

STATE OF UTAH - STATE COOPERATIVE CONTRACT

CONTRACT NUMBER MA667

1. **CONTRACTING PARTIES:** This State Cooperative Contract is between the **Division of Purchasing and General Services (State)**, 3150 State Office Building, PO Box 141061, Salt Lake City, UT 84114-1061, an agency of the State of Utah, and the following **CONTRACTOR:**

Edutek Corporation

Name

79 West 4500 South #24

Address

Murray

UT

84107

City

State

Zip

LEGAL STATUS OF CONTRACTOR

- ☐ Sole Proprietor
☐ Non-Profit Corporation
☒ For-Profit Corporation
☐ Partnership
☐ Government Agency

Contact Person Todd Fairbourn Phone #801-747-0050 Fax # 801-747-0937 Email tfairbourn@edutekcorp.com
Federal Tax ID# 87-0460243 Vendor # Commodity Code # 420-00, 420-04, 420-09

2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this contract is to provide:

Education Furniture. A detailed list of awarded categories and subcategories are included in Attachment B - Scope of Work.

Edutek Corporation is authorized to provide product in the following categories:

420-00 General Education Furniture

420-04 Portable Stages and Risers and Accessories

420-09 Cafeteria Tables and Seating and Accessories

3. **CONTRACT PERIOD:** Effective date: 06/14/2014 Termination date: 06/13/2019 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): N/A
4. **PRICING AS PER THE ATTACHMENT:** E
PAYMENT TERMS: Net 30 Days
DAYS REQUIRED FOR DELIVERY: 30 days ARO
MINIMUM ORDER: N/A
FREIGHT TERMS: FOB Destination, Freight Prepaid, or FOB Origin.
5. **ATTACHMENT A:** WSCA-NASPO Master Agreement Terms and Conditions
ATTACHMENT B: Scope of Work
ATTACHMENT C: Discount Matrix
ATTACHMENT D: Geographical Coverage
ATTACHMENT E: Warranty
ATTACHMENT F: Price List

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A. State specific Terms and Conditions will be found in the in the executed Participating Addendums. State Terms and Conditions in an executed Participating Addendum will take priority in the event of conflict between those terms and conditions and this Cooperative Contract.

6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
 - Utah State Procurement Code, Procurement Rules, CONTRACTOR'S response to Bid #TO14000 dated 12/31/2013.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

Todd Fairbourn 6-17-14
Contractor's Signature Date

Todd Fairbourn, President
Type or Print Name and Title

STATE OF UTAH

Paul D. Smith 6/18/14
Director, Div. of Purchasing & General Svs. Date

Attachment A

WSCA-NASPO Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

a. Any Order placed under this Master Agreement shall consist of the following documents:

- (1) A Participating Entity's Participating Addendum ("PA");
- (2) WSCA-NASPO Master Agreement Terms & Conditions;
- (3) A Purchase Order issued against the Master Agreement;
- (4) The Statement of Work;
- (5) The Solicitation; and
- (6) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

2. Definitions

Acceptance means a written notice from a Purchasing Entity to Contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a Product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor.

Acceptance Testing means the process for ascertaining that the Product meets the standards set forth in the section titled Standard of Performance and Acceptance, prior to Acceptance by the Purchasing Entity.

Contractor means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

Embedded Software means one or more software applications which permanently reside on a computing device.

Intellectual Property means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

Lead State means the State centrally administering any resulting Master Agreement(s).

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of WSCA-NASPO, and the Contractor, as now or hereafter amended.

Order or Purchase Order means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

Participating Addendum means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

Participating Entity means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

Participating State means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. A Participating State is not required to participate through execution of a Participating Addendum. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity.

Product means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

Purchasing Entity means a state, city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, who issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

WSCA-NASPO is the WSCA-NASPO Cooperative Purchasing Program, facilitated by the WSCA-NASPO Cooperative Purchasing Organization LLC, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of WSCA-NASPO. The WSCA-NASPO Cooperative Purchasing Organization facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states and the District of Columbia. The WSCA-NASPO Cooperative Development Team is identified in the Master Agreement as the recipient of reports and may be performing contract administration functions as assigned by the Lead State.

3. Term of the Master Agreement

The term of this Master Agreement is for Five (5) years.

4. Amendments

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Lead State.

5. Assignment/Subcontracts

a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities

under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to the WSCA-NASPO Cooperative Purchasing Organization LLC.

6. Price and Rate Guarantee Period

All prices and rates must be guaranteed for one year (12 months). Any request for price or rate adjustment must be for an equal guarantee period, and must be made at least 45 days prior to the effective date. Requests for price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

7. Cancellation

Unless otherwise stated, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, and rights attending any warranty or default in performance in association with any Order. Cancellation of the Master Agreement due to Contractor default may be immediate.

8. Confidentiality, Non-Disclosure, and Injunctive Relief

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity's or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or

disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

9. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of any information that pertains to the potential work or activities covered by the Master Agreement. The Contractor shall not make any representations of WSCA-NASPO's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

10. Defaults and Remedies

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this Master Agreement; or
- (3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or
- (4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- (5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:

- (1) Exercise any remedy provided by law; and
- (2) Terminate this Master Agreement and any related Contracts or portions thereof; and
- (3) Impose liquidated damages as provided in this Master Agreement; and
- (4) Suspend Contractor from being able to respond to future bid solicitations; and
- (5) Suspend Contractor's performance; and
- (6) Withhold payment until the default is remedied.

d. Unless other specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

11. Shipping and Delivery.

a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Offeror. If damage does occur, it is the responsibility of the Offeror to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all

packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Ordering Entity's Purchase Order number.

12. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel, in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

13. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14. Indemnification

a. The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State, Participating Entities, and Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable, from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State, Participating Entities, Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").

(1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

(a) provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) specified by the Contractor to work with the Product; or

(c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(d) It would be reasonably expected to use the Product in combination with such product, system or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

15. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

16. Individual Customers

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

17. Insurance

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;

(2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Purchasing Entity and Participating Entity by the Contractor.

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating State has been given at least thirty (30) days prior written notice, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.

e. Contractor shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within thirty (30) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Purchase Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

18. Laws and Regulations

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

19. License of Pre-Existing Intellectual Property

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, unlimited license to publish, translate, reproduce, modify, deliver, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The license shall be subject to any third party

rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Purchasing Entity, written consent of the owner for the licensed Pre-existing Intellectual Property.

20. No Waiver of Sovereign Immunity

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of a Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

21. Ordering

a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

b. The resulting Master Agreements permit Purchasing Entities to define project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to Purchasing Entity rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Agency may select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document compliance with the law of the Purchasing Entity.

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum, shall include:

- (1) The services or supplies being delivered;
- (2) The place and requested time of delivery;
- (3) A billing address;
- (4) The name, phone number, and address of the Purchasing Entity representative;

- (5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
- (6) A ceiling amount of the order for services being ordered; and
- (7) The Master Agreement identifier.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

22. Participants

a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The WSCA-NASPO Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

b. Use of specific WSCA-NASPO cooperative Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by 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 respective State Chief Procurement Official.

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial

obligations on behalf of political subdivisions.

d. WSCA-NASPO Cooperative Purchasing Organization LLC is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the WSCA/NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.

e. State Participating Addenda or other Participating Addenda shall not be construed to amend the terms of this Master Agreement between the Lead State and Contractor.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the approval of participation by the Chief Procurement Official of the state where the Participating Entity is located.

