

ADDENDUM TO COOPERATIVE PURCHASE AGREEMENT

MOHAVE EDUCATIONAL SERVICES COOPERATIVE, INC.

625 East Beale Street • Kingman, AZ 86401-5920

(928) 753-6945 Phone • (928) 718-3232 Fax

www.mesc.org

ASPIN/MOHAVE

4750 N. Oracle Road, Ste. 116 • Tucson, AZ 85705

(520) 888-9664 Phone • (520) 888-9692 Fax

This Addendum, is entered into the _____ day of _____, 20____, by and between Mohave Educational Services Cooperative, Inc., an Arizona nonprofit corporation and public procurement unit established pursuant to provisions of A.R.S. § 11-952, A.R.S. § 11-952.01, and A.R.S. § 41-2632, hereinafter called “MESC,” and _____, a local or public procurement unit, or a governmental public entity that is a political subdivision for purposes of federal income tax, or a nonprofit educational or public health institution that is a political subdivision for purposes of federal income tax or meets the requirements of § 115 of the Internal Revenue Code, hereinafter called the “Member,” to permit the Member to participate in the ASPIN/Mohave food service cooperative purchasing program. This Addendum shall supplement the Cooperative Purchase Agreement in place between MESC and the Member. The governing body of any Member may enter into an Agreement with MESC for the purpose of utilization of term contracts by such Member (Arizona State Procurement Code, ARS § 41-2631 *et seq*; ARS § 15-213; Arizona State Board of Education School District Procurement Rules, R7-2-1001 *et seq*).

PURPOSE

The purpose of this Addendum is to allow eligible Members to purchase food service related materials, supplies, equipment and services jointly by combining the purchasing requirements of each of the parties and thereby enabling them to order materials, supplies, and services from contracts awarded pursuant to the CPA and this Addendum.

AGREEMENT

In consideration of the mutual promises contained in this Agreement, and the mutual benefits to result there from, the parties agree as follows:

MESC SHALL

1. Prepare competitive procurement solicitations for goods, equipment, and/or services in order to contract in the manner required by law. Specifications and terms and conditions will be determined by MESC. Specifications are subject to review by the ASPIN Executive Committee.
2. Select ASPIN contractors in a manner prescribed by law and in accordance with MESC policies.
3. Monitor, direct, supervise, and evaluate contractors for storage and distribution services, as needed.
4. Certify records, documents and reports on behalf of ASPIN, as required by law.
5. Maintain ASPIN documents and records for the term and in the manner prescribed by law.
6. Designate a representative and alternate to serve as a member of the ASPIN Advisory Committee (AAC) and ASPIN Executive Committee (AEC).
7. Assist members with purchase verification. However, it is the Member’s responsibility to independently verify that quotations and purchase orders comply with the terms of the award of a contract or procurement. This responsibility is set by rule and statute and cannot be changed by MESC.
8. Establish the ASPIN Holding Fund (Holding Fund). The fund will not be subject to reversion, being a continuing fund.
9. Process payment for all purchase orders issued by Members from the Holding Fund, taking advantage of all discounts wherever possible.
10. Receive, deposit, and account for payments to and from the Holding Fund.
11. Disburse interest earned on the Holding Fund as determined by the AEC and MESC policies and procedures.

MEMBER SHALL

1. Pay a maintenance fee to fund ASPIN’s operations. The Mohave Board of Trustees shall set the amount of the maintenance fee.

2. Be responsible for actively participating as needed to promote the efforts of ASPIN and secure the benefits thereto.
3. Designate a representative and alternate to the AAC. Member representative shall be approved by the governing body or designated official of the Member.
4. Place orders for all food, supplies and commodities according to deadlines established by MESC, and inform MESC of quantities and types of products that the Member wishes to purchase through ASPIN/Mohave contracts, or on its behalf.
5. Place orders for all food, supplies and commodities according to procedures and schedules established by MESC.
6. Submit payment for all purchases, debts, obligations, assessments, and liabilities according to MESC policies and procedures.
7. Engage in product testing to ensure that all goods purchased pursuant to this Addendum are acceptable to the Member.
8. Check and reconcile all shipping, receiving, inventory, and verification documents, invoices, purchase orders, and payment instruments relating to Member's ASPIN transactions in a timely manner.
9. Authorize payment for food and supplies ordered by a Member drawn on Member's Holding Fund account. Vouchers for such payments shall be executed by MESC.
10. Not request that any ASPIN contractor make any additions, changes, or modifications to the services provided to ASPIN by any contractor without the prior written approval of MESC.
11. Send a purchase order to MESC to establish Member's Holding Fund account in an amount determined by an agreement between the ASPIN Director and the Member. MESC may make adjustments and/or assessments, if necessary, to ensure sufficient cash flow in the Holding Fund.
12. ASPIN/Mohave may stop placing orders for any member agency if there are insufficient funds in the member's Holding Fund account. ASPIN/Mohave shall make the decision whether to place a member on "order hold," and ASPIN/Mohave's decision shall be final.

MESC and MEMBER SHALL

1. Establish the AAC composed of one representative from each Member. The AAC shall have the duties, rights, and powers set forth in MESC policies and procedures.
2. Establish the AEC composed of the MESC representative and a duly elected representative from six Members set forth in the membership list. The AEC shall have the duties, rights, and powers set forth in MESC policies and procedures.

GENERAL PROVISIONS

1. Any and all members of Mohave Educational Services Cooperative, Inc. through a signed CPA may become parties to this Addendum upon application and completion of the required governing body approval and submission of the proper paperwork to MESC
2. This Addendum shall take effect upon execution by the parties and shall continue until it is terminated. This Agreement supersedes any and all previous ASPIN CPA Addendums between MESC and the Member.
3. Member shall not assign this Addendum to another party, including a successor in interest, without prior written approval from MESC.
4. Member may terminate this Addendum by sending to MESC a true copy of Member's adopted governing body resolution of intention to terminate. Such resolution of intention to terminate the Addendum shall be delivered to MESC not later than the first day of March before the close of the fiscal year in which the resolution is adopted. The effective date of a Member's termination shall be at the end of the fiscal year in which it gave the notice of intention to terminate.
5. A Member terminating this Addendum shall remain liable for any debts, liabilities or obligations incurred by that Member while it was a party to this Addendum including, but not be limited to costs of storage, management, and distribution of commodities, goods containing commodities, and purchased goods. Storage costs after the effective date of withdrawal shall be at market commercial storage and draw rates in effect at such time.
6. Debts, liabilities, or obligations of a terminating Member shall be paid out of the Member's Holding Fund account. Such funds shall remain in the Holding Fund until all debts, liabilities, or obligations of the Member are paid.

7. MESC shall assess the terminating Member for additional funds should the remaining balance in the Member's Holding Fund account be insufficient to meet all obligations incurred by the Member. Any excess funds, including interest, shall be returned to the Member within ninety (90) days of the effective date of withdrawal.
8. MESC may terminate this Agreement without notice if the Member fails to comply with the terms of this Agreement and/or the terms of a MESC contract.
9. Termination of this Agreement shall not relieve the Member from Member's exclusive obligation comply with the terms of any Member purchase order processed by MESC prior to termination and to pay for materials and/or services so ordered and received.
10. MESC shall give not less than one hundred twenty (120) days written notice before the effective date of MESC's withdrawal as program administrator.
11. Failure of a Member to secure performance from a vendor in accordance with the terms and conditions of its purchase order does not mean MESC will be required to exercise its own rights or remedies.
12. The Constitution, statutes and laws of the State of Arizona shall govern and are controlling in interpretation of this Addendum.
13. This agreement may be canceled pursuant to the provisions of ARS § 38-511; and is exempt from the provisions of ARS § 11-952, subsections D, E, and F under the provisions of ARS § 41-2632 and Arizona State Board of Education Rule R7-2-1191.
14. The Member and MESC agree to be in compliance with all State and Federal employment hiring and employee practices. Both parties agree to use arbitration to the extent required in ARS § 12-1518.
15. In the event of the dissolution of ASPIN, any property interest remaining in ASPIN following a discharge of all obligations, shall be disposed of in accordance with MESC policies and procedures.
16. Except as otherwise provided in this Addendum, each party to the Addendum assumes the full liability imposed upon it or any of its officers, agents, or employees, by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Addendum. To achieve this purpose, each party indemnifies and holds harmless the other party for any loss, cost, or expenses that may be imposed upon such other party solely by virtue of the party being a member of ASPIN.
17. Should any portion, term, condition, or provision of this Addendum be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Arizona, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, or provisions shall not be affected thereby.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be duly executed by their authorized officers thereunto duly authorized to set forth herein below.

For Mohave Educational Services Cooperative, Inc.:

Anita McLemore, Executive Director

Date

For the Member:

Authorized Representative

Title

Printed Name

Date

Please print the following information

Member Representative

Alternate Representative

Address _____

Telephone _____

Fax _____

Email _____

Date _____

The Governing Body of _____

at a legally convened meeting held on the day of _____, 20____, did adopt a resolution which:

1. Requests that the Entity be accepted as a member of ASPIN (Arizona School Partners In Nutrition), a cooperative for food and supply procurement;
2. Authorizes the Superintendent or the duly authorized representative to ASPIN to sign an Addendum to the Cooperative Purchasing Agreement between the Entity and Mohave Educational Services Cooperative which establishes ASPIN; and
3. Designates the persons below to represent the district for all ASPIN activities with full voting rights as established in the ASPIN Addendum and empowered to represent the Entity in matters relating to the ASPIN.

Representative _____
(print)

Title _____

Alternate _____
(print)

Title _____

FOR THE GOVERNING BODY

Clerk of the Board _____

Printed Name _____

Mail one original signature copy (not faxed) to Mohave Educational Services, Inc., 625 E. Beale Street, Kingman, AZ 86401-5920