, Date: 2020.01.15 09:17:48 -0500</small>	01/15/2020

## SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<u>CM DATABASE REQUIRED FIELDS</u>	<u>Complete</u> ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Data (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

AMENDMENT  
TO  
CONTRACT #061015-GPC

(formerly NJPA)

This Amendment is by and between **Sourcewell** and **Genuine Parts Company/NAPA Integrated Business Solutions (IBS)** (Vendor). Sourcewell and Vendor will be collectively known hereinafter as "Parties."

Vendor was awarded a Sourcewell Contract for Fleet-Related Maintenance Equipment, Supplies, Services, and Inventory Management Solutions effective July 21, 2015, through July 21, 2019, relating to the provision of services by Vendor and to Sourcewell and its Members.

The parties agreed on May 30, 2018, to a "Letter of Agreement to Extend the Contract" for the 5<sup>th</sup> year renewal extension that will terminate on July 21, 2020. However, the parties agree to a 6<sup>th</sup> year extension in order to satisfy the validated needs and requests of Sourcewell Members, which would expire the contract on July 21, 2021.

The parties agree that certain terms within the Agreement will be updated and amended and only to the extent as hereunder provided.

In consideration of the mutual covenants and agreements described in this Amendment, the parties agree as follows:

1. This Amendment is effective upon the date of the last signature below and has the effect of extending the Agreement through July 21, 2021. This Agreement will not be extended for any additional time. Vendor understands that Sourcewell will no longer market this Agreement.
2. Effective June 6, 2018, NJPA changed its name to Sourcewell. All references in these documents to NJPA should be read as being replaced with "Sourcewell."
3. The Agreement and any previous amendments are incorporated into this Amendment by reference.

**(Balance of this page intentionally left blank.)**

Except as amended by this Amendment, the Agreement remains in full force and effect.

**Sourcewell**

DocuSigned by:  
By: Jeremy Schwartz  
Authorized Signature

Jeremy Schwartz  
Name – Printed

Title: Director of Operations & Procurement/CPO

Date: 11/20/2019 | 12:25 PM CST

**Genuine Parts Company/  
NAPA Integrated Business Solutions (IBS)**

DocuSigned by:  
By: Jett Kuntz  
Authorized Signature

Jett Kuntz  
Name – Printed

Title: Vice President

Date: 11/20/2019 | 11:09 AM CST

**APPROVED:**

DocuSigned by:  
By: Chad Coauette  
Authorized Signature

Chad Coauette  
Name – Printed

Title: Executive Director/CEO

Date: 11/20/2019 | 12:32 PM CST

## SECOND AMENDMENT TO INTEGRATED SUPPLY AGREEMENT

THIS SECOND AMENDMENT TO INTEGRATED SUPPLY AGREEMENT (this "Amendment") is entered into this 30<sup>th</sup> day of January, 2020 (the "Amendment Effective Date"), by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "CUSTOMER") and Genuine Parts Company, a Georgia corporation (d/b/a NAPA Auto Parts) ("NAPA").

WHEREAS, NAPA and CUSTOMER are parties to that certain Integrated Supply Agreement dated as of July 26, 2016, as amended on July 22, 2019 (collectively, the "Agreement"); and

WHEREAS, the original term of the Agreement began on July 26, 2016 and can be extended for a period of time equal to the period of time the National Joint Powers Alliance (NJPA) Contract #061015-GPC (the "NJPA Contract") is extended; and

WHEREAS, the NJPA Contract was extended through July 21, 2021; and

WHEREAS, on June 6, 2018, NJPA changed its name to Sourcewell and all references in this amendment to NJPA are to be read to mean Sourcewell; and

WHEREAS, NAPA and CUSTOMER desire to extend the term of the Agreement through July 21, 2021 to coincide with the expiration date of the NJPA Contract and amend Section 5 of the Agreement according to the terms set forth below.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, NAPA and CUSTOMER agree to amend the Agreement as follows:

1. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.
2. Section 5 of the Agreement is deleted in its entirety and replaced with the following:
  5. **PAYMENT TERMS/PRICING.** NAPA shall invoice the CUSTOMER for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. CUSTOMER shall remit payment to NAPA for all invoices in accordance with the Florida Prompt Payment Act, Florida Statute section 218.70, et seq. No prompt pay discount is available under this Agreement.