23. Payment

Payment for completion of a contract order is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

24. Public Information.

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

25. Records Administration and Audit.

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or orders or underpayment of fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein right exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

26. Administrative Fees

a. The Contractor shall pay to the WSCA-NASPO Cooperative Purchasing Organization, or its assignee, a WSCA-NASPO Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than 60 days following the end of each calendar quarter. The WSCA-NASPO Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping). The WSCA-NASPO Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the WSCA-NASPO Administrative Fee or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

27. WSCA-NASPO Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following WSCA-NASPO reports.

a. **Summary Sales Data.** The Contractor shall submit quarterly sales reports directly to WSCA-NASPO using the WSCA-NASPO Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the contract shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than 30 day following the end of the calendar quarter (as specified in the reporting tool).

b. **Detailed Sales Data.** Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and WSCA-NASPO Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the WSCA-NASPO Cooperative Development Team electronically through a designated portal, email, CD-Rom, flash drive or other method as determined by the Lead State. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in Section __ Attachment ____.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, **social security numbers or any other numerical identifier**, may be submitted with any report.

d. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and WSCA-NASPO shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

28. Standard of Performance and Acceptance.

Any standard of performance under this Master Agreement applies to all Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in the solicitation or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be accepted and no charges shall be paid until the standard of performance is met. The warranty period will begin upon Acceptance.

29. Warranty

The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

30. System Failure or Damage

In the event of system failure or damage caused by the Contractor or its Product, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

31. Title of Product

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the

Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

32. Waiver of Breach

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

33. Assignment of Antitrust Rights

Contractor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

34. Debarment

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

35. Governing Law and Venue

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State (in most cases also the Lead State). The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

36. WSCA-NASPO eMarket Center

a. In July 2011, WSCA-NASPO entered into a multi-year agreement with SciQuest, Inc. whereby SciQuest will provide certain electronic catalog hosting and management services to enable eligible WSCA-NASPO entity's customers to access a central online website to view and/or shop the goods and services available from existing WSCA-NASPO Cooperative Contracts. The central online website is referred to as the WSCA-NASPO eMarket Center Contractor shall either upload a hosted catalog into the eMarket Center or integrate a punchout site with the eMarket Center.

b. Supplier's Interface with the eMarket Center. There is no cost charged by SciQuest to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) Implementation Timeline: WSCA-NASPO eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with WSCA-NASPO and SciQuest to set up an enablement schedule, at which time SciQuest's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) WSCA-NASPO and SciQuest will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by WSCA-NASPO Participating Entity users).**

(a) Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to SciQuest, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data [Insert Time Frame Here] to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update annually to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions (whether an increase or decrease) to pricing

or product/service offerings (new products, altered SKUs, etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per quarter. The following conditions apply with respect to hosted catalogs:

(1). Updated pricing files are required by the 1st of the month and shall go into effect in the eMarket Center on the 1st day of the following month (i.e. file received on 1/01/13 would be effective in the eMarket Center on 2/01/13)]. Files received after the 1st of the month may be delayed up to a month (i.e. file received on 11/06/09 would be effect in the eMarket Center on 1/01/10).

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. Supplier Network Requirements: Contractor shall join the SciQuest Supplier Network (SQSN) and shall use the SciQuest's Supplier Portal to import the Contractor's catalog and pricing, into the SciQuest system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: www.sciquest.com or call the SciQuest Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

(1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

(2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract between the Contractor and the Contract Administrator; and

(3) The Catalog must include a Lead State contract identification number; and

(4) The Catalog must include detailed product line item descriptions; and

(5) The Catalog must include pictures when possible; and

(6) The Catalog must include any additional WSCA-NASPO and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different WSCA-NASPO Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the

Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by SciQuest for the suppliers and are upgraded every year. WSCA-NASPO reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity. More information about the UNSPSC is available at: <http://www.unspsc.com> and <http://www.unspsc.com/FAQs.asp#howdoesunspscwork>.

i. Applicability: Contractor agrees that WSCA-NASPO controls which contracts appear in the eMarket Center and that WSCA-NASPO may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several WSCA-NASPO Participating Entities currently maintain separate SciQuest eMarketplaces, these Participating Entities do enable certain WSCA-NASPO Cooperative Contracts. In the event one of these entities elects to use this WSCA-NASPO Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and WSCA-NASPO to implement the catalog. WSCA-NASPO does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate SciQuest catalogs.

(December 2013)

Attachment B Scope of Work

1. Product Categories

General Education Furniture

Desks: Combo desks, multi-student, open front, ADA, study carrels, and teacher workstations. Desks shall be durable with a variety of base/leg, finishes, shapes, and size options.

Tables: Activity tables, art tables, ceramic, collaborative tables, computer tables, demonstration, drafting tables, flip-top tables, folding tables, science tables, sewing, training tables, height adjustable, wood media (library) tables, and table dollies. Tables shall be durable and be available in a variety of base/leg, finishes, and size options.

Seating: Folding, stacking, nesting, task, stools and chair dollies for K-12 and Higher Education. Durable with a variety of fabric, finishes, leg, caster, back, and seat options.

Lounge Seating and Tables: Tables and seating designed to accommodate student's social activities as well as academic work and utilization of technology (laptops, smartphones, tablets, and other electronic devices) and teacher lounge seating.

Portable Stages and Risers and Accessories

Choral risers, seated band, transport risers, portable stages, adjustable and fixed height stages available in a variety of sizes, shapes, and finishes. Accessories may include, but are not limited to, transportation carts, stairs, ADA ramps, guardrails, skirting, backdrops, wall padding, chairstops, crowd control barriers, and player tunnels.

Cafeteria Tables and Seating and Accessories

Cafeteria tables and seating that are durable, stain resistant and available in a variety of sizes, styles, finishes, and options. With and without attached seating, wall mounted, freestanding, café, bistro, barstool, booths, and fixed seating. Accessories may include, but are not limited to, trash receptacles, tray stands, and recycle bins.

2. General Provisions

The purpose of this request for proposal is to enter into master agreements with qualified firms to provide education furniture and related products including all customer service, installation, and design services on behalf of the State of Utah and the WSCA/NASPO Cooperative Purchasing Organization.

The products and services resulting from the award of these master agreements will be available to all qualified entities including States, Cities, Counties, and political subdivisions on an as needed basis under the same terms and conditions including pricing that is agreed to in the master agreement(s) or participating addendums.

Each participating entity has the option to select the manufacturer(s) or distributor(s) they choose to do business with. The participating entity has no obligation to select all awarded manufacturers or distributors. It is at the sole discretion of the participating entity which manufacturers or distributors they select to sign a participating addendum with.

Each participating entity shall select the authorized dealer(s) or distributor(s) they choose to do business with during the participating addendum process. A participating entity may require the authorized dealer(s) or distributor(s) to submit additional information regarding their firm as part of the selection process during the execution of a participating addendum. This information could include, but is not limited to; business references, number of years in business, technical capabilities, and the experience of both their sales and installation

personnel. It is at the sole discretion of the participating entity which authorized dealer(s) or distributor(s) they choose to do business with.

Each participating entity has the option to select one or more product categories or services from the resulting master agreement(s) during the execution of the participating addendum process. It is at the sole discretion of the participating entity which product categories they select to include in their offering.

Each participating entity has the option to negotiate an expanded product line within the product category offering and within the scope of this RFP during the participating addendum process. Any additional incremental discounts available to a participating entity, if offered, may be provided at the discretion and as the sole legal obligation of the OEM or their authorized dealer or the distributor to the participating entity and negotiated during the participating addendum process. Contracted suppliers may offer additional volume discounting at any time to purchasing entities for special projects taking into consideration a project size, scope, type, or other considerations at the sole discretion and as the sole legal obligation of the OEM, authorized dealer, or distributor.

