



Commonwealth of Kentucky

MASTER AGREEMENT

CONTRACT INFORMATION			
MASTER AGREEMENT NUMBER: MA 758 2300000869			
Effective Date:	03/01/2023	Record Date:	03/01/2023
Expiration Date:	01/31/2025	Procurement Folder:	1017752
Document Description:	Furniture (Exemplis)	Procurement Type:	Standard Goods and Services
Cited Authority:	Competitive Sealed Bidding-Goods and Services	Version Number:	1

CONTACT INFORMATION
ISSUER: Carrie Willard 502-564-6515 Carrie.Willard@ky.gov

VENDOR INFORMATION	
Name /Address: KY0019093: EXEMPLIS LLC 25090 NETWORK PLACE CHICAGO IL 60673-1250	Contact: DEREK CAIRO 888-274-8664 DCAIRO@EXEMPLIS.COM

COMMODITY / SERVICE INFORMATION							
Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Total
1	0.00000	EA	\$0.000000	\$0.00			\$0.00

Furniture

Extended Description:
 Purchases will be quote based.

Discount Percentage off:
 Brand- SitOnIt
 Seating, Desks/Workstation, Tables, Ancillary/Filing/Storage- 58%

Brand- X Chair
 Seating, Desks/Workstation- 45%

Installation- \$75 per hour
 Design- \$75 per hour

Agencies purchasing from this Master Agreement will be required to obtain a quote from the vendor and submit it to OPS.Reporting@ky.gov. The Commonwealth Buyer or OPS Representative will amend the Master Agreement to add a Commodity Line for the products based upon the approved quote. Once the contract modification is completed the Commonwealth Buyer or OPS Representative will identify the appropriate Commodity Line for the agency to issue the Delivery Order (DO) against.

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Master Agreement
For
Furniture
Between
Commonwealth of Kentucky
And
Exemplis LLC
Derek Cairo
25090 Network Place
Chicago, IL 60673
714-995-4800
dcairo@exemplis.com

Section 1

Scope of Contract

The Office of Procurement Services issues this **Master Agreement** for: **Furniture**

Section 2

Specifications

This contract will be quote based and quotes will be generated on an as needed basis against the contract.

Force Majeure

Neither party will be responsible for delays resulting from causes beyond the reasonable control of such party, including without limitation fire, explosion, flood, war, strike, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

Section 3

Liability and Property Damage Insurance

The contractor shall indemnify, defend, and hold harmless all the state officials and the Commonwealth of Kentucky and all officials, employees and participating householders of the Commonwealth of Kentucky against any losses, claims, actions, damages, liability, and expenses, including but not limited to those in connection with loss of life, bodily and personal injury, or damage to property occasioned wholly or in part by the contractor or by persons employed directly or indirectly by the contractor in connection

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with the used electronic equipment collection, transportation, dismantling, salvage, sale, reuse, and / or recycling.

The contractor shall obtain and maintain in full force, for as long as necessary to fund the contractor's indemnification and defense obligations, the following types and amounts of insurance:

A Commercial Liability Insurance policy shall afford limits of no less than the following:

- \$2,000,000 - General Aggregate
- \$1,000,000 - Products and Completed Operations Aggregate
- \$1,000,000 - Personal and Advertising Injury
- \$1,000,000 – Each Occurrence
- \$ 50,000 – Fire Damage
- \$ 5,000 – Medical Expense

An automobile/truck liability insurance policy covering owned, non-owned, and hired vehicles. Said policy of insurance to have a minimum limit of \$1,000,000 per occurrence combined single limit for bodily injury, including death and property damage.

A Worker's Compensation and Employer's Liability insurance policy with Kentucky statutory limits for workers compensation and a minimum of \$1,000,000 per accident for employer's liability.

The Commercial General Liability insurance required under this Contract shall include The Commonwealth of Kentucky, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

**Section 4
Indemnity**

The contractor (undersigned) jointly and severally agrees to indemnify and save harmless the Commonwealth (Indemnified) and their successors and assigns, from any claim, action, liability, loss, damage or suit, arising from the claim against the Commonwealth as a result of the contractor's actions. In the event of any asserted claim, the Indemnified shall provide the undersigned reasonably timely written notice of same, and thereafter the undersigned shall at its own expense defend protect and save harmless Indemnified against said claim or any loss or liability there under. In the further event the undersigned shall fail to so defend and/or indemnify and save harmless, then in such instance the Indemnified shall have full rights to defend, pay or settle said claim on their own behalf without notice to undersigned and with full rights to recourse against the undersigned for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim. Upon default, the undersigned further agree to pay all

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reasonable attorneys' fees necessary to enforce this agreement. This agreement shall be unlimited as to amount or duration.

Section 5

Initial Contract Period

This contract shall be for the initial period from the date of award through **January 31, 2025**.