The overall objective of CUSTOMER's pricing plan is for: (i) NAPA to provide products in accordance with the agreed upon Pricing Plan Summary set forth below, (ii) NAPA to provide outside services in accordance with the Pricing Plan Summary set forth below, (iii) reimbursement by CUSTOMER of each On Site Store's operating costs, and (iv) payment by CUSTOMER of the Management Fees (as defined below). By billing CUSTOMER for these four categories, NAPA's On Site Store(s) will achieve its target ten percent (10%) net profit for the Agreement (the "Net Profit Target"). These categories are defined as follows:

- (a) **Product Price.** The pricing of the products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) "**NAPA Product Price**" which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products, 2) "**Non-NAPA Product Price**" which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary catalog system but which have been acquired for CUSTOMER by NAPA

pursuant to this Agreement, 3) **"Tire Price"** which is the pricing of tires ("Tires") supplied to CUSTOMER under this Agreement, and 4) **"Bulk Fluid Price"** which is the pricing of a liquid product (i.e. oil, antifreeze, hydraulic fluid, etc.) stored in tanks or containers having an individual fill capacity of 50 gallons or more ("Bulk Fluid").

- (b) **Outside Services Price.** Outside Services are those services not traditionally performed by NAPA. The pricing of Outside Services shall be billed in accordance with the Pricing Plan Summary defined below.
- (c) **Operational Costs.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, and all equipment supplied by NAPA. An example of an Operating Costs Statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the Operating Costs Statement set forth on Exhibit B are subject to change based on actual monthly costs and expenses incurred relative to the operation of the On Site Store(s).
- (d) **Management Fees.** CUSTOMER shall be billed the Management Fees (as defined below) on a monthly basis in accordance with the terms below.

**PRICING PLAN SUMMARY**

NAPA Product Price	Billed to CUSTOMER at the Current NAPA Jobber Acquisition Cost
Non-NAPA Product Price	Billed to CUSTOMER at NAPA's current product acquisition cost
Tire Price	Tires that are NAPA branded or exist in NAPA's proprietary catalog system will be billed to CUSTOMER at the Current NAPA Jobber Acquisition Cost. Tires that are non-NAPA branded or do not exist in NAPA's proprietary catalog system will be billed to CUSTOMER at NAPA's current product acquisition cost.
Bulk Fluid Price	Bulk Fluid that is NAPA branded or exists in NAPA's proprietary catalog system will be billed to CUSTOMER at the Current NAPA Jobber Acquisition Cost. Bulk Fluid that is non-NAPA branded or does not exist in NAPA's proprietary catalog system will be billed to CUSTOMER at NAPA's current product acquisition cost.
Outside Services Price	Billed to CUSTOMER at NAPA's cost
Operational Costs	Billed to CUSTOMER at cost

Management Fees	Billed to CUSTOMER in accordance with the terms below
Net Profit Target	10% net profit for the NAPA On Site Store(s) after Products, Outside Services, Operational Costs, and Management Fees are billed to CUSTOMER.

The pricing of NAPA Product, Non-NAPA Product, Tires, Bulk Fluid, and Outside Services shall be billed in accordance with the Pricing Plan Summary defined above. Operational Costs will be charged to CUSTOMER at cost, with all such charges for Operational Costs to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for operational costs on an "in arrears" basis. For purposes hereof, "Current NAPA Jobber Acquisition Cost" shall mean NAPA's current gold price as set forth on NAPA's Confidential Jobber Cost and Suggested Resales price list.

Additionally, CUSTOMER shall pay to NAPA on a monthly basis the following management fees (collectively, the "Management Fees"):

- i) *NAPA Product, Non-NAPA Product, and Outside Service Management Fee:* CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to ten percent (10%) of the total dollar amount of all NAPA Products, Non-NAPA Products, and Outside Services sold to the CUSTOMER during the preceding month at the prices set forth in the pricing plan summary above less purchase returns.
- ii) *Tire Management Fee:* CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to five percent (5%) of the total dollar amount of all Tires sold to the CUSTOMER during the preceding month at the Tire Price (as set forth in the pricing plan summary above) less purchase returns.
- iii) *Bulk Fluid Management Fee:* CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to five percent (5%) of the total dollar amount of all Bulk Fluid sold to the CUSTOMER during the preceding month at the Bulk Fluid Price (as set forth in the pricing plan summary above) less purchase returns.