The resulting master agreement will be awarded with the understanding and agreement that it is for the sole convenience of the participating entities. The participating entities reserve the right to obtain like goods or services from other sources when necessary.

3. WSCA-NASPO Master Agreement Administrator

The WSCA-NASPO Administrator designated by WSCA-NASPO and the State of Utah, Division of Purchasing and General Services is:

Terri O'Toole
State of Utah Division of Purchasing and General Services
State Office Building
Capitol Hill
Salt Lake City, Utah 84114-1061
Email: totoole@utah.gov
Phone: (801) 538-3147
Fax: (801) 538-3882

4. Length of Contract

The Master Agreement(s) will be for a period of five (5) years. The Master Agreement Administrator reserves the right to review Master Agreement(s) on a regular basis regarding contractor performance, market conditions, and cost analysis and may negotiate price and service elements during the term of the agreement.

5. Pricing Structure, Price Guarantee, Escalation, and Adjustments

A percentage discount(s) off the MSRP or distributor price list shall be offered on the cost schedule for each or any category of goods identified in the scope of work and reflected in the cost schedule for F.O.B Destination, freight prepaid and F.O.B. Origin, freight collect. The percentage discount(s) offered shall remain firm for the duration of the WSCA-NASPO Master Agreements. All products ordered from the Master Agreement shall be delivered as designated on the purchase order. Contracted suppliers may, at their discretion and at their sole legal obligation, offer deeper discounting to participating entities taking into consideration project size, type, or other considerations.

Installation Services: Pricing for installation services shall be negotiated with Participating States during the participating addendum process. Installation fees shall have a cap as described below. The cap is based on the total purchase order amount. A contracted firm may request an exception to the caps listed below directly to the purchasing entity for one or more of the following reasons. The request for exception must contain pertinent information and include a quote for installation costs. The request must be approved by the purchasing entity and the cost and/or any other terms included in the purchase order.

- A. Labor market and/or prevailing wages for the installation location do not allow for the installation fee to be below the cap.
- B. The installation project is more complex and requires more labor hours, expertise, additional field measurements, travel to remote locations, and/or other labor requirements that are not typical or do not fall below the installation cap.

<u>Purchase Order Total/Type</u>	<u>% Cap</u>
Purchase Orders Over \$2,500	10%
Outdoor Furniture Installation	20%
Fixed Seating Installation	20%

Price Guarantee Period: The OEM's MSRP or distributor price list shall remain in effect for at least one (1) year from the date the WSCA-NASPO master agreement goes into effect.

Products Price Adjustments: The OEM or distributor may update the pricing on their price list one time every 12 months after the first year of the original contract term. The WSCA-NASPO master agreement administrator will review a documented request for a price list adjustment only after the price guarantee period. The requested increase shall be based upon a documented cost increase to the OEM or distributor that is directly correlated to the price of the products on the OEM's or distributor's price list that are covered under the master agreement. The price adjustment shall not produce a higher profit margin than the original contract, and shall be accompanied by sufficient documentation and nationwide notice of price adjustment to the published price list.

The WSCA master agreement administrator shall determine whether the requested price increase or an alternate option is in the best interest of the participating entities. The price increase request must be made at least 45 days prior to the effective date, and shall not go into effect until a master agreement amendment has been fully executed. Any approved price adjustments will carry a price guarantee period of 12 months and be effective on the date of the master agreement amendment.

No retroactive price adjustments will be allowed for price adjustments.

Installation Services Price Adjustments: Price escalation policy for installation services will be negotiated during the participating addendum process with the participating entity. Price adjustments for installation services shall be directed to the participating entity representative according to the participating addendum escalation policy.

Price Decrease: In the event of a price decrease in any category of product at any time during the master agreement the WSCA-NASPO master agreement administrator shall be notified immediately. All price reductions shall be effective upon the notification provided to the WSCA-NASPO master agreement administrator.

6. Usage Reporting Requirements

Contractor agrees to pay a WSCA-NASPO Administrative Fee as specified in Section 26 of the WSCA-NASPO Master Agreement Terms and Conditions. Moreover, specific summary and detailed usage reporting requirements are prescribed by Section 27 of the WSCA-NASPO Master Agreement Terms and Conditions.

Usage Report/Administrative Fee Administrator

Administrator Name	Phone	Email
Todd W. Fairbourn	801-455-2431	tfairbourn@edutekcorp.com

The Contractor shall pay to the WSCA-NASPO Cooperative Purchasing Organization, or its assignee, a WSCA-NASPO Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than 60 (sixty) days following the end of each calendar quarter. The WSCA-NASPO Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping). The WSCA-NASPO Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the WSCA-NASPO Administrative Fee or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following WSCA-NASPO reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to WSCA-NASPO using the WSCA-NASPO Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the contract shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than 30 day following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and WSCA-NASPO Cooperative Development Team no later than thirty (30) days after the end of the reporting period.

Reports shall be delivered to the Lead State and to the WSCA-NASPO Cooperative Development Team electronically through a designated portal, email, CD-Rom, flash drive or other method as determined by the Lead State. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report

d. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and WSCA-NASPO shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

7. Freight Terms

The contracted supplier(s) shall offer to ship products F.O.B. Destination; freight prepaid or allow the purchasing entity to make freight arrangements F.O.B. Origin, freight collect. The purchasing entity shall determine which method of freight terms apply and is required to note the method on the purchase order.

Responsibility for Freight Cost and Transit Risk:

F.O.B Destination, freight prepaid

Seller – Pays freight charges

Seller – Bears freight charges and selects carrier

Seller – Owns goods in transit

Seller – Files claims (if any)

All freight costs for shipments to the closest west coast shipping port for Alaska and Hawaii must be included in the product price or incorporated into the discount offered for FOB Destination, freight prepaid in response to this RFP. Alaska and Hawaii will negotiate freight rates from the closest west coast shipping port during the Participating addendum process. Under no circumstances will the contracted supplier(s) increase their profit margin through shipping charges to Hawaii or Alaska. The contracted supplier is responsible for filing and expediting all freight claims with carriers. The contracted supplier shall pay title and risk loss or damage charges.

F.O.B. Origin, freight collect

Buyer – Pays freight charges

Buyer – Bears freight charges and selects carrier

Buyer – Owns goods in transit

Buyer – Files claims (if any)

8. Product Line Additions and Updates

During the term of the contract, contracted supplier's may submit a request to update the awarded product line (within the scope) as products are introduced or removed from the market. The master agreement administrator will evaluate requests and update the contract offering via written amendment as appropriate. The contracted supplier shall update the dedicated website, price lists, and catalogs to reflect approved changes. Pricing must utilize the same pricing structure as was used for products falling into the same product category.

9. Right to Publish

Throughout the duration of this master agreement term, distributors and OEM's and/or their authorized dealers must secure from the WSCA-NASPO master agreement administrator prior approval for the release of any information that pertains to the potential work or activities covered by this procurement or the master agreement. The offeror, distributor, OEM and/or its authorized dealer shall not make any representations of WSCA-NASPO's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this master agreement without prior written consent of the WSCA-NASPO master agreement administrator. Failure to adhere to this requirement may result in disqualification of the offerors proposal or termination of the master agreement for cause.

