

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
 301 Centennial Mall South, 1st Floor  
 Lincoln, Nebraska 68508  
 OR  
 P.O. Box 94847  
 Lincoln, Nebraska 68509-4847  
 Telephone: (402) 471-2401  
 Fax: (402) 471-2089

PAGE 1 of 2	ORDER DATE 06/25/12
BUSINESS UNIT 9000	BUYER MARY LANNING (AS)
VENDOR NUMBER: 1872039	
VENDOR ADDRESS:  EVENFLO COMPANY, INC 475 HALF DAY RD LINCOLNSHIRE ILLINOIS 60069-2934	

**CONTRACT NUMBER**  
 13249 OC

**ORIGINAL**

AN AWARD HAS BEEN MADE TO THE VENDOR NAMED ABOVE FOR THE FURNISHING OF EQUIPMENT, MATERIAL, OR SUPPLIES AS LISTED BELOW FOR THE PERIOD:

**JUNE 25, 2012 THROUGH JANUARY 17, 2013**

NO ACTION ON THE PART OF THE VENDOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE EQUIPMENT OR SUPPLIES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE EQUIPMENT OR SUPPLIES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR ITEMS FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR AND THE STATE OF NEBRASKA.

Supply and deliver Breast Pumps and Accessories, FOB destination, to the State of Nebraska per the following Contract Information and attached Participating Addendum, Master Price Agreement and NE Exempt Sale Certificate.

The State Purchasing Bureau encourages agencies to contact the designated Inside Sales Representative/Account Representative to learn more about special promotions and to obtain volume discount quotes.

The Purchase Order must include the State of Nebraska WSCA Contract #13249 OC and the Evenflo Company Inc.: WSCA Master Price Agreement #01910.

Vendor Contact: Susan Vogtsberger  
 Phone: 847-964-2628  
 Email: susan.vogtsberger@amedia.com

(06/25/12 djg)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	BREAST PUMPS & ACCESSORIES	100,000.0000	\$	1.0000

*Mary Lanning*  
 BUYER  
 6/25/12  
 BP/na  
 6/27/12

MATERIAL ADMINISTRATOR

## STANDARD CONDITIONS AND TERMS OF BID SOLICITATION AND OFFER Invitations to Bid and Contract Awards

It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address: <http://www.das.state.ne.us/materiel/purchasing/purchasing.htm>

**SCOPE-** These standard conditions and terms of bid solicitation and acceptance apply in like force to this inquiry and to any subsequent contract resulting therefrom.

**PRICES-** Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Invitation to Bid. No additional charges will be allowed for packing, packages or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

**EXECUTION-** Bids must be signed in ink by the bidder on the State of Nebraska's Invitation to Bid form. All bids must be typewritten or in ink on the State of Nebraska's Invitation to Bid form. Erasures and alterations must be initialed by the bidder in ink. No telephone or voice bids will be accepted. Failure to comply with these provisions may result in the rejection of the bid.

**FACSIMILE DOCUMENTS-** The State Purchasing Bureau will only accept facsimile responses to Invitations to Bid on bids under \$25,000 and up to ten (10) pages. However, two party sealed bids containing facsimile pages are acceptable. No direct facsimile solicitation responses will be accepted for a commodity contract.

**VALID BID TIME-** Bids shall be firm for a minimum of sixty (60) calendar days after the opening date, unless otherwise stipulated by either party in the Invitation to Bid.

**DISCOUNTS-** Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

**PAYMENT-** Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act 81-2401 through 2408. The State may request that payment be made electronically instead of by state warrant.

**COLLUSIVE BIDDING-** The bidder guarantees that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

**LUMP SUM OR ALL OR NONE BIDS-** The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

**SPECIFICATIONS-** Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The State Purchasing Director will be the sole judge of equivalency. The bidder may offer any brand which meets or exceeds the specification. When a specific product is required, the invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

**ALTERNATE/EQUIVALENT BIDS-** Bidder may offer bids which are at variance from the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgement of the State Purchasing Director, the bid will result in goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidders must indicate on the Invitation to Bid the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

**SAMPLES-** When requested, samples shall be furnished at the bidders expense prior to the opening of the bid, unless otherwise specified. Each sample must be labeled clearly and identify the bidders name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities or equipment which would be delivered if awarded the bid. The State of Nebraska reserves the right to request samples even though this may not have been set forth in the Invitation to Bid. Samples not destroyed in testing will be returned at bidders expense, if requested, or will be donated to a public institution.