The parties agree to work together in good faith to promptly resolve any disputed invoices. NAPA will provide parts credits to the CUSTOMER for any defective or warranty parts at the time they are returned to NAPA (through the parts counter) with a credit memo invoice issued to the CUSTOMER.

- 3. Exhibit B of the Agreement is hereby deleted in its entirety and replaced with the new Exhibit B attached to this Amendment.
- 4. In connection with the extension of the NJPA Contract, the term of the Agreement is extended through July 21, 2021, subject to termination as provided in the Agreement.
- 5. Except as amended herein, all other terms and conditions of the Agreement shall remain unaltered and the Agreement remains in effect, enforceable against each of the parties and is ratified and acknowledged by each of the parties.
- 6. This Amendment shall be construed and interpreted under the laws of the State of Florida without giving effect to the provisions thereof relating to conflicts of law.

7. This Amendment may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be made and executed by their duly-authorized representatives effective as of the Amendment Effective Date.

ATTEST:

  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

By: Bryan Andrew Lober  
Bryan Lober, Chair  
Approved by the Board on: 1/30/2020

Reviewed for Legal Form and Content:

C. Schwerak 01/15/2020  
Assistant County Attorney

ATTEST:

By: Bonnie Ganas  
Signature

GENUINE PARTS COMPANY  
dba NAPA Auto Parts

By: Patrick Wolfe

Date: JANUARY 17, 2020  
BONNIE GANAS  
EXECUTIVE ASSISTANT  
Name & Title, Typed or Printed

Date: JANUARY 17, 2020  
PATRICK WOLFE  
DIVISION VICE PRESIDENT  
Name & Title, Typed or Printed

GENUINE PARTS COMPANY  
Name of Company, Corp, etc.  
5420 PEACHTREE INDUSTRIAL BLVD  
Mailing Address  
NORCROSS, GA 30071  
City, State, Zip

Exhibit "B"

**IBS Monthly P&L Statement (Sample)**

Brevard County Fire Rescue

EXPENSE	MONTHLY	% TO SALES	ANNUALLY	% TO SALES
Parts Purchases	\$ 38,000	74.29%	\$ 456,000	74.29%
Tire Purchases	\$ 15,000	20.00%	\$ 180,000	20.00%
Bulk Oil Purchases	\$ 2,000	5.71%	\$ 24,000	5.71%
<b>Total Purchases</b>	<b>\$ 55,000</b>	<b>100.00%</b>	<b>\$ 660,000</b>	<b>100.00%</b>
Cost of Goods	\$ 48,000	92.29%	\$ 576,000	92.29%
<b>GROSS PROFIT</b>	<b>\$ -</b>	<b>0.00%</b>	<b>\$ 84,000</b>	<b>12.73%</b>
Executive Salaries	\$ 600	1.00%	\$ 6,600	1.00%
Acctg & Data Proc.	\$ 300	0.50%	\$ 3,300	0.50%
General Office	\$ 300	0.50%	\$ 3,300	0.50%
Manager Payroll	\$ 3,800	6.91%	\$ 45,600	6.91%
Counterstaff Payroll	\$ -	0.00%	\$ -	0.00%
Delivery Payroll	\$ -	0.00%	\$ -	0.00%
Retirement Services	\$ 200	0.45%	\$ 3,000	0.45%
Payroll Taxes	\$ 275	0.50%	\$ 3,300	0.50%
Group Insurance & Benefits	\$ 1,300	2.36%	\$ 15,600	2.36%
<b>TOTAL PAYROLL</b>	<b>\$ 6,775</b>	<b>12.32%</b>	<b>\$ 80,700</b>	<b>146.73%</b>
Delivery - Insurance	\$ -	0.00%	\$ -	0.00%
Maint. & Fuel	\$ -	0.00%	\$ -	0.00%
Truck Depr.	\$ -	0.00%	\$ -	0.00%
Depreciation - F. & F.	\$ -	0.00%	\$ -	0.00%
Freight & Postage	\$ 500	0.91%	\$ 6,000	1.50%
Insurance	\$ 125	0.23%	\$ 1,500	2.73%
Store Expense	\$ 100	0.18%	\$ 1,200	2.18%
Telephone	\$ 259	0.47%	\$ 3,108	5.65%
TAMS	\$ 800	1.45%	\$ 9,600	17.45%
Taxes (Not Income)	\$ 40	0.07%	\$ 480	0.87%
Training	\$ 25	0.05%	\$ 300	0.55%
<b>TOTAL MISC. EXPENSES</b>	<b>\$ 1,849</b>	<b>3.36%</b>	<b>\$ 22,188</b>	<b>40.34%</b>
<b>TOTAL EXPENSES</b>	<b>\$ 8,624</b>	<b>15.68%</b>	<b>\$ 102,888</b>	<b>187.07%</b>