Section 6

Renewal Clause – Optional Renewal Period

This contract may be extended at the completion of the initial contract period for **three (3) additional two-year periods**. This extension must have the written approval by all parties. If the contract provides for an optional renewal period, the Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

Section 7

Agencies to be Served

This contract shall be for use by the following agency of the Commonwealth of Kentucky:

All State

Political Subdivisions

Under Kentucky Statutes, political subdivisions of this State including cities of all classes, counties, and school districts may participate in All State Agency Master Agreements to the same extent as agencies of the Commonwealth.

Section 8

Tax Exempt Status

Do not include Federal Excise Tax, Kentucky Sales or Use Tax.

Section 9

Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by this contract shall remain firm for the contract period subject to the following:

A: Price Increases: A price increase shall not occur during the first twelve (12) months of the contract. A vendor may request a price increase after twelve (12) months of the contract, which may be granted or denied by the Commonwealth. Any such price increase shall be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The

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Office of Procurement Services may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (usually within sixty (60) days).

B: Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.

C: Extended Contract Periods: If the contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

Section 10

Post Contract Agreements

This contract shall constitute the entire agreement between the State and contractor. Unless contractually provided, **State agencies utilizing this contract will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of this contract.** Any such documents so obtained will be non-binding on the State and agents of the State and will be cause for breach of contract.

Section 11

Vendor's Report

The vendor(s) may be asked to furnish the buyer, Office of Procurement Services, a report showing volume which has been sold to the Commonwealth and its using agencies each six (6) months of the contract period. The report will include political subdivisions and university purchases. This report may be the vendor's computer printout sheet or form. This shall apply to all items, which are to become a part of this contract. This report must reference usage by brief description, product number or other format designated by the Office of Procurement Services.

Section 12

Cancellation Clause – 30 Days Notice

The Commonwealth may cancel this contract by giving written notice thirty (30) days prior to effective cancellation date. In the event such action is taken, the contract shall be null and void upon receipt of a Modification from the Office of Procurement Services canceling the contract.

Section 13

Exception to Required Use of Contract

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This Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to contract for large requirements by using a separate solicitation.

**Section 14
Service Performance**

All services performed under this contract, if applicable, shall be in accordance with the terms and provisions of the contract. It will be the agency’s responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent contractor. No agent, employee, or servant of the contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this contract.

Major deviations of services performed will not be made without the written approval of the Office of Procurement Services. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. Either party should refer in writing any such problems and/or disagreements that cannot be resolved to the Office of Procurement Services for settlement.

**Section 15
Addition or Deletion of Items or Services**

The Office of Procurement Services reserves the right to add new and similar items, with the consent of the vendor, to this contract. The Office of Procurement Services to effect this change will issue a contract Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

**Section 16
Governmental Restrictions**

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this contract prior to delivery, it shall be the responsibility of the vendor to notify the Office of Procurement Services in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the contract.

**Section 17
Payments**

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries

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accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

Section 18

Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the Vendor's expense.

Section 19

Subcontracts

The contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The contractor shall be solely responsible for performance of the entire contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor.

All references to the contractor shall be construed to encompass both the contractor and any subcontractors of the contractor.

Section 20

Federal Tax Exempt Purchases by the Commonwealth of Kentucky

Contracts Direct With Manufacturer: The Office of Procurement Services shall request the contractor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration shall be in accordance with the "Temporary Rules, 1958 Excise Tax Act". After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Contract With Other Than Manufacturer: The Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Section 21

EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

<https://finance.ky.gov/office-of-the-secretary/Pages/finance-forms.aspx>
 (Click on Office of the Controller and scroll down to Procurement section.)

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Section 22

Governing Law

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

Section 23

Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

Section 24

Accessibility

Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

Section 25

Provisions for Termination of the Contract

This contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

Section 26

Disclosure of Violation of Statutes

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Pursuant to KRS 45A.485, contractors are required to reveal final determinations of violation of certain statutes incurred within the last five (5) years and be in continuous compliance with those statutes during the contract. Where applicable, the vendor is required to complete and submit Report of Prior Violations of Tax and Employment Laws.

Section 27

Discrimination (Effective April 8, 2015)

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's

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commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Section 28

Administrative Fee

The Contractor agrees to provide a quarterly administrative fee to the Commonwealth of Kentucky as a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. The administrative fee percentage is only applicable to amounts actually received by the Contractor during the quarter and is not applicable to the amounts ordered by customers but not yet paid. The administrative fee shall be paid in the form of a check payable to the Commonwealth of Kentucky – Office

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of Procurement Services for an amount equal to 1.0% of the net sales (less any return, credits or adjustments) under this Master Agreement for the duration of the contract.

Fees

shall be paid forty-five (45) days after the close of the quarter. Check to be mailed to the Office of Procurement Services, 200 Mero Street, 5th Floor, Frankfort, KY 40622.

Section 29

ALL PROVISIONS OF THE SOLICITATION (RFB 758 2300000322) AND THE PROVISIONS OF FAP-110-10-00 SHALL BE PART OF THIS MASTER AGREEMENT (MA 758 2300000869).