**RECYCLING-** Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per State Statute Section 81-15,159.

**LATE BIDS-** All bids will be time and date stamped upon receipt by the State Purchasing Bureau, and this shall be the official time and date of receipt. Bids received after the time of the bid opening will be considered late bids and will be returned to the bidder unopened. The State Purchasing Bureau is not responsible for late bids or lost requests due to mail service inadequacies, traffic or other similar reasons.

**BID OPENING-** Openings shall be public on the date and time specified on the Invitation to Bid form. It is the bidder's responsibility to assure the bid is delivered at the designated date, time and place of the bid opening. Telephone bids are not acceptable. A bid may not be altered after opening of the bids.

**NO BID-** If not submitting a bid, respond by returning the Invitation to Bid form explaining the reason in the space provided. Failure to respond to an Invitation to Bid may be cause for the removal of the bidder's name from the mailing list. NOTE: To qualify as a respondent, bidder must submit a "NO BID" and it must be received no later than the stated bid opening date and time.

**AWARD-** All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of State Statute Section 81-161, R.R.S. 1943. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid and do not improve the bidders competitive position. All awards will be made in a manner deemed in the best interest of the State.

**BID TABULATIONS-** Tabulations will be furnished upon written request. A self-addressed, stamped envelope which must include the agency and solicitation number must be enclosed. Bid tabulations will not be provided by telephone or facsimile. Bid files may be examined during normal working hours by appointment. Bid tabulations are available on the website at: <http://www.das.state.ne.us/materiel/purchasing/bidtabs.htm>

**PERFORMANCE AND DEFAULT-** The State reserves the right to require a performance bond from the successful bidder, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess cost occasioned thereby.

**IN-STATE PREFERENCE-** A resident bidder shall be allowed a preference against a nonresident from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a nonresident bidder from a state which has no preference law, the resident bidder shall be awarded the contract.

**NONDISCRIMINATION-** The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, to be employed in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin. (State Statute Sections 48-1101 through 48-1125) The bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Invitation to Bid.

**TAXES-** Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by State Statute Section 77-2704 (l) (m) R.R.S. 1943 and must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

**DRUG POLICY -** Bidder certifies that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**GRIEVANCE AND PROTEST-** Grievance and protest procedure is available by contacting the buyer. Protest must be filed within ten (10) days of award.

**NE ACCESS TECHNOLOGY STANDARDS-** Vendor agrees to ensure compliance with Nebraska Access Technology Standards. See website at:

<http://www.nitc.state.ne.us/standards/accessibility/>

Revised: 02/2004

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
BREAST PUMPS (WSCA/WIC)**

**Administered by the State of Washington (hereinafter "Lead State")-**

**MASTER PRICE AGREEMENT**

**EVENFLO Company, Inc.**

Washington Contract Number: 01910  
(hereinafter "Contractor")

And

**[State of Nebraska]**

(hereinafter "Participating Entity")

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1. Scope: This addendum covers the WSCA Breast Pumps Contract lead by the State of Washington, for members of WSCA or NASPO, for use by Participating Entity's programs, including Women, Infants & Children Programs office.

2. Participation: Use of specific WSCA or NASPO cooperative contracts by other agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

Contractor may extend the Contract to political subdivisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political subdivisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political subdivisions or other public entities not authorized by Neb. Rev. Stat. § 81-145, listed as "all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations." A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

3. Changes:

**TAXES of the Standard Terms and Conditions shall read as follows:**

The State of Nebraska is exempt from the obligation to pay federal excise taxes; it is further exempt by state law, Neb. Rev. Stat. § 2704.15, from the obligation to pay sales and use taxes. Taxes must not be included in the bid prices. Exemption by statute precludes the obligation to furnish a State of Nebraska exemption certificate. Copies of exemption certificates may be attached hereto as a courtesy.

**DEFAULT AND REMEDIES of the Standard Terms and Conditions shall be amended as follows:**

To the extent permitted by law, any of the following events shall constitute cause for Nebraska to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract Nebraska shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, Nebraska may do one or more of the following: 1. Exercise any remedy provided by law; 2. The contract may be terminated at any time upon the mutual consent of the parties, or by either party, with or without cause and/or consent upon 30 days written notice. ; 4. Suspend contractor from receiving future proposal solicitations.