IBS Mgmt Fee - Parts	\$ 3,800	10.00%	\$ -	0.00%
IBS Mgmt Fee - Tires	\$ 750	5.00%	\$ -	0.00%
IBS Mgmt Fee - Bulk Oil	\$ 100	5.00%	\$ -	0.00%

**\*\*This is an estimate ONLY - subject to product mix fluctuation on a monthly basis\*\***

## **INTEGRATED SUPPLY AGREEMENT**

**THIS INTEGRATED SUPPLY AGREEMENT** (this "Agreement") is made by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "CUSTOMER"), and Genuine Parts Company, a Georgia corporation (d/b/a NAPA Auto Parts) ("NAPA"), to be effective as of the 26 day of July, 2016 (the "Effective Date").

### WITNESSETH:

WHEREAS, pursuant to a competitive bidding and selection process by the National Joint Powers Alliance (hereinafter, "NJPA"), a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21, NJPA and NAPA executed contract #061015 on July 21, 2015 (hereinafter, "NJPA Contract"), attached hereto as Exhibit A, to establish a source of supply for certain auto, truck and bus parts as well as to provide Integrated Business Solutions services; and

WHEREAS, by becoming a participating member of NJPA (hereinafter, "Member"), CUSTOMER and its related entities (hereinafter, "User Agencies") are authorized to utilize the pricing and incentives available to NJPA Members set forth in the NJPA Contract; and

WHEREAS, CUSTOMER desires to become a User Agency under such NJPA Contract and desires to receive integrated business solutions services from NAPA; and

WHEREAS, CUSTOMER and NAPA agree that the NJPA Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the NJPA Contract shall govern the relationship of the parties; and

WHEREAS, NAPA desires to provide integrated business solutions services and to establish inventories in CUSTOMER's locations to service the fleet parts needs of CUSTOMER and to serve as the primary supplier of automotive replacement parts and other supplies and/or equipment (the "Inventory") to serve the needs of CUSTOMER; and

WHEREAS, CUSTOMER desires to provide space for the Inventory on the premises of CUSTOMER for use by NAPA ("On Site Store") and agrees that NAPA will be its primary supplier of the Inventory pursuant to the terms herein.

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

1. **DEFINITIONS**. For purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) **Primary Supplier** shall mean the parts supplier that provides a minimum of ninety percent (90%) of the Inventory needs of CUSTOMER.
- (b) **NAPA Owned Store** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" which is wholly owned by NAPA.
- (c) **NAPA Jobber** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" with respect to which NAPA maintains no ownership interest.

2. **CUSTOMER'S CURRENT LOCATIONS.** NAPA will establish On Site Store(s) at the CUSTOMER'S following location(s):

351 Wenner Way, Cocoa FL 32926  
Manager: Division Chief Support Services

Additional locations of the CUSTOMER may be added to this Agreement but only by a written amendment executed and agreed to by both the CUSTOMER and NAPA. Notwithstanding the foregoing language, CUSTOMER agrees to, and hereby grants, NAPA the right of first refusal on any and all new or additional locations of CUSTOMER that are to be serviced by a similar supply entity.

3. **SCOPE OF THE WORK.**  
**DUTIES AND RESPONSIBILITIES OF NAPA.** NAPA shall have the following duties and responsibilities during the term of this Agreement:

(a) NAPA will operate the On Site Store(s) and provide the Inventory to CUSTOMER's now existing location(s). NAPA shall provide all personnel required to operate the On Site Store(s).

(b) In those circumstances when delivery is required by CUSTOMER, NAPA will provide parts to CUSTOMER's locations on a route operated by NAPA on a daily schedule. In addition, NAPA will accelerate delivery on those items CUSTOMER requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the CUSTOMER's location(s) which are requesting part(s).