10.Changes in Representations

The contracted supplier must notify the WSCA-NASPO master agreement administrator of changes in the contracted supplier's key administrative personnel, in advance and in writing and upon approval by the WSCA/NASPO master agreement administrator. The WSCA-NASPO master agreement administrator reserves the right to require a change in contracted supplier(s) representatives if the assigned representative(s) is not, in the opinion of the WSCA-NASPO master agreement administrator, meeting the terms and conditions of the contract.

11.News Releases

News releases or other public disclosure of information pertaining to this RFP or the statewide contracts may not be published without the prior written permission of the State of Utah.

12.State Seal Use

The Utah Great Seal Rule states, in section R622-2-3.Custody and Use, that "no facsimile or reproduction of the Great Seal may be manufactured, used, displayed, or otherwise employed by anyone without the written approval of the Lieutenant Governor."

Other participating States have similar rules that must be adhered to by offerors or interested parties.

13.Glossary

ANSI: A source for standards and conformity assessments by the American National Standards Institute. See www.ansi.org for more information.

ANSI/BIFMA: Safety and performance standards developed by The Business and Institutional Furniture Manufacturers Association (BIFMA) engineering committee. See www.bifma.org for more information.

ASTM: American Society for Testing and Material that develops international standards for materials, products, systems and services used in construction, manufacturing and transportation. See www.astm.org for more information.

Authorized Representative: An individual with the authority to legally bind the offeror to the terms and conditions of the Master Agreement (s) established as a result of this RFP. This individual must have the authority and ability to accurately reflect the ability of the offeror to meet the requirements detailed in this RFP.

Authorized Dealer: A qualified firm that has been designated by the OEM or Distributor as authorized to sell products and perform services under the resulting Master Agreement(s).

Bid Sync: The electronic procurement website utilized for this solicitation located at www.bidsync.com.

BIFMA: The Business and Institutional Furniture Manufacturers Association. See www.bifma.org for more information.

California Technical Bulletin 117: Requirements, Test Procedure and Apparatus for Testing the Flame Retardance of Resilient Filling Materials Used in Upholstered Furniture, March 2000 edition, also known as TB 117 or CAL 117. See <http://www.bhfti.ca.gov/industry/117.pdf> for more information.

Contract Administrator: A dedicated person with the authority and ability to manage compliance with the scope and terms and conditions for this contract.

Contracted Supplier: An original equipment manufacturer of education furniture, or a distributor, or authorized representative that has been awarded a master agreement as a result of this procurement.

Ergonomic: The science of designing office furniture to fit the user and optimize human well-being and overall office furniture performance.

KD: Knocked down furniture that requires assembly after delivery.

LCA: Life Cycle Assessment is the investigation and evaluation of the environmental impacts of a given product or service caused or necessitated by its existence.

Lead State: The lead State is the State, with its representative, that has been chosen by WSCA-NASPO to provide leadership and conduct the procurement according to their States' procurement code and policies.

Mandatory Minimum Requirements: Requirements that must be met in order to be considered for further evaluation. Mandatory minimum requirements are non-negotiable. An offer that does not meet the mandatory minimum requirements will be disqualified from further consideration.

MSDS: Material Safety Data Sheets. See www.msds.com for more information.

MSRP: Manufacturer's Suggested Retail Price list.

NFPA 260: National Fire Protection Association – Flammability requirements for textiles. See www.nfpa.org for more information.

OEM: Original Equipment Manufacturer of Office Furniture.

Offeror: A firm that submits a proposal.

OSHA: Occupational Safety Health Administration. See www.osha.gov for more information.

Participating Addendum: A Participating Addendum must be executed by any State that decides to adopt a WSCA contract.

A Participating Addendum shall be executed for each contractor by the individual State desiring to use their contract.

Additional States may be added with the consent of the contractor and the Lead State (on behalf of WSCA/NASPO) through execution of Participating Addendums.

A Participating Addendum allows for each Participating State to add terms and conditions that may be unique to their State.

The Participating State and the Contractor shall negotiate and agree upon any additional terms and conditions prior to the signing and execution of the Participating Addendum.

States are not mandated to sign a Participating Addendum with all awarded vendors.

Participating Entity: A State that has indicated intent to participate in the solicitation process, or after award, a State that has executed a participating addendum.

Participating State: For the purposes of this procurement participating States are listed in Section 1.11.

Procurement Manager: The lead State's dedicated point of contact responsible for carrying out the procurement process in conjunction with the designated sourcing team and WSCA-NASPO coordinator.

Purchasing Entity: Any end-user in a participating State that is eligible to use the Master Agreement(s) through the participating addendum, including but not limited to State Agencies, Counties, Cities, Education, and other entities.

Qualified Entity: An entity that is eligible to use the Master Agreement(s).

Sourcing Team: The group of procurement professionals representing various State's that have been chosen by WSCA-NASPO to provide guidance and assistance in the procurement process and evaluation of offers.

Underwriters Laboratories: (UL) Independent, not-for-profit product safety testing and certification organization. See www.ul.com for more information.

Usage Report Administrator: A person responsible for the quarterly sales reporting and payments described in Section 1.13 Usage Reporting Requirement.

Volume Discount: A percentage discount offered by the seller to the buyer for purchasing a stated dollar amount of furniture products to be delivered at one time or over a specified period.

WSCA/NASPO: WSCA/NASPO Cooperative Purchasing Organization LLC. See www.wsca.info for more information.

General Contract Requirements

14. Product Offering

All products offered must be new. Used, shopworn, refurbished, demonstrator, prototype, or discontinued models are not acceptable. Each product purchased by a participating entity must have a unique identification number in an inconspicuous place for ease of warranty claims.

15. Dedicated Website

The Contracted Supplier(s) must maintain a contract website for each participating entity. The purpose of this website is to inform end users of the individual State programs under any subsequent participating addendum. Such contract websites shall, at a minimum, contain:

- a. Product offerings and options, limited to the products approved by each participating entity through their participating addendum, this includes, but is not limited to product literature, specifications, photo(s), model number, fabric/finish options, size, pricing and access instructions for each product.
 - b. A detailed contact list including direct contact name, address, and phone number of authorized dealers within the participating State's that are authorized to service the contract.
 - c. The contracted supplier and/or its authorized dealer must make the website available within 90 days after signing a participating addendum.
- Our website has links that connect directly with the manufacturer's website. This allows direct access to finding all of the current colors, products, specification and updates. There is a category listing for the customer to browse with recommended product for each category. The customer can "click" on a particular product and the link will give a detailed description of that product. Our website has sections for "popular", "stock" and "latest news" that allow our customers to view current trends and uses of our product. Customers may also click on "contract" to review the discounts that have been approved for each manufacturer. To view our mission statement click on "about us".

16. Warranty

The Contracted Supplier must meet the minimum warranty requirement stated in the original solicitations mandatory requirements for each product category offered. The education furniture and other products offered

in response to this RFP must be appropriate for a school setting environment with high traffic and high abuse and heavy use. Normal wear and tear is different than that of an office environment.

- a. Products (including parts and components) that fail under normal use as a result of a defect in design, materials, workmanship, or installation shall be repaired or replaced free of charge (including labor, delivery, travel, and installation) throughout the warranty period. Parts and components include any component or part that is installed on the furniture when it is delivered to the site. Products that require warranty repair or replacement must be repaired or replaced within a reasonable time frame that is agreed to by the participating entity. This process is to ensure sufficient lead-time for ordering warranty parts, components or products during the entire warranty period.
- b. A copy of the manufacturer's standard warranty for each product category is attached.