**REPORTS of the Standard Terms and Conditions shall contain additional language as follows:**

The Contractor shall also provide to the State of Nebraska primary contact person quarterly utilization reports containing at a minimum the following information pertaining to State of Nebraska utilization: (a) purchase

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And  
**[State of Nebraska]**  
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order number; (b) description; (c) quantity; and (d) price. These reports will be provided in Excel format and sent via email on a quarterly basis as follows:

<u>Period End</u>	<u>Report Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

**DELIVERY OF GOODS** shall be added as follows:

No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor of non-acceptance within fifteen (15) days of delivery of a Product or Service; failing which the Product or Service shall be deemed accepted by the Purchasing Entity.

**WARRANTY** of the Standard Terms and Conditions shall contain additional language as follows:

b) . . . and dealer warranty.

e) The Contractor will provide a copy of the manufacturer's warranty to the State of Nebraska upon signature of the participating

**ADMINISTRATIVE FEE** of the Standard Terms and Conditions shall read as follows:

The Contractor agrees to provide a quarterly administrative fee in the form of a check. The fee will be payable to the State for an amount equal to one-half of one percent (1/2 of 1%) of the net sales (net of any returns, credits, or adjustments under this Addendum for the period. The Contractor's WSCA pricing to the State shall not be adjusted to offset for the equivalent fee amount. Payments shall be made in accordance with following schedule:

<u>Period End</u>	<u>Fee Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

The Contractor agrees to provide a quarterly utilization report, reflecting new sales to the State during the associated fee period. The report shall be in the format developed by the Lead State and as agreed to by the Contractor. The report will be provided in secure electronic format and/or submitted electronically to the State contact listed in the Addendum.

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**PROMPT PAYMENT of the Standard Terms and Conditions shall read as follows:**

The State of Nebraska will make payments in strict accordance with the Nebraska Prompt Payment Act, Neb. Rev. Stat. § 81-2401 et seq., as described in Neb. Rev. Stat. § 81-2403 of the Act. Interest charges may be assessed for late payments in accordance with § 81-2404 of the Act. Payments are due upon receipt of an undisputed invoice, merchandise or service, whichever is later, and payable in accordance with the Act unless otherwise specified in a Transaction Document.

The State of Nebraska may terminate this Contract or any purchase order, in whole or in part, in the event funding is no longer available. Its obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for this contract. Should said funds not be appropriated, the State of Nebraska may terminate this Contract or any purchase order with respect to those payments for the fiscal years for which such funds are not appropriated. The State of Nebraska will give the Contractor written notice of thirty (30) days prior to the effective date of any termination under this section. All obligations of the State of Nebraska to make payments after the termination date will cease and all interest of the State of Nebraska in any related equipment will terminate. The Contractor shall be entitled to receive just and fair compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

**RECORDS ADMINISTRATION AND AUDIT OF RECORDS** of the Standard Terms and Conditions shall be amended to read as follows:

All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions proximately caused by contractor, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

**INDEMNIFICATION/HOLD HARMLESS** of the Standard Terms and Conditions shall be amended to read as follows:

**A. GENERAL**

The contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties")

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from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and reasonable attorney fees and expenses ("the claims"), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

**B. INTELLECTUAL PROPERTY**

The contractor agrees it will at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the contractor or its employees, subcontractors, consultants, representatives, and agents; provided, however, the State gives the contractor prompt notice in writing of the claim. The contractor may not settle any infringement claim that will affect the State's use of the Licensed Software without the State's prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the contractor has indemnified the State, the contractor shall at the contractor's sole cost and expense promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality.

**C. PERSONNEL**

The contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel provided by the contractor.

**LIABILITY INSURANCE of the Standard Terms and Conditions shall be amended to read as follows:**

The contractor shall not commence work under this contract until he or she has obtained all the insurance required hereunder and such insurance has been approved by the State. The contractor shall not allow any subcontractor to commence work on his or her subcontract until all similar insurance required of the subcontractor has been obtained and approved by the State (or contractor). Approval of the insurance by the State shall not limit, relieve or decrease the liability of the contractor hereunder.

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If by the terms of any insurance a mandatory deductible is required, or if the contractor elects to increase the mandatory deductible amount, the contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

**A. WORKERS' COMPENSATION INSURANCE**

The contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

**B. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the contractor or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the State, and others as required by the Contract Documents, as an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

**C. INSURANCE COVERAGE AMOUNTS REQUIRED**

**1. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Coverage A	Statutory
Coverage B	
Bodily Injury by Accident	\$100,000 each accident

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Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

**2. COMMERCIAL GENERAL LIABILITY**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 any one person
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Fire Damage	\$50,000 any one fire
Medical Payments	\$5,000 any one person