(c) NAPA shall provide all computers and reports necessary to monitor monthly expenses as they pertain to the daily operation of the On Site Store(s). NAPA shall provide computer ordering and cataloging to each On Site Store through its proprietary TAMS (Total Automotive Management System), which it cannot assign nor leave with CUSTOMER upon termination or expiration of this Agreement.

(d) NAPA shall provide an Operating Costs Statement of the parts operations to the CUSTOMER on approximately the 25<sup>th</sup> day of each month for each On Site Store.

(e) NAPA shall provide back-up emergency service during non-working hour contingencies. The overtime expense (calculated at time and one half) will be charged on a cost basis to CUSTOMER. NAPA will provide a list of personnel, including telephone numbers, who will respond to emergency service requests.

**DUTIES AND RESPONSIBILITIES OF CUSTOMER.** CUSTOMER shall have the following duties and responsibilities during the term of this Agreement:

(a) CUSTOMER shall provide, at its sole expense, usable space for NAPA's On Site Store(s) and the Inventory. CUSTOMER shall provide access to restroom facilities for NAPA employees. Further, CUSTOMER shall furnish, at its sole expense, all utilities for the On Site Store(s) including: water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s) whatsoever.

(b) CUSTOMER shall use NAPA as its Primary Supplier of the Inventory under this Agreement. CUSTOMER reserves the right to purchase any item outside this Agreement where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in NAPA no longer being CUSTOMER's Primary Supplier.

(c) Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of CUSTOMER. There shall be no intermingling of CUSTOMER's parts or other inventory with NAPA's parts or inventory. Access to the secured On Site Store(s) shall be restricted to NAPA employees and authorized NAPA representatives only. Once per year NAPA shall utilize a third party to perform an Inventory count in the On Site Store while accompanied by NAPA. CUSTOMER'S employees, contractors or agents shall not be permitted to enter the secured On-Site Store area unless accompanied by a NAPA employee or other authorized NAPA representative.

(d) CUSTOMER shall, at all times during the term of this Agreement, at CUSTOMER'S sole expense, maintain in good condition and repair (so as to prevent any damage or injury to NAPA's employees, the Inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).

(e) CUSTOMER shall provide information regarding equipment and fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet and the addition of new vehicles to the fleet.

4. **TERM.** This Agreement shall begin on the Effective Date and shall end when the NJPA Contract terminates or expires or when terminated earlier in accordance with the applicable terms and conditions stated herein. As the NJPA Contract is renewed or extended, this Agreement may be renewed or extended for a period of time equal to or shorter than the period of time the NJPA Contract is renewed or extended upon the mutual written agreement of the Parties.

5. **PAYMENT TERMS/PRICING.** NAPA shall invoice the CUSTOMER for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. CUSTOMER shall remit payment to NAPA for all invoices in accordance with the Florida Prompt Payment Act, Florida Statute section 218.70, et seq. No prompt pay discount is available under this Agreement.

The overall goal of CUSTOMER's pricing plan is to achieve a ten percent (10%) net profit for NAPA (the "Net Profit Target") based on the following elements:

- (a) **Product Costs.** Product Costs shall be further divided into "**NAPA Product Costs**," which is the pricing of NAPA supplier manufactured products, and "**Non-NAPA Product Costs**," which is the pricing of products which have not been manufactured by NAPA suppliers but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement.
- (b) **Outside Purchases or Services Costs.** Outside Purchases or Services Costs is the pricing of those parts or services not traditionally stocked or performed by NAPA.
- (c) **Operational Costs.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, and all equipment supplied by NAPA. An example of an Operating Costs Statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the Operating Costs Statement set forth on Exhibit B are subject to change based on actual monthly costs and expenses incurred relative to the operation of the On Site Store(s).
- (d) **Management Fee.** CUSTOMER shall be billed a Management Fee (as defined below) on a monthly basis in accordance with the terms below.

**PRICING PLAN SUMMARY**

NAPA Product Costs	Billed to CUSTOMER at current jobber net store acquisition cost.
Non-NAPA Product Costs and Outside Purchases and Services	Billed to CUSTOMER at NAPA's cost plus a zero percent (0%) gross profit rate.
Operational Costs	Billed to CUSTOMER at cost.
Management Fee	Billed to CUSTOMER in accordance with the terms below.
Net Profit Target	10% Net Profit for NAPA

NAPA Product Costs shall be billed to the CUSTOMER at current jobber net store acquisition cost. Non-NAPA Product Costs and Outside Purchases/Services shall be set by NAPA to yield a gross profit of zero percent (0%). Operational costs will be charged to CUSTOMER at cost, with all such charges for Operational Costs to be

included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for operational costs on an "in arrears" basis.

CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to ten percent (10%) of the Total Monthly Net Sales (as defined below) during the preceding month (the "Management Fee"). For purposes hereof, "Total Monthly Net Sales" means the total dollar amount of all products (both NAPA and Non-NAPA) and outside purchases and services sold to the CUSTOMER during the preceding month at the costs set forth in the pricing plan summary above less purchase returns.

The parties agree to work together in good faith to promptly resolve any disputed invoices. NAPA will provide parts credit to the CUSTOMER for any defective or warranty parts at the time they are returned to NAPA (through the parts counter) with a credit memo invoice issued to the CUSTOMER.

6. **INDEMNIFICATION.** NAPA shall indemnify and hold harmless CUSTOMER and its agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorney's fees arising out of or resulting from: (i) the negligent acts or omissions or intentional misconduct of NAPA, its employees, officers, directors or agents hereunder; (ii) the breach of any provisions hereunder by NAPA; and (iii) NAPA's violation of any applicable laws, rules and regulations. NAPA's indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for NAPA, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration has been exchanged for this provision. NAPA shall in no way be liable to CUSTOMER for the negligent acts or omissions or intentional misconduct of CUSTOMER, its employees, officers, directors or agents.

7. **MODIFICATIONS TO CONTRACT.** This Agreement, together with any exhibits, constitutes the entire Agreement between the CUSTOMER and NAPA and supersedes all prior written or oral understandings. This Agreement and any exhibits may only be amended or supplemented by a written instrument duly executed by the parties hereto.

8. **INSURANCE - NAPA.** NAPA shall keep in force and at all times maintain during the term of this Agreement:

(a) **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies and in a form reasonably acceptable to CUSTOMER, with limits of not less than One Million Dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage, Personal Injury, and Products and Completed Operations.

(b) **Automobile Liability Insurance:** Automobile Liability coverage shall be in the minimum amount of One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage per accident.

(c) **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, including coverage for its employees located at the On Site Store(s), as required by State of Florida law, shall be provided.

(d) **Insurance Certificates:** NAPA shall provide CUSTOMER with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) reasonably acceptable to the CUSTOMER. Said Liability Policies shall provide that the CUSTOMER be an additional insured to the extent of NAPA's indemnification obligations herein. The CUSTOMER shall be notified in writing by the Carrier of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are reasonably acceptable to the CUSTOMER and licensed and authorized under the laws of the State of Florida.

(e) **Personal Property:** In addition, NAPA shall maintain personal property insurance during the term of this Agreement in an amount sufficient to cover any loss or damage to the Inventory and any other personal property owned by NAPA that is located at the On Site Store(s).

#### 9. INSURANCE – CUSTOMER.

(a) CUSTOMER shall provide at its sole expense "all risks" fire and property insurance on all buildings and/or improvements in which the On Site Store(s) are located throughout the term of the Agreement. Further, CUSTOMER shall, throughout the term of this Agreement, at CUSTOMER'S expense, obtain and maintain in force a policy of commercial general liability insurance, such insurance to be written on an "occurrence" basis with combined single limits for any one injury, including death, and for property of not less than \$1,000,000.00 per occurrence. Said policy shall be issued by responsible company(ies) who are reasonably acceptable to NAPA and authorized to transact business in the State of Florida. CUSTOMER shall further maintain during the term of this Agreement worker's compensation insurance coverage in amounts required by law. CUSTOMER shall provide to NAPA, upon execution of this Agreement, a copy of all Certificates of Insurance evidencing the insurance coverages above.

(b) Nothing in this Agreement shall be construed to waive sovereign immunity, the limited waiver set forth in Florida Statute 768.28, or any of the provisions/caps on payment of claims/judgments set forth in sec. 768.28(5).

#### 10. NO LIENS; UCC-1.

(a) CUSTOMER warrants that it shall take no action, including but not limited to the granting of a security interest, or fail to take any action, which would operate or does operate in any way to encumber the Inventory of NAPA located in the On Site Store(s).