17. Geographic Coverage

The Contracted Supplier shall provide one or more of the product categories and services to a minimum of five (5) eligible States. Eligible States consist of the 50 States and the District of Columbia. The Contracted Supplier must cover all States that they currently service.

18. Insurance Coverage

This pertains to the State of Utah insurance requirements. Other Participating States may identify different insurance requirements during the participating addendum process.

The Contracted Supplier's or its authorized dealers who perform installation services or subcontract for installation services shall procure and maintain insurance which shall protect the Contracted Supplier and/or authorized dealer and The State and/or purchasing entity (as an additional insured) from any claims from bodily injury, property damage, or personal injury covered by the indemnification obligations set forth herein. The Contracted Supplier's authorized dealer or representative shall procure and maintain the insurance policies described below at their own expense and shall furnish to the procurement manager, upon award, an insurance certificate listing the participating State(s) as certificate holder and as an additional insured. The insurance certificate must document that the Commercial General Liability insurance coverage purchased by the authorized dealer to include contractual liability coverage applicable to this Master Agreement. In addition, the insurance certificate must provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all States); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements) and an acknowledgment of notice of cancellation to the participating States.

Authorized dealer is required to maintain the following insurance coverage's during the term of the WSCA Master Agreement:

- 1) Statutory Workers' Compensation Insurance and Employers' Liability Insurance providing benefits and not less than one million dollars (\$1,000,000). The Best's rating requirements are waived for coverage provided by the Workers' Compensation Fund. The Contractor shall require all Subcontractors at any tier to take and maintain similar policies of Workers' Compensation Insurance.

2) Commercial General Liability Insurance and/or Comprehensive General Liability Insurance, including coverage for premises/operations, explosion, collapse and underground hazards, products/completed operations, contractual (including this Contract), and personal injury, including employees with limits of not less than one million dollars (\$1,000,000) each occurrence, and not less than three million dollars (\$3,000,000) general aggregate and three million dollars (\$3,000,000) products/completed operations aggregate. Aggregate limit shall be designated as applying to this Contract. If this insurance coverage is written on a "claims made" basis, the certificate of insurance required below shall so indicate and the policy shall contain an extended reporting period provision or similar 'tail' provision such that claims reported up to three (3) years beyond the date of Substantial Completion of this Contract are covered.

3) Comprehensive Automobile Liability Insurance including owned, hired and non-owned automobiles with limits not less than one million dollars (\$1,000,000) any one accident or loss.

Within 30 days of contract award, the Contracted Supplier and/or Authorized Dealer must submit proof of certificate of insurance that meets the above requirements or the Participating States requirements.

19.Delivery

Unless otherwise noted on a purchase order the Contracted Supplier and/or Authorized Dealer offering furniture products must comply with the following delivery requirements. The Contracted Supplier or its Authorized Dealer must be able to offer the following delivery methods. Pricing and fees for additional services, such as Inside Delivery, Liftgate Service, and Installation guidelines and terms will be negotiated during the Participating Addendum process. Installation services shall be capped as described in Section 1.13 chart. Delivery type and any associated fees must be included on the bid and on the purchase order. Delivery instructions will be specified on the purchase order by the purchasing entity. Firms responding with an offer for non-furniture products only are not required to offer installation services.

Delivery Methods:

Drop Ship – Products will be delivered by a common carrier to a dock, a tailgate, or a position immediately adjacent to the delivery vehicle via FOB Destination or FOB Origin as selected by the purchasing entity. Fees and instructions must be negotiated prior to issuance of purchase order. Purchase order shall state the delivery instructions and fees.

Inside Delivery – Products will be delivered by the Authorized Dealer or a carrier inside a building location as designated on a purchase order. The driver is required to go inside (beyond the front door or loading dock) to deliver a shipment instead of remaining on the dock or in the truck. No assembly is required by the Authorized Dealer. Additional freight charges apply and will be provided on the quote and on the invoice. The driver is required to go inside (beyond the front door or loading dock) to deliver a shipment instead of remaining on the dock or in his truck. Fees and instructions must be negotiated prior to issuance of purchase order. Purchase order shall state the delivery instructions and fees.

Liftgate Service – Products will be delivered to a receiving address that does not have a loading dock. Manual unloading is necessary and a liftgate truck that can raise and lower a shipment from the truck to the ground will be required. Additional freight charges apply and a rate will be negotiated during the Participating Addendum

process. When the shipping or receiving address does not have a loading dock, manual loading or unloading is necessary. A liftgate is a platform at the back of certain trucks that can raise and lower a shipment from the ground to the truck. This is usually needed when there is an oversize dimension or when the weight of the shipment is 120 lbs. or greater and there is no loading dock or forklift. Fees and instructions must be negotiated prior to issuance of purchase order. Purchase order shall state the delivery instructions and fees.

Installation/Full Service – Products will be delivered, unloaded, and assembled according to a design plan and to a move-in ready condition incorporating all Installation of Product Mandatory Requirements Section 2.12. Fees and instructions must be negotiated prior to issuance of purchase order. Purchase order shall state the installation instructions and fees.

- a. Delivery of goods shall be made to any location specified on the purchase order. These locations may include, but are not limited to, standard education buildings, high-rise buildings, receiving docks, and staging areas. Purchasing entities reserve the right to combine purchase order totals to calculate the volume discount.
- b. It shall be the responsibility of the Contracted Supplier or its Authorized Dealer to offer the services required to deliver, unload, uncrate, and assemble items ordered from any product category offered.
- c. The Contracted Supplier or its Authorized Dealer is responsible for the removal of all packaging materials from the job site on a daily basis. Dumpster and trash receptacles that belong to the purchasing entity for the participating State shall not be used.
- d. Under no circumstances will Purchasing Entity personnel assist with unloading product.
- e. The Purchasing Entities may elect to accept partial deliveries, however, payment will not be made until products have been received and accepted for the partial delivery.
- f. The Contracted Supplier or its Authorized Dealer is responsible for storage of product(s) prior to the delivery and installation date as established on the purchase order.
- g. Emergency or rush deliveries requested by the Purchasing Entity that require special shipping and handling charges may be at the Purchasing Entity's expense, but only with prior written approval from the Purchasing Entity. Emergency or rush shipping charges shall be added to an invoice as a separate line item.
- h. In the event emergency or rush delivery is required as the result of an OEM or Authorized Dealer's error; all shipping and handling charges shall be paid by the Contracted Supplier including all charges for shipping and handling to Alaska and Hawaii.
- i. The acceptance of delivery with or without objection shall not waive the right to claim damage for breach nor constitute a waiver of requirements for timely delivery or performance of any actions that shall remain the obligation of the Contracted Supplier or Authorized Dealer. Unless otherwise stated in the participating addendum or project agreement, if delivery is delayed more than ten (10) calendar days beyond the delivery terms, the manufacturer must provide temporary furniture, or the purchasing entity may impose a penalty equal to 3% of total project cost per week (Monday through Friday business week) for every week the delivery is delayed, assessed on the first day of each week. This penalty may be imposed at the discretion of the purchasing entity, but does not preclude the Purchasing Entity from compensation from the Contracted Supplier or Authorized Dealer for other expenses or penalties caused by the late delivery.