**3. COMMERCIAL AUTOMOBILE LIABILITY**

Bodily Injury/Property Damage	\$1,000,000 combined single limit
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**4. UMBRELLA/EXCESS LIABILITY**

Over Primary Insurance	\$1,000,000 per occurrence
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**D. EVIDENCE OF COVERAGE**

The contractor should furnish the State a certificate of insurance coverage complying with the above requirements, which State Purchasing will submit to Administrative Services, Risk Management Division, 301 Centennial Mall S, 1<sup>st</sup> Fl, Lincoln, NE 68508 (facsimile 402-471-2800). These certificates or the cover sheet shall reference the contract number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the State is damaged by the failure of the contractor to maintain such insurance, then the contractor shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to Administrative Services Risk Management when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**DRUG POLICY shall be added as follows:**

Drug Policy: Contractor certifies, by signing this agreement that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State of Nebraska.



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**NEW EMPLOYEE WORK ELIGIBILITY STATUS shall be added as follows:**

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

- A. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
- B. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
- C. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**CONTRACT MONITORING shall be added as follows:**

The contractor is obligated to furnish information as requested to determine whether the objectives of the contract have been met. The contractor will be required to furnish quarterly reports to the State of Nebraska primary contact upon request.

**LIMITATION OF LIABILITY shall be added as follows:**

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3, and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid or in the final contract.

**FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS**

The State may terminate the contract, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for the contract. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give the contractor written notice thirty (30) days prior to the effective date of any

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termination, and advise the contractor of the location (address and room number) of any related equipment. All obligations of the State to make payments after the termination date will cease and all interest of the State in any related equipment will terminate. The contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the contractor be paid for a loss of anticipated profit.

4. [Purposely left blank.]

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

**Lead State Contract Administrator**

**Name:** Melissa Cox, Contracts Specialist  
**Address:** Department of General Administration, Office of State Procurement  
210 11<sup>th</sup> Ave SW Rm 201  
Olympia, WA 98504-1101  
**Voice:** (360) 902.7439  
**Fax:** (360) 586.2426  
**E-mail:** [mcox@ga.wa.gov](mailto:mcox@ga.wa.gov)

**Contractor**

**Name:** Susan Vogtsberger  
**Address:** Evenflo Company, Inc.  
Ameda Breastfeeding Products  
475 Half Day Road, Suite 200  
Lincolnshire, IL 60069  
**Voice:** (847) 964-2628  
**Fax:** 847-793-0169  
**E-mail:** [Susan.Vogtsberger@ameda.com](mailto:Susan.Vogtsberger@ameda.com)

**Participating Entity**

**Name:** Mary Lanning, Buyer  
**Address:** Nebraska Administrative Services Purchasing Bureau  
Mall Level, State Office Building  
PO Box 94847  
Lincoln Ne 68509-4847  
**Telephone:** 402-471-0973  
**Fax:** 402-471-2089

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
BREAST PUMPS (WSCA/WIC)**

**Administered by the State of Washington (hereinafter "Lead State")**

MASTER PRICE AGREEMENT  
**EVENFLO Company, Inc.**  
Washington Contract Number: 01910  
(hereinafter "Contractor")  
And  
**[State of Nebraska]**  
(hereinafter "Participating Entity")

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E-mail: mary.lanning@nebraska.gov

6. [Purposely left blank.]

7. Purchase Order Instructions:

All orders should contain the following (1) Mandatory Language "PO is subject to WSCA Contract #01910" (2) Your Name, Address, Contact, & Phone-Number (3) Purchase order amount, monthly payment (if appropriate), itemized list of items being purchased, & rates of the service being used

8. Price Agreement Number: All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 13249 OC and the Lead State price agreement number: 01910.

This Participating Addendum and the Master Price Agreement number 01910 (administered by the State of Washington) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

Purposely left blank.

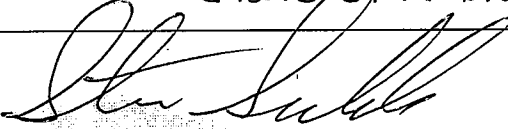
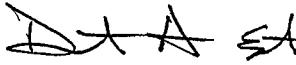
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And  
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(hereinafter "Participating Entity")

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

Participating Entity: <i>State of Nebraska</i>	Contractor: EVENFLO Company, Inc.
By: 	By: 
Name: <i>Steve Sulek</i>	Name: <i>DUSTIN EPSTEIN</i>
Title: <i>AS Materiel Administrator</i>	Title: <i>V.P.</i>
Date:	Date: <i>6/26/12</i>

[Additional signatures as required by Participating Entity]