(b) CUSTOMER agrees and acknowledges that Inventory that is delivered and stored on CUSTOMER's property pursuant to this Agreement is Inventory owned by NAPA and further acknowledges and agrees that NAPA may send notice to CUSTOMER's creditors notifying such creditors of the ownership rights of the Inventory.

(c) CUSTOMER acknowledges and agrees that NAPA shall file a UCC-1 statement covering NAPA's Inventory on CUSTOMER's premises, noting that such Inventory is consignment inventory, in order to protect NAPA's interests in its Inventory.

11. **PERSONNEL.** NAPA and CUSTOMER shall attempt in good faith to mutually agree upon the identity of the persons that will be selected to staff the On Site Store(s). In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve CUSTOMER's request by mutual agreement. However, CUSTOMER may require NAPA to remove any person(s) from employment at the On Site Store that the CUSTOMER deems at its sole and reasonable discretion is necessary in order to comply with Federal or State statutes and regulations.

12. **WARRANTY/LIABILITY DISCLAIMER.** All items supplied pursuant to this Agreement are subject to the terms of written warranties provided by the manufacturer of each part, and NAPA shall use reasonable commercial efforts to assist the CUSTOMER in processing all warranty claims that the CUSTOMER may have against a manufacturer. The manufacturer's warranty will be the sole and exclusive remedy of the CUSTOMER in connection with any claims concerning the parts supplied to CUSTOMER pursuant to this Agreement. ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. Copies of the manufacturers' warranties are available to CUSTOMER upon request. For suppliers (or categories of suppliers) of Non-NAPA products that CUSTOMER instructs NAPA to utilize or consider for future purchases, NAPA is under no obligation to (and NAPA disclaims all liability in connection with) investigate product quality, management, ownership, reputation, certifications, qualifications, price competitiveness, or any other related characteristics of the products, individuals or entities at issue.

Notwithstanding the foregoing, in the event that any product does not conform to the manufacturer's warranty, CUSTOMER may return such product to NAPA, and NAPA will at the time of return, as CUSTOMER's sole and exclusive remedy and NAPA's sole liability, process CUSTOMER's warranty claim with the manufacturer of the defective/non-conforming product and issue a credit or refund to CUSTOMER for the price of the defective/non-conforming product. If, however, the manufacturer later rejects the CUSTOMER's warranty claim, NAPA will bill the CUSTOMER for the amount of the credit or refund issued to the CUSTOMER for the returned product, and CUSTOMER will pay such amount to NAPA in accordance with the payment terms set forth in Section 5 above.

13. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

14. **GOVERNING LAW.** This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

15. **COMPLIANCE WITH STATUTES.** It shall be the Contractor's responsibility to be aware of and comply with all applicable federal, state and local laws.

16. **VENUE.** Venue for any legal action by any party to this agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be nonjury.

17. **ASSIGNMENTS/ALTERNATIVE SUPPLIERS.**

(a) NAPA shall not assign any portion of this agreement without the written permission of the CUSTOMER. Likewise, CUSTOMER shall not assign any portion of this Agreement without the written permission of NAPA.

(b) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. If CUSTOMER and NAPA mutually agree that it is in the best interest of the parties for CUSTOMER to be serviced by a NAPA Jobber, then CUSTOMER, NAPA and the NAPA Jobber will execute that certain Assignment in the form of Exhibit C attached hereto.

18. **TERMINATION.**

(a) This Agreement may be terminated immediately, unless otherwise stated in this Section 18, by either party for cause: (i) in the event that the other party fails or refuses to pay any amounts due under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; (ii) in the event that the other party fails or refuses to perform any other obligation required under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or (iii) in the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.

(b) Immediately upon termination of the Agreement for any reason, CUSTOMER shall pay to NAPA all undisputed amounts due and owing to NAPA at the time of termination.

(c) Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property or information owned by the other party that are in such party's possession.

(d) CUSTOMER shall allow NAPA full and unrestricted access to enter into the On Site Store(s) and immediately remove all equipment and other items of personal property owned by NAPA without being deemed guilty of trespass or any other violation of the law. All inventory records, sales history, sales analysis and all other information generated by NAPA under this Agreement will be returned to CUSTOMER.

19. **TERMINATION FOR CONVENIENCE.**

(a) Either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.