20.Damage and/or Incorrect Product

- a. Damaged or Incorrect Product shall be reported to the Contracted Supplier or their Authorized Dealer by the Purchasing Entity within 45-day time frame, or as noted on the purchase order, after the damage is noticed.
- b. The Contracted Supplier or their Authorized Dealer is responsible for pick-up and repair or replacement of all damaged goods within a 45-day time frame, or as noted on the purchase order, acceptable to the Purchasing Entity.
- c. The Contracted Supplier or their Authorized Dealer shall bear all risk of loss or damage with respect to returned products except for loss or damage directly attributable to the negligence of the Purchasing Entity.
- d. For F.O.B Destination, freight prepaid shipments, the Contracted Supplier or their Authorized Dealer is responsible for filing all claims for damage with carriers or other responsible parties in a timely manner.
- e. The Contracted Supplier or their Authorized Dealer is required to keep the Purchasing Entities informed of the replacement process and delivery date for any and all replacement orders.
- f. The Purchasing Entity will not be charged a re-stock fee for any returns due to a Contacted Supplier error.
- g. In the event that a Purchasing Entity does not accept product due to damages or shipment error as described above, no Purchasing Entity, including Alaska or Hawaii shall pay additional shipping and handling charges for the shipment of replacement products.

No returns without prior authorization. All returns are subject to a 25%-45% restocking charge. The charge will depend on the circumstances.

21. Product Manuals

Upon request, an owner's manual shall be supplied for all procured products. Manuals may be available via the Contracted Supplier's website. The manual shall contain complete assembly and disassembly instructions including all necessary parts lists and diagrams, and fabric maintenance and cleaning instructions, and specifications.

22. Contract Administrator

The Contracted Supplier shall provide a dedicated Contract Administrator to manage compliance with the scope and terms and conditions for this contract.

Administrator Name	Phone	Email
Todd W. Fairbourn	801-455-2431	tfairbourn@edutekcorp.com

The contract administrator shall attend, and travel at their expense, an annual meeting with the master agreement administrator and sourcing team members and a separate meeting with entities who have executed a participating addenda to provide information regarding the contract. The following information to be provided by the contract administrator:

- a. Total contract purchases.
- b. Total contract purchases by product category.
- c. Total contract purchases by State.

- d. Total contract purchases by State by product category.
- e. Report on quality issues if applicable.
- f. New product introductions and market trends.
- g. Website traffic and offerings.
- h. Updates on authorized dealers.
- i. Marketing and other resources available.

23.Customer Service

- a. The Contracted Supplier or Authorized Dealer must have one lead representative for each entity that executes a Participating Addendum. Contact information shall be kept current.
- b. Customer Service Representative(s) must be available by phone or email at a minimum, from 8AM to 5PM on Monday through Friday in their respective time zones.
- c. Customer Service Representative will respond to inquiries within one business day.
- d. The Contracted Supplier or Authorized Dealer must provide design services for the applicable categories.
- e. The Contracted Supplier or authorized dealer must provide Installation Services for the applicable categories.
- f. Purchasing entities shall have the option of ordering through the OEM direct or through the authorized dealer network. The specific process and methods shall be negotiated and clearly described in the participating addendum process.

24.Installation Services

The Contracted Supplier or Authorized Dealer shall take precautions during the installation of any product not to damage the premises or the property of the Purchasing Entity. If damages do occur as a result of operations under this contract, the Contracted Supplier or Authorized Dealer is responsible for ensuring that the affected area/item(s) are returned/restored to their original condition or the Contracted Supplier or Authorized Dealer shall make restitution, as agreed upon by the parties.

- a. The Contracted Supplier or Authorized Dealer shall be fully responsible for the assembly team and the supervision of the team.
- b. The Contracted Supplier or Authorized Dealer is responsible for ordering any missing, damaged, or incorrect items upon discovery.
- c. The Purchasing Entity shall incur no additional charges as a result of the Contracted Supplier or Authorized Dealer's error.
- d. The Purchasing Entity reserves the right to hire or make arrangements for additional cleaning personnel if the Contracted Supplier is not able to properly clean and ready the site for occupation by the designated move in date.
- e. The cost of additional cleaning shall be fully reimbursed by the Contracted Supplier or Authorized Dealer.
- f. The Contracted Supplier or Authorized Dealer must offer Design.
- g. The Contracted Supplier or Authorized Dealer must work cooperatively with the Purchasing Entity and participate in the final walk-through inspection and provide a punch out checklist that will be approved and signed by the Purchasing Entity's project manager.

- h. A punch list written by the Contracted Supplier and the Purchasing Entity shall be created consisting of a listing of any missing, incorrect, or damaged items approved and signed by the purchasing entity after issues are resolved.
- i. The Contracted Supplier or Authorized Dealer is responsible to ensure that a final cleaning will be completed prior to the final walk-through and shall include a wet wipe down of all surfaces, vacuuming of carpet or broom sweeping of solid surface flooring, and any other cleaning required for the work stations to be in move-in condition.
- j. The Contracted Supplier or Authorized Dealer shall be fully responsible for the assembly of installed product. Installed product must be fully assembled and ready for use the agreed upon timeframe of the Purchasing Entity.
- k. The Contracted Supplier or Authorized Dealer must place all desk, tables, filing, metal storage and wooden case-goods in the location designated by the Design Plan or Purchasing Entity.
- l. Installation crews are responsible for all of their own tools, supplies, and equipment and assume all risk and/or loss. The purchasing entity is not responsible for tools left at the job site.

25.Design Services

Contracted Supplier shall provide to all purchasing entities, through their Authorized Dealer network, Representative, or a contracted supplier, all design services at no additional charge.

- a. Fabric, paint, and finishes shall be available electronically and incorporated in detailed drawings to aid in the selection process. The accuracy of all facility dimensions, obstructions, and attributes shall be the responsibility of the Contracted Supplier for each Participating Entity.
- b. The Contracted Supplier shall be responsible for all field verifications and any overages or shortages or all other ordering errors resulting from orders based on the design work completed by or on behalf of the Contracted Supplier. Approval of design work by the Purchasing Entity does not constitute responsibility for the Contracted Suppliers' design or ordering process.
- c. If the Contracted Supplier for each Participating Entity is found to have designed and specified a new furniture installation which does not fit properly due to inaccurate floor plans, it shall be the Contracted Supplier for the Participating Entity's responsibility (financially and logistically) to resolve the matter to the Purchasing Entity's satisfaction. No payment shall be made until the issue is fully resolved and approved by the Purchasing Entity's project manager for any Participating Entity.
- d. The Contracted Supplier for each Participating Entity shall provide an installation plan showing in detail, the position of all new furniture products, wall heights, colors, types of panels, voice/data outlets, and electrical tie-ins (whips/hardwire/plug-in). The Purchasing Entity's project manager for any Participating Entity shall approve, in writing, the final plan.
- e. The Contracted Supplier shall be responsible for all plans and their review for correct product application and stability. The Contracted Supplier is responsible for notification to the Purchasing Entity's project manager immediately of any deviations or inconsistencies with product capabilities, including unusual assembly requirements.
- f. The Contracted Supplier is responsible for accurately specifying all necessary products including parts, components, connectors, fillers, trim pieces, and other items in the plan and on the component list. If parts are missing at assembly time, the Contracted Supplier is responsible for the quick shipment (within the agreed upon timeframe) of the missing parts.

26. Annual Meetings with Participating Addendum Contract Holders

EduTek will provide any information requested.

27. Annual Meetings with Master Agreement Administrator

Todd Fairbourn, President of EduTek, would be the contract administrator and point of contact for the contract and associated meeting requirements.

28. Escalation Management Plan

Jan Weaver, Executive Coordinator, would be the customer service contact for orders, replacements, issues, and complaints.

