

# INSTRUCTIONAL MATERIALS AGREEMENT

## UTAH STATE OFFICE OF EDUCATION

WHEREAS, the Publisher has the capability of supplying the listed instructional material required by the Utah State Office of Education (hereafter referred to as USOE) to public schools, with the exception of charter schools,

NOW THEREFORE, the Publisher agrees as follows:

1. **EVALUATION BY INDEPENDENT PARTY.** Consistent with Section 53A-14-101-107, publishers shall have their basal/core primary material aligned to the Utah core by an independent party for all core content areas. The alignment to the core must not be completed by:
  - a. the State Board of Education;
  - b. the superintendent of public instruction or the superintendent's staff;
  - c. the State Instructional Materials Commission appointed pursuant to Section 53A-14-101;
  - d. an employee or board member of a school district; or
  - e. the instructional materials creator or publisher.
2. **RECOMMENDATION OF INSTRUCTIONAL MATERIALS.** All instructional materials bid and sampled to the USOE will be reviewed by subject area advisory committees that will assign each series or title one of the following recommendation categories:
  - a. **Recommended Primary.** Instructional materials that are in alignment with content, philosophy and instructional strategies of the Core; are appropriate for use by students as principal sources of study; provide comprehensive coverage of course content; and support Core or U-PASS requirements or both.
  - b. **Recommended Limited.** Instructional materials that are in limited alignment with the Core or U-PASS requirements or are narrow or restricted in their scope and sequence. If school districts or schools select and purchase materials designated under this category, it is recommended that they have a plan for using appropriate supplementary materials assuring coverage of Core requirements.
  - c. **Recommended Teacher Resource.** Instructional materials that are appropriate as resource materials for use by teachers.
  - d. **Recommended Student Resource.** Instructional materials aligned to the Core or that support U-PASS that are developmentally appropriate, but not intended to be the primary instructional resource. These materials may provide valuable content information for students.
  - e. **Reviewed, but not Recommended.** Instructional materials that may not be aligned with the Core, may be inaccurate in content, include misleading connotations, contain undesirable presentation, or are in conflict with existing law and rules. School districts are strongly cautioned against using these materials.

These recommendations will then be submitted to the Instructional Materials Commission for further consideration before final recommendations are sent to the State Board of Education.
3. **PURCHASE OF INSTRUCTIONAL MATERIAL.** Subject to the good faith requirements of the USOE which shall be binding upon the Publisher, and further subject to legislative appropriations, which the USOE will distribute to Utah school districts, state institutions, adult education centers, career and technical colleges, and charter schools as agents (hereinafter referred to as "schools") in accordance with Section 53A-14-101 and State Board of Education Rule R277-469, the schools may purchase from the Publisher, and the Publisher agrees to furnish and provide distribution to the schools, the instructional material designated in the attached bid sheet and incorporated by reference as though fully set forth herein, for a period of five years, beginning **January 1, 2010** and ending **December 31, 2014**.
4. **CONTRACT PRICING.** The Publisher agrees to the listed contract price for the five-year term of the contract and understands R277-469 does not allow any price escalation within the contract period. The contract period will begin **January 1, 2010** and end on **December 31, 2014**.
5. **IN-STATE DISTRIBUTION POINT (Depository).** The Publisher is free to contract with one or more depositories located within the State of Utah according to R277-469. A Publisher is free to sell directly to Utah schools provided the Publisher agrees to keep a sufficient stock of recommended material within the State of Utah to meet demands for distribution.
6. **CORE CORRELATION or INDEPENDENT ALIGNMENT.** Before materials may be purchased by Utah public schools, excluding Utah charter schools, the publisher agrees to arrange for an independent reviewer to post the core correlation or independent alignment on the Independent Materials Alignment free public website in the format designated by the Utah State Office of Education. Independent reviewers will enter data at this site to facilitate

viewing of the core correlation or independent alignment by teachers or the public. Core correlations or independent alignments for the Fall 2009 Bid Cycle must be completed by **October 16, 2009.**

7. **REQUEST FOR SUBSTITUTION.** The Publisher may request a substitution for the edition currently recommended provided that:
  - The original contract price and contract date do not change and the original contract price applies for the substituted material;
  - The revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;
  - A sample copy of the contracted and revised edition is provided to the USOE Instructional Materials Specialist for examination purposes prior to the approval of the substitution;
  - The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the USOE subject area specialist.
  - If the Commission approves the substitution, the publisher agrees to submit an updated version of the program or textbook to the NIMAC for use in the creation of Braille, large print, or other formats for students with print disabilities as indicated in **Senate Bill 99 of 2002, section 53A-25a-105.**
8. **REQUEST FOR RECONSIDERATION.** The Publisher may request reconsideration of instructional material when the Publisher disagrees with the initial Commission recommendation.
  - a. A Publisher shall have 30 days to respond to the evaluation and request to have materials reviewed again during the next applicable review cycle.
  - b. During the period of reconsideration request, materials shall be marked as tentative and shall not be given official status. These materials shall not be posted to the Internet site until recommended through the official instructional material process.
  - c. A Publisher may be asked to send a second set of sample materials to the USOE.
  - d. A Publisher will submit in writing their argument for reconsideration. This information will be provided to the second review committee, the subject area specialist, as well as the Instructional Materials Commission.
  - e. If the Commission votes to change the recommendation, the State Board of Education shall consider the Commission's revised recommendation at the next scheduled Board meeting and make a final decision.
  - f. A Publisher will receive written notification that a recommendation is final and shall receive a copy of the new evaluation. Evaluations may now appear on the Internet if materials are recommended.
9. **FREE OR REDUCED COST MATERIAL.** The Publisher agrees that any free or reduced cost material and/or service listed on the Publisher's original bid document will be made available on an equitable basis to all schools within Utah.
10. **NIMAS AGREEMENT.** The Publisher agrees to prepare and submit, on or before **January 1, 2010,** a NIMAS file set to the NIMAC for every basal, core, or primary text that complies with the terms and procedures set forth by the NIMAC. The files will be used for the production of alternate formats as permitted under the law for students with print disabilities. Should the vendor be a distributor of the materials and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit NIMAS file sets to the NIMAC.
11. **TERMINATION.** In the event the Publisher fails or refuses to perform this Agreement or any of its conditions, regardless of excuse of contingency, the USOE may, through the Instructional Materials Commission, terminate all or part of this agreement. If part of the Agreement is terminated pursuant to this paragraph, the remaining parts of the agreement shall remain in full force and effect. This provision does not waive any other rights or remedies of the USOE.

**EFFECTIVE DATE:** This Agreement becomes effective upon the last dated signature.

**IN WITNESS WHEREOF,** the Publisher has hereunder affixed signature.

Publisher: \_\_\_\_\_

\_\_\_\_\_  
Publisher Representative (please print)

\_\_\_\_\_  
Publisher Representative (please sign)

\_\_\_\_\_  
Publisher Representative Title or position

\_\_\_\_\_  
Date

OFFICE USE ONLY	
<input type="checkbox"/> <b>Primary</b>	<b>If Primary (see below)</b>
<input type="checkbox"/> <b>Supplemental (including Limited, Teacher Resource, Student Resource, Reviewed but not recommended)</b>	
<b>Independent alignment to the Core completed: Yes <input type="checkbox"/> No <input type="checkbox"/></b>	
<b>Electronic version in NIMAS file format sent to NIMAC: Yes <input type="checkbox"/> No <input type="checkbox"/></b>	