(b) Final payment and return of property, etc., shall be as provided in Paragraph 18(b) through (d) above.

20. **BUY-BACK OF INVENTORY.** Upon termination, expiration, or non-renewal of the Agreement, NAPA shall have the option to require CUSTOMER to purchase all non-NAPA Inventory owned by NAPA and located in the On Site Store(s) at

NAPA's current acquisition cost, and CUSTOMER shall have the option to purchase all NAPA Inventory, owned by NAPA and located in the On Site Store(s) at NAPA's current acquisition cost. Upon CUSTOMER's request, NAPA shall provide CUSTOMER with a listing of all NAPA and non-NAPA Inventory owned by NAPA and located in the On Site Store(s).

21. **INDEPENDENT CONTRACTOR.** NAPA shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute NAPA or any of its agents or employees to be the agent, employee or representative of the CUSTOMER.

22. **RIGHT TO AUDIT RECORDS.** The CUSTOMER and its auditors, at CUSTOMER's sole cost and expense, shall be entitled to audit the books and records of NAPA to the extent that such books and records relate to the performance of this Agreement upon providing to NAPA at least ten (10) days prior written notice. Said records shall be made available, upon request, for audit purposes to the CUSTOMER and its auditors. Such books and records shall be maintained by NAPA for a period of five (5) years from the date of final payment under this Agreement unless a shorter period is otherwise authorized in writing. Audits will be limited to once per calendar year.

23. **PUBLIC RECORDS.** Both parties understand that Brevard County/Customer is subject to the Florida Public Records Law, Chapter 119, Florida Statutes and all other applicable laws. If records provided or created by NAPA under this Agreement do not fall under a specific exemption under Florida or federal law, the records provided, created or maintained by NAPA under this Agreement must be provided to anyone making a public records request. It will be NAPA's duty to identify the information which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

Should any person or entity make a public records request of the Customer which requires or would require the Customer to allow inspection or provide copies of records which NAPA maintains are exempt under the Public Records Law or otherwise confidential, it shall be NAPA's obligation to provide the County within 72 hours (not including weekends and legal holidays), of notification by the Customer to NAPA of the records request, of the specific exemption or confidentiality provision to allow the Customer to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the Customer face any kind of legal action to require or enforce inspection or production of any records provided by NAPA to the Customer which NAPA maintains are exempt or confidential from such inspection/production as a public record, NAPA shall hire and compensate attorney(s) who shall represent the interests of the Customer as well as NAPA in defending such action. NAPA shall also pay any costs to defend such action and shall pay any costs and attorneys fees which may be awarded pursuant to Fla. Stat. 119.12.

24. **FORCE MAJEURE / DAMAGE OF PREMISES.**

(a) Whenever performance by either party of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies or by any other

cause not within the reasonable control of such party and not occasioned by its negligence, then such performance shall be excused and the performance of such obligations under this Agreement shall be suspended for the duration of such prevention and for a reasonable time thereafter.

(b) NAPA may terminate this Agreement immediately in the event that the CUSTOMER's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the CUSTOMER's premises unusable for the On Site Store(s) in the reasonable judgment of NAPA.

25. **SUCCESSORS AND ASSIGNS.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld

26. **UNAUTHORIZED ALIEN WORKERS.** CUSTOMER will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The CUSTOMER shall consider NAPA's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

27. **FEDERAL TAX ID NUMBER.** NAPA shall provide to the CUSTOMER its Federal Tax ID Number.

28. **EMPLOYMENT.** NAPA shall not engage the services of any person or persons now employed by the CUSTOMER, including any department, agency, board or commission thereof, to provide services relating to this Agreement without written consent from the CUSTOMER.

29. **PUBLIC ENTITY CRIMES.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

30. **CONSTRUCTION OF AGREEMENT.** The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.

31. **NOTICE.** Notice under this Agreement shall be given by certified mail or hand delivery as follows: Brevard County 2725 Judge Fran Jamieson Way C303, Viera,

FL 32940 and Notice shall be given to NAPA by certified mail or hand delivery as follows: Patrick Wolfe, Division Office, 11718 N. Florida Avenue, Tampa, FL 33612.

32. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

33. **NJPA CONTRACT.** CUSTOMER and NAPA acknowledge and agree that the NJPA Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the NJPA Contract shall govern the relationship of the parties.

**[Signatures appear on following page]**