Product Requirements

29. Product Performance Standards

All education furniture products offered shall comply with one of the three options:

1. Meet or exceed applicable test and performance standards prescribed in ANSI/BIFMA most current product safety and performance standards, guidelines, and testing.
2. Meet or exceed a standard that is equivalent to ANSI-BIFMA most current product safety and performance standards, guidelines, and testing.
3. If your firm does not perform durability, performance, and safety testing you may submit as an alternative a warranty document that exceeds, at a minimum, the mandatory minimum warranty period by 50%. This extended warranty does not apply to fabric, which is 5-year. As an example the mandatory minimum warranty period for desks in 4.2 is 10 years. If your firm does not perform durability, performance, and safety testing you may submit as a substitute a 15-year warranty for desks.

The master agreement administrator or any participating entity or purchasing entity (end user) may request at any time documentation to support compliance with ANSI/BIFMA standards or equivalent. For those firms with product that have not yet been ANSI/BIFMA or equivalent standards tested, they may submit a request for additional time, up to 6 months after award of contract, to complete the testing certification with ANSI/BIFMA or equivalent standards. For those firms selecting option 3, substituting an extended warranty for the testing standards certification, the warranty document submitted must state the extended warranty period of at least 50% more than the mandatory minimum required warranty period.

Furniture product offered must be designed to require a practical minimum maintenance, meet all federal, state, and local statutory requirements for structure, fire, and public safety. Furniture products must also be designed and engineered for the comfort and work efficiency and with flexibility to accommodate future needs.

Contracted Supplier must offer wheelchair accessibility/ADA compliant options for the applicable product categories in accordance with the American Disabilities Act (Public Law 101-336, Title II).

Furniture with power distribution units offered in response to this RFP must meet all applicable UL Standards, including UL 962A.

Contracted Supplier must meet the most current version of any and all standards required in this document.

30.Education Furniture Requirements

General Education Furniture

Desks

Desks shall be designed of material and workmanship to withstand hard daily usage over an extended life. Products must be free of all defects, imperfections, and hazards, which might affect appearance and performance. Desks must be durable with a variety of base/leg, finishes, shape, and size options. All desks offered in response to this category must meet or exceed ANSI/BIFMA X5.5 2008 Desk/Table Products – Tests or equivalent, or extended warranty period.

- a. All products offered shall be standard catalogue items for which printed literature, specifications, and certified test results are available.
- b. Desks shall be designed in a manner that allows assembly and disassembly to occur with minimal disruption, time, noise volume, and space usage.
- c. Contracted suppliers must provide a finished edge for all exposed ends, junctions, corners or changes in height.
- d. All product shipped must have an identification tag/sticker, which must include the following information: manufacturer's name, model number, and year built.
- e. All desk products offered must have a minimum of 10 year warranty.

Tables

Tables shall be designed of material and workmanship to withstand hard daily usage over an extended life. Products must be free of all defects, imperfections, and hazards, which might affect appearance and performance. Tables must be durable with a variety of base/leg, finishes, shape, and size options. Tables shall be available for a variety of different purposes and environments. Contracted Suppliers shall offer wheelchair accessibility/ADA compliant options. All tables offered must meet or exceed ANSI/BIFMA X5.5 2008 Desk/Table Products – Tests or equivalent, or extended warranty period.

- a. All products shall be standard catalogue items for which printed literature, specifications, and certified test results are available.
- b. Tables shall be designed in a manner that allows assembly and disassembly to occur with minimal disruption, time, noise volume, and space usage.
- c. Contracted suppliers must provide finished edge for all exposed ends, junctions, corners or changes in height.
- d. All product shipped must have an identification tag/sticker, which must include the following information: manufacturer's name, model number, and year built.
- e. All table products offered in response to this procurement must have a minimum of 10 year warranty.

Seating

Seating must durable with a variety of fabric, finishes, leg, caster, back, and seat options. All must meet ANSI/BIFMS X6.1-2012 Educational Seating – Testing or equivalent, or extended warranty period.

- a. All products shall be standard catalogue items for which printed literature, specifications, and certified test results are available.
- b. Seating shall be designed in a manner that allows assembly and disassembly to occur with minimal disruption, time, noise volume, and space usage.
- c. Polyurethane foams, as applicable, shall have a minimum polymer density of 1.7 PCF or higher. Cannot be loaded or filled foam. Minimum IFD Softness value is 28-32 medium.
- d. All product shipped must have an identification tag/sticker, which must include the following information: manufacturer's name, model number, and year built.
- e. All seating products offered in response to this procurement must have a minimum of 10-year warranty, 5-year warranty on fabric.

Cafeteria Furniture

Cafeteria seating and tables shall be designed of material and workmanship to withstand hard daily usage over an extended life. Products must be free of all defects, imperfections, and hazards, which might affect appearance and performance. Tables must be durable, stain resistant and easy to clean with a variety of base/leg, finishes, shape, and size and height options. Seating shall be stain resistant, durable, and easy to clean. Each offeror must respond with wheelchair accessibility/ADA compliant options. All seating offered in response to this category must meet ANSI/BIFMS X6.1-2012 Educational Seating – Testing or equivalent, or extended warranty period. All tables offered in response to this category must meet or exceed ANSI/BIFMA X5.5 2008 Desk/Table Products – Tests or equivalent, or extended warranty period.

- a. All products offered shall be standard catalogue items for which printed literature, specifications, and certified test results are available.
- b. Seating shall be designed in a manner that allows assembly and disassembly to occur with minimal disruption, time, noise volume, and space usage.
- c. Polyurethane foams shall have a minimum polymer density of 1.7 PCF or higher. Cannot be loaded or filled foam. Minimum IFD Softness value is 28-32 medium.
- d. All product shipped must have an identification tag/sticker, which must include the following information: manufacturer's name, model number, and year built.
- e. All cafeteria table and seating products offered must have a minimum of 10 year warranty, 5 year warranty on fabric.

Stages, Risers, and Accessories

All product offered must be safe, stable, and secure to withstand heavy weight and high activity from student assembly. Units must be easily assembled, disassembled, set-up, and stored, and be versatile.

- a. All products offered shall be standard catalog items for which printed literature, specifications, and certified test results are available.
- b. Units shall be designed in a manner that allows assembly and disassembly to occur with minimal disruption, time, noise volume, and space usage and ease of transport.
- c. All portable stages, risers, and accessories products offered must have a minimum of 10 year warranty.

Environmental Attributes

Information available upon request.

Attachment C Discount Matrix

Price List #/Date: MA667-1 June 2014

General Education

Brand/Manufacturer	Collection	FOB Destination					FOB Origin				
		Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount	Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount
		\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000	\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000
Allied		40.20	41.10	42.20	43.50	44.30	60.20	61.20	61.70	62.20	62.70
American Desk		38.10	40.20	43.60	48.30	51.10	55.60	56.50	57.40	58.30	59.00
Amtab		52.00	52.00	52.00	53.50	53.50	62.00	62.00	62.00	63.50	63.50
Arto-Bell		37.70	39.10	42.20	45.50	47.20	50.40	51.20	52.20	53.20	54.00
Biofit		35.00	35.00	38.00	39.50	42.00	48.00	48.00	49.20	50.10	50.60
Comm		48.20	50.10	52.10	52.60	53.00	52.20	54.10	56.10	56.60	57.00
Diversified		50.40	51.00	53.60	54.50	55.00	66.10	67.10	68.10	69.30	70.50
Fleetwood		29.00	30.50	31.80	32.20	32.80	36.80	39.10	40.70	41.60	42.60
Lesro		45.20	45.80	46.30	47.80	49.00	47.40	48.40	49.40	50.50	51.00
Midwest		27.00	32.00	35.20	37.40	40.00	42.00	43.00	45.00	46.50	48.00
NPS		39.20	41.80	44.00	45.00	46.00	48.20	49.80	51.50	52.40	53.50
9to5		54.20	56.10	57.20	58.50	59.50	56.20	58.10	59.20	60.50	61.50
Office Master		40.00	43.10	44.10	45.20	46.20	47.00	48.10	49.10	50.20	51.20
VS		5.00	10.00	15.00	23.00	24.10	20.00	21.00	22.00	23.00	24.10

Stages, Risers, and Accessories

Brand/Manufacturer	Collection	FOB Destination					FOB Origin				
		Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount	Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount
		\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000	\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000
Amtab	Stages	52.00	52.00	52.00	53.50	53.50	62.00	62.00	62.00	63.50	63.50
Amtab	Choral Risers	52.00	52.00	52.00	53.50	53.50	62.00	62.00	62.00	63.50	63.50
Midwest	Stages	26.00	31.00	34.20	36.40	39.00	41.00	42.00	44.00	45.50	47.00
Midwest	Choral Risers	26.00	31.00	34.20	36.40	39.00	41.00	42.00	44.00	45.50	47.00

Cafeteria Tables and Chairs

Brand/Manufacturer	Collection	FOB Destination					FOB Origin				
		Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount	Price Tier 1 Percentage Discount	Price Tier 2 Percentage Discount	Price Tier 3 Percentage Discount	Price Tier 4 Percentage Discount	Price Tier 5 Percentage Discount
		\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000	\$5,000 or Less	\$5,001 to \$20,000	\$20,001 to \$50,000	\$50,001 to \$150,000	Over \$150,000
Amtab		52.00	52.00	52.00	53.50	53.50	62.00	62.00	62.00	63.50	63.50
Biofit		35.00	35.00	38.00	39.50	42.00	48.00	48.00	49.20	50.10	50.60
Comm		48.20	50.10	52.10	52.60	53.00	52.20	54.10	56.10	56.60	57.00
Midwest		27.00	32.00	35.20	37.40	40.00	42.00	43.00	45.00	46.50	48.00

Attachment D Geographic Coverage

TO14000 EDUTEK CORPORATION SECTION 2.5

2.5 Geographic Coverage, Current Contracts and Administrators.

VS Geographic Coverage:

Oklahoma

New Mexico

Utah

Nevada

Idaho

All Other Lines Geographic Coverage:

Montana

Wyoming

Utah

Nevada

Idaho

Attachment E Warranty

General Education:

Allied	Diversified
American Desk	Fleetwood
AmTab	Lesro
Artcobell	Midwest
BioFit	NPS (National Public Seating)
Community	Office Master
VS America Inc.	

Residential:

VS American Inc.

Stages and Risers:

Midwest
AmTab

Cafeteria:

Midwest
AmTab

The warranty information below is effective on all Artcobell products for orders manufactured after January 1, 2014. For warranty information concerning orders placed prior to January 1, 2014, please refer to the warranty information contained in the published price list of the corresponding year. For additional information relating to warranty, please contact your Customer Service Representative.

Effective January 1, 2014

Artcobell warrants to the original purchaser that its products are free from defects in material and workmanship under normal classroom or commercial use for as long as the life of the product, except as set forth below.

During the warranty period, Artcobell will replace, or at its option, repair (at its factory or return the purchase price of any Artcobell brand product manufactured after January 1, 2014 that upon inspection by Artcobell is determined to be defective in material or workmanship.

This warranty is subject to the following provisions:

Some natural variations occurring in plywood and material or other natural materials are inherent to their character and are not considered defects. Artcobell does not warrant the colorfastness or matching of coloring and/or textures of these materials. Customer's Own Material (COM) selected by and used at the request of an original purchaser is not warranted.

Our products are intended for indoor use — exterior use of them will void the warranty.

The materials and components listed below are covered from the date of sale according to the following:

- Seating controls, glides, pneumatic cylinders, casters, locking and locking-related components and foam — 3 years
- User-adjustable work surface mechanisms, task chair mechanisms, lounge products, footrests, tables, seating upholstery fabrics and vinyls and other covering material — 3 years

This warranty does not apply to:

- Normal wear and tear
- Damage from environmental factors
- Damage from sharp objects (e.g., rolling utensils, heel ed shoes, scissors, jewelry, and keys)
- Damage from accident, alteration, misuse, or improper installation or maintenance
- Modifications or attachments to the product not approved by Artcobell
- Products used for unintended purposes
- Damage caused by the carrier in transit, which is handled under separate terms
- Third-party products — Artcobell to the extent possible will pass through to the original purchaser (and process claims under only warranty provided by third-party products supplied to Artcobell)
- All warranty claims are to be made in writing by the original purchaser. The original purchaser may be required to produce the invoice or other evidence to establish that a claim is within the warranty period.

To the extent allowed by law, Artcobell makes no other warranty, either expressed or implied, including any warranty of merchantability or fitness for a particular purpose. Artcobell is not liable for any consequential or incidental damages. This warranty contains the original purchaser's exclusive remedy.

Now, Artcobell Direct is our mutual partner in supporting your warranty requests. To obtain service under this warranty, please contact your Artcobell Dealer.

15

15 Years (Lifetime) Limited Warranty

VS America, Inc. warrants all products provided on the above noted project for 15 years unless otherwise noted. The warranty is given to the initial customer and is valid for as long as the initial customer owns the product. This warranty, which runs from the date of delivery, covers defects in materials and craftsmanship found during normal usage of the products during the warranty period. Normal wear and tear of the products is not covered under this warranty.

If a VS product is defective, and if notice of the defect is given to VS America, Inc. within the applicable warranty period, VS America, Inc., at its option, will either repair or replace the defective product with a comparable product of component.

Materials and components are covered as follows: seating adjustment controls, glides, pneumatic cylinders, moving parts, casters and foam covered for 3 years. Height adjustable desk controls, tablet arms, lounge and upholstered products covered 3 years.

This warranty is in lieu of all other warranties, expressed or implied, and VS America, Inc. hereby disclaims any other warranties or representations of any kind or charter with regard to the products sold herein, including, without limitation, their merchantability, suitability or fitness for a particular purpose.

**VS America, Inc.
1940 Abbott Street
Suite 501
Charlotte, NC 28203**

Attachment F

Price List

EduTek Corporation has provided the following price lists as part of its bid to TO14000, which can be provided upon request:

- Price List 9to5 Seating 2014 Price List Book
- Allied Price List – Retail Price List January 1, 2014
- American Desk – Product Price List 58 Effective January 1, 2014
- AmTab - Price List 0114MG Effective January 2014
- Artcobell Price – Price List Effective January 1, 2014
- BioFit –Suggested List Pricing & Specifications: Effective January 1, 2014
- Community 2014 June Price List Add 3 2013
- DWI 2014 Price List
- Fleetwood Group Furniture 2014 Furniture Price List 20130923-01
- Lesro January 1 2014 List Price Guide
- Midwest Folding Products – Price List 114M Effective January 1, 2014
- Midwest Folding Products – Price List 114G Effective January 1, 2014
- NPS Price List 2014
- Office Master – Suggested List Pricing July 2012 2nd Edition
- VS America – Quotation-no. N00-0386337
- VS America – Quotation-no. N00-0383294
- VS Product Information US 2014 Price List