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1. General Overview

1.1 Description of Cooperative

Educational & Institutional Cooperative Services, Inc. (E&I) is the sole cooperative service focused on serving the education sector. E&I is a member owned New York non-profit corporation established in 1934 and is governed by a Board of Directors. The Board of Directors is a group of professionals who are elected by the E&I Membership. The Board provides oversight to ensure the Members' needs are addressed and met. Our Membership is comprised of public and private universities and colleges, community colleges, other affiliated members, K-12, and teaching healthcare facilities throughout the United States.

Our mission is to assist our members in creating supply-chain efficiencies, lowering costs and reducing risks by collaborating with our members, suppliers and strategic partners. We deliver exceptional value to higher education, K-12 and related communities by making it easy for them to access high-quality contracts, strategic sourcing expertise, insights and unrivaled customer service.

1.2 Purpose and Intent of the Request for Proposal (RFP)

The purpose of this RFP is to establish a cost-effective Master Agreement ("Agreement") for Constituent Relationship Management (CRM) Platform & Related Services which complies with our Member procurement requirements and will provide E&I Members a procurement vehicle to acquire the products and/or services outlined within this RFP. All E&I Members will be eligible to participate in the resulting agreement.

Products and/or services considered for award shall equal or exceed the quality level of industry standards as defined within this RFP and shall comply with all applicable federal, state, and local technical, environmental, and performance standards and specifications.

The awarded Respondent(s) is/are expected to be the manufacturer or a fully authorized dealer/distributor for any of the manufacturers it proposes. The Respondent and its distributors must be able to provide service and timely deliveries to all Members and campuses. Direct involvement by the awarded Respondent may be necessary to assist Members in understanding the different types of products/services available and in selecting the best solution to fit their needs.

E&I is committed to utilizing purchasing and business practices in accordance with the National Association of Educational Procurement Code of Ethics. The primary goals and objectives of E&I are to: (1) assist our Members to obtain the absolute lowest cost and best value that exceeds other public sector consortia agreements, (2) establish a strategic sourcing partnership with any selected manufacturer(s) and authorized dealers, and (3) enhance our position as the premier Procurement Cooperative for Education.

1.3 Market Opportunity

By satisfying the above Member needs, the Cooperative anticipates significant Member purchases to be recorded against the resulting Agreement(s). The Cooperative currently has over 6,000 Members, comprised of roughly 50% public and 50% private schools. K-12 school districts, academic healthcare and research institutions are eligible for membership in E&I. The Cooperative's expectations are a substantial opportunity for growth (in terms of Member purchases) with competitively awarded Agreement(s) in these markets. There is also interest in utilizing the potential contract by the Participating Oregon Community Colleges (POCC).

1.4 Member Participation

Once the awarded Respondent has been established and the Agreement finalized, individual E&I Members (in some situations Member departments) will review the awarded Respondent's program and determine their individual participation. The awarded Respondent's program includes the Agreement along with additional supporting materials (if any) developed by the awarded Respondent.

Upon award of a Master Agreement from this RFP, the Respondent shall be provided an electronic file listing of E&I Members. Updated versions will be sent as needed. E&I will post the awarded Respondent's program on the E&I internal web site which is password protected and only available to E&I Members.

Membership in E&I should not be construed as any form of commitment to the Agreement by a member. No representation is made that any quantities will be purchased or that services will be utilized.

2. Standard RFP Provisions

2.1 Definitions

The following are the definitions of general terms used in this RFP.

DAYS: All days specified are based on calendar days unless otherwise noted.

EDUCATION: The combination of Higher Education and K-12.

GO TO MARKET: Strategy or action plan specifying how the Respondent will utilize its inside and outside resources (e.g. sales force and distributors, marketing initiatives, etc.) to deliver its products and/or services to the Education market through an E&I contract.

<u>Contract Region Key</u>	<u>States</u>
Northeast	CT, MA, ME, NH, NY, RI, VT
Mid-Atlantic	DC, DE, MD, NJ, PA, VA, WV
Southeast	AL, FL, GA, KY, MS, NC, SC, TN
Central	AR, IA, KS, LA, MN, MO, ND, NE, OK, SD, TX
Great Lakes	IL, IN, MI, OH, WI
Western	AK, AZ, CA, CO, HI, ID, MT, NM, NV, OR, UT, WA, WY

GREATEST BENEFIT: The decision for award will be based on an overall combination of variables such as quality, price and various elements of required service that in total are optimal relative to the needs of the E&I Membership.

HIGHER EDUCATION: All Universities, Colleges, Healthcare Facilities (private and public), i.e., Associate, Bachelor, Master, and/or PhD in the United States, that provide for advanced learning and/or grant degrees. These Universities, Colleges and Healthcare Facilities may or may not be members of E&I.

HUBS: Historically Underutilized Businesses e.g., minority, women-owned businesses (for the State of Texas, Certified HUBS within the State of Texas).

K-12: All School Systems and Districts (private and public) in the United States that provide education for students in Kindergarten through 12th Grade. These School Systems and Districts may or may not be members of E&I.

MANUFACTURER: Indicates an entity that makes the products from raw materials outlined in this RFP, all of its agents, and employees.

MAY: Indicates something that is not mandatory but permissible/desirable.

MEMBERS: Includes Institutions, Universities, Colleges (private and public) and K-12 schools that are listed in the E&I record.

MONTH END: Shall mean the last calendar day of each month.

MOST RESPONSIBLE: A Respondent whose reputation, past performance, and business and financial capabilities are such that the Respondent would be deemed most capable of satisfying Member needs for a specific contract.

MUST, SHALL, WILL: The words “shall,” “must,” or “will” are equivalent and indicate mandatory requirements or conditions. E&I will not waive Responder’s material deviation from any of the mandatory requirements.

MWBE: Minority, Woman-owned Business Enterprises.

NATIONAL AGREEMENT: E&I awards an Agreement which is available throughout the United States (including Alaska and Hawaii).

REGIONAL AGREEMENT: E&I may elect to award an Agreement by Geographical Areas of the United States. See table below for geographic breakdown:

RESPONDENT: Entity who submits a proposal to an RFP.

RESPONSIBLE: A Respondent is responsible if they are capable or qualified to perform the work.

RESPONSIVE: A proposal is responsive if it meets all of the requirements of the RFP.

SHALL, MUST, WILL: Indicates a mandatory requirement(s) that must be addressed. Failure to address these mandatory requirements will result in rejection of your proposal as non-responsive. E&I may, but is not required to, reserve the right to request additional information.

SHOULD: Indicates something that is recommended but not mandatory. If the Respondent fails to provide recommended information, E&I may, at its sole option, ask the Respondent to provide the information or evaluate the proposal without the information.

SOLE POINT OF CONTACT: The Category Sourcing Manager or designee to whom Respondents shall address any questions regarding the solicitation or award process. The sole point of contact shall be the arbitrator of any dispute concerning performance of the Contract.

SUCCESSFUL RESPONDENT: The Respondent(s) or individual(s) who are the recommended recipient(s) of the award of a contract under this RFP (also synonymous with “Payee,” “Offeror,” “Contractor,” “Vendor,” and “Supplier”). If a Respondent is a manufacturer, its certified dealers and resellers may also furnish products under the Contract; in choosing to do so, the dealers and resellers agree to honor the Contract and the term “contractor” shall be deemed to refer to them. Unless awarded the Contract as a direct Respondent, however, dealers and resellers are not parties to the Contract, and the Respondent that certifies them shall be responsible for their actions and omissions.

SUPPLIER: Indicates an entity that distributes/furnishes the products and or services of a company, all of its agents, and employees. For the purposes of this RFP, the terms Supplier and Respondent may be used interchangeably.

2.2 Term

The Agreement term will be for five (5) years with the option of one five (5)-year renewal. Exercise of any renewal will require formal written notification and mutual agreement between E&I and Respondent at least one (1) year prior to Agreement expiration.

If this RFP results in an Agreement, a hold-over clause may be invoked by the E&I member on a month by month or year by year basis as per the agreement between the member and Respondent utilizing the same terms and conditions as listed in Agreement between the awarded Respondent and E&I.

2.3 Sole Point of Contact

Catherine Goglia

Category Sourcing Manager, Technology
Educational and Institutional Cooperative Services, Inc.
2 Jericho Plaza, Suite 309
Jericho, New York, 11753-1671
Voice: 631-630-8318
E-Mail: cgoglia@eandi.org

Respondents to this RFP or persons acting on their behalf shall not contact any E&I employee, officer, or agent; any E&I Board of Directors; or any E&I Member concerning any aspect of this RFP, except in writing to the Sole Point of Contact, from the date of release of this RFP through the official award date. Violation of this provision may be grounds for rejecting a proposal response. See Section 3.4 on how to submit questions.

2.4 Evaluation Process

Any contract(s) resulting from this Request for Proposal will be awarded in writing to responsive and responsible Respondents whose proposal, in the opinion of the evaluation team, offers the greatest benefit to our members when considering the total value including the quality, service levels, customer service and total cost (including any trade, prompt payment discounts, and other miscellaneous charges).

All proposals should be complete to be considered responsive. If the proposal fails to conform to the requirements of the RFP, E&I and/or the RFP evaluation team will determine whether the variance is significant enough to consider the proposal.

The RFP evaluation team conducts its evaluation across the criteria listed in section “2.5 Evaluation Criteria. Each stage is independent of the other, and the RFP evaluation team will not evaluate the pricing nor will they be privy to the pricing until the technical evaluation is complete.

As part of the evaluation process, E&I may require a demonstration/presentation before the award is made and the demonstration/presentation may be considered as an additional factor in award. Selected Respondent(s) shall be given a script and/or instruction for the presentation in order to provide the evaluation team further insight regarding their proposal and to clarify any issues. Failure of a Respondent to conduct a presentation on the date scheduled may result in rejection of the

Respondent’s proposal. In addition, E&I may decide to make site visits, as needed, during the evaluation process which shall be coordinated with the respective Respondent(s).

2.5 Evaluation Criteria

The RFP evaluation team will review and evaluate RFP responses according to the following weighted criteria based on a total of 100 points.

No.	Criteria	Criteria Overview	Points
1	Company Overview	Company Experience Company Background	15
2	Environmental, Social, & Governance (ESG)	Supplier Diversity Sustainability	10
3	Scope of Offer	Breadth/Quality of Products, Services & Value Added Solutions	25
4	Exceptions	Adherence to Terms & Conditions Compliance with Supplier Performance Expectations	10
5	Contract Administration	Ordering, Payment & Delivery Contract Management & Reporting Marketing & Sales	15
6	Pricing	Pricing Proposal	25

2.6 Terms and Conditions of Agreement

As a result of this RFP process, it is our expectation that an Agreement will be established between E&I and one or more of the Respondents. The Agreement will incorporate the relevant terms and conditions of this RFP and Respondent’s proposal.

2.7 Protest Procedures

Any actual or prospective Respondent (“Protesting Party”) who is aggrieved in connection with a solicitation or selection for award may file a written protest up to seven (7) calendar days after issuance of a Non-Award Letter in accordance with the procedures described herein and pursuant to the Protest Rules in the Execution of Offer.

2.7.1 Filing of Protest

1. The Protesting Party shall send its written protest to:

Senior Vice President, Sourcing
E&I Cooperative Services, Inc
Attention: Solicitation Protest
2 Jericho Plaza, Suite 309
Jericho, NY 11753

In addition to sending the written protest to the address listed below, the Protesting Party shall also send an electronic copy to supplierrelations@eandi.org.

2. The written protest shall contain the following:
 - a. Name, address, telephone number, fax number, and email address of the Protesting Party.

- b. The signature of the Protesting Party or their representative.
 - i. The signature of an attorney or Protesting Party on a protest or other document constitutes a certificate by the signer that the signer has read such document, that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay, or needless increase in the cost of the procurement. If a protest or other document is signed in violation of this subsection before or after appeal to the Chief Operating Officer & Treasurer, the Protesting Party shall be liable to pay E&I the amount of the reasonable expenses incurred because of the filing of the protest, including E&I's reasonable attorneys' fees.
 - c. Identification of the solicitation and award that is being protested.
 - d. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents.
 - e. The form of relief requested.
3. E&I shall be entitled to payment of its reasonable expenses incurred because of the filing of the protest, including E&I's reasonable attorneys' fees, in the event of a decision by the Chief Operating Officer & Treasurer that:
 - a. A protest or other document was signed, before or after appeal to the Chief Operating Officer & Treasurer, in violation of subsection 2.b.(i) above;
 - b. The protest has been brought or pursued in bad faith; or
 - c. The protest does not state on its face a valid basis for protest.
4. The Protesting Party shall post a bond in an amount of \$10,000 at the time of filing the written protest payable to E&I Cooperative Services, Inc. Such protest bond shall be in form and substance acceptable to E&I and shall be immediately payable to E&I to secure payment under section 3 above. E&I does not waive any right to seek payment of additional amounts if the bond is not adequate to reimburse E&I the full amount of its reasonable expenses caused by the protest.
5. E&I shall hold such protest bond for at least fourteen (14) calendar days after the date of the final determination by E&I. If the Protesting Party appeals the determination in accordance with the procedures herein, E&I shall hold such protest bond until instructed by the Chief Operating Officer & Treasurer to either keep the bond or return it to the Protesting Party.
6. The Senior Vice President, Sourcing shall have the authority to resolve the protest. If deemed necessary, the Senior Vice President, Sourcing may request a meeting with the Protesting Party to seek clarification of the protest issues.
7. The Senior Vice President, Sourcing shall promptly issue a decision in writing within seven (7) calendar days of receipt of the written protest. E&I will mail a copy of the decision or otherwise furnish a copy to the Protesting Party which will include the reasons for the action taken.

2.7.2 Waiver of Protest

Any of following actions shall constitute a Protesting Party's waiver of protest proceedings and litigation.

1. If the Protesting Party does not adhere to the Protest procedures as outlined herein to include filing a written protest within seven (7) calendar days after issuance of a Non-Award Letter in conjunction with an E&I competitive solicitation, or in the case of an appeal within five (5) calendar days of the protest decision.
2. If the subject matter of the Protest was known or should have been known to the Protesting Party before the Deadline for Submission of RFP-Related Written Questions and the Protesting Party did not raise the issue in a written comment.
3. If the Protesting Party fails to post a bond at the time of filing the written protest payable to E&I Cooperative Services, Inc. in an amount equal to \$10,000. The bond shall be conditioned upon the payment of all costs which may be adjudged against the Protesting Party filing the protest action.

2.7.3 Appeals

1. The Protesting Party may file an appeal of the decision made by the Senior Vice President, Sourcing with the Chief Operating Officer & Treasurer, within five (5) calendar days of the written protest decision.

2. The Protesting Party shall send Appeals to:

Chief Operating Officer & Treasurer
E&I Cooperative Services, Inc
Attention: Protest Appeals
2 Jericho Plaza, Suite 309
Jericho, NY 11753

In addition to sending the written appeal to the address listed below, the Protesting Party shall also send an electronic copy to supplierrelations@eandi.org.

3. The decision by the Chief Operating Officer & Treasurer is final and shall be given in writing and submitted to the Protesting Party within five (5) calendar days of receipt of the written appeal.
4. No further appeal of E&I decision on the protest is authorized, and Respondent expressly waives any right to invoke any other authority or dispute resolution mechanism concerning matters addressed by these Protest Procedures.

3. Proposal Response Requirements

All proposals are subject to the conditions specified herein. E&I, in its sole discretion, may reject a Proposal as non-responsive if Respondent fails to follow these instructions and requirements.

3.1 Tentative Schedule of Events

The following is a tentative schedule of events for this RFP:

Activity	Due Date
Request for Proposal issued (“Open Date”)	November 18, 2024
Deadline for submission of RFP-related written questions (“Q&A Submission Close Date”)	December 18, 2024 1pm ET
E&I Response to RFP-related questions	December 19, 2024
Deadline for Receipt of Proposals (“Close Date”)	December 20, 2024 1pm ET
Evaluation, Clarifications	January 29, 2025
Negotiations Begin on or about	February 3, 2025
Anticipated Award(s)/Letter of Intent (LOI)	February 28, 2025
Acceptance and Execution of Agreement	March 1, 2025

3.2 Proposal Submission

- 3.2.1 Proposal responses must be submitted via E&I’s Electronic Sourcing Solution via the link below and clicking on the “Respond Now” button.
<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=EandICooperative>
- 3.2.2 Hard copy submissions or submissions through any other medium other than through [E&I’s Electronic Sourcing Solution](#) are not permitted.
- 3.2.3 Proposal responses shall be submitted exactly as outlined, and the required information shall be provided in the section under which it is requested. Respondents may not combine or reorganize headings and/or requests for information or indicate the information will be included in another section. Proposal responses shall not refer E&I to any location outside the requested sections noted within the required format below (i.e. links to external website).
 - 1. Prerequisites – Review the following prerequisites and certify acknowledgment where indicated.
 - a. RFP Provisions and Specifications
 - b. Execution of Offer and Certifications
 - c. EDGAR Certification
 - 2. Supplier Attachments – Upload additional files relevant to proposal response. NOTE: Information submitted that is not requested by E&I may be considered to be supplemental and not subject to evaluation.
 - 3. Questions – Review and respond to each question section.
 - a. Company Overview
 - b. Environmental, Social, & Governance (ESG)
 - c. Scope of Offer
 - d. Pricing
 - 4. Q&A Board – Ask sourcing event-related questions, receive responses, read other public questions and answers, and respond to buyer-submitted questions. See additional information in section 3.4.
- 3.2.4 Proposals must be received by the RFP Close Date/Time Deadline.
- 3.2.5 Each Respondent is solely responsible for the timely delivery of its proposal. Failure to meet the proposed date and time shall be grounds for rejection.

- 3.2.6 DO NOT ALTER THE RFP document IN ANY WAY. The only acceptable changes or alterations to the RFP will be made in the form of addenda issued only by E&I.
- 3.2.7 A Supplier may withdraw or modify its proposal prior to the Close Date/Time Deadline.
- 3.2.8 Elaborate proposals (e.g. expensive artwork) beyond that sufficient to present a complete and effective proposal are not necessary or desired. E&I will not pay for any information requested nor is it liable for costs incurred by the Respondent in responding to this RFP.
- 3.2.9 All submitted proposals constitute an offer by each respective Respondent and shall remain irrevocable for a period of 180 days following the Submission Deadline.
- 3.2.10 If Respondent's proposal deviates from these instructions, such proposal may, at E&I's sole discretion, be rejected.

3.3 Upload Instructions and Recommendations

- 3.3.1 Submissions are to be uploaded prior to the Close Date/Time Deadline as indicated in Section 3.1 Tentative Schedule of Events. It is strongly recommended to allow sufficient time and at least ONE (1) hour before the Close Time to begin the uploading process and to finalize submission.
- 3.3.2 Each item of Requested Information is instantly sealed (no one from E&I can review) and will only be visible after the Close Date/Time. Submissions may be edited as needed up until the Close Date/Time.
- 3.3.3 Responders may elect to utilize the import/export feature to export questions into Excel in order to work on responses offline and import into the system upon completion.
- 3.3.4 Keep in mind that when answering questions in the provided text box within the system (if applicable) there is a limit to the number of characters you can use in your response. The dynamic character limit counter at the bottom of each text box will display the remaining characters available.
- 3.3.5 Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed. The maximum upload file size is 50 MB. If your file is greater than 50 MB, you can either break it up into multiple files as there is no limit to the number of files less than 50 MB. Alternatively, you could also provide a link to an online file share location (i.e. Dropbox, Box, Google Drive, Microsoft OneDrive/SharePoint etc.).
- 3.3.6 Do not embed any documents within your uploaded files, as they will not be accessible or evaluated.
- 3.3.7 Information submitted that is not requested by E&I may be considered as supplemental and not subject to evaluation.
- 3.3.8 Any questions relating to log-in issues or technical issues, including attachments, can be submitted to our third-party software host, Jaggaer via a Support Form:
<https://go.jaggaer.com/SupplierSupportRequest.html> or via (800) 233-1121, option 2 then option 2.

3.4 Respondent Questions

All sourcing event-related communications between Respondents and E&I is managed and tracked in [E&I's Electronic Sourcing Solution](#) through the RFP Event's Q&A Board.

- 3.4.1 Use the Question & Answer (Q&A) Board within the RFP event of [E&I's Electronic Sourcing Solution](#) to ask any questions. Refer to the Tentative Schedule of Events for the last day to submit questions. At all times it shall remain the responsibility of the Respondent participating in the RFP to check the RFP event for any addenda, notices or award decisions and the Q&A Board for updates. No further notice will be given.
- 3.4.2 Respondents are expected to raise any questions or concerns they have regarding the RFP. If Respondent discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in this RFP, Respondent should immediately notify the Sole Point of Contact of the deficiency and request modification or clarification of the RFP document using the Q&A Board.
- 3.4.3 Any questions and responses specific to the terms and conditions, process, procedures, language, specifications and other parts of the RFP may be made public and may be shared with other Respondents. Do not provide any proprietary information in a question or in a response to an answer to a question.

- 3.4.4 Only those communications that are in writing from E&I shall be considered as a duly authorized expression on behalf of E&I. Respondents may not consider any verbal instructions as an official expression on E&I's behalf. **QUESTIONS DIRECTED TO, OR ANY PROPOSALS RECEIVED FROM ANY OTHER PERSON, AGENT, OR REPRESENTATIVE OF E&I WILL NOT BE CONSIDERED VALID OR BINDING.** Also, E&I will recognize only communications from Respondents that are either signed and in writing or submitted directly within E&I's Electronic Sourcing System as duly authorized expressions on behalf of the Respondent.

3.5 Rights Reserved by E&I and Restrictions on RFP Process

- 3.5.1 E&I reserves the right to issue Addenda to the RFP at any time prior to the Close Date/Time.
- 3.5.2 E&I reserves the right to cancel this RFP or reject any or all proposals or any part thereof at any time.
- 3.5.3 E&I reserves the right to make an award and/or multiple awards by section, in whole, or to make no award as determined to best meet the needs of the membership.
- 3.5.4 E&I reserves the right to make an additional award to the highest ranked diverse supplier.
- 3.5.5 E&I recommends that a Respondent's initial proposal reflect its most favorable terms. E&I reserves the right to negotiate with any Respondent(s) and to arrive at its final decision and/or to request additional information or clarification on any matter included in the proposal.
- 3.5.6 If this RFP is regional in scope, E&I, upon mutual agreement of the Respondent, may expand the Agreement to additional regions or nationally.
- 3.5.7 E&I, in its sole discretion, reserves the right to waive any irregularity or minor variance in any proposal received, including but not limited to obvious mathematical errors in extension of pricing, failure to date the proposal, or failing to execute any certification not considered salient to price, delivery or acceptance of an agreement award.
- 3.5.8 E&I reserves the right to select the most responsible Respondent(s) without further discussion, negotiation, or prior notice.
- 3.5.9 E&I may presume that any proposal is a final proposal revision (otherwise known as a "Best-and-Final Offer").
- 3.5.10 E&I reserves the right to delete specific line items in order to provide a basis for an evaluation of the prices quoted by all Respondents.
- 3.5.11 **Any discussion with E&I personnel, other than the Category Sourcing Manager listed as the Sole Point of Contact regarding this RFP while the RFP is in progress (from the time Respondent receives this RFP until final award is made) is strictly prohibited. Such contact and discussion may result in disqualification of Respondent's proposal.**
- 3.5.12 E&I is the sole owner of all data and information contained within the RFP document and accompanying attachments. Respondent shall use this information exclusively to prepare a proposal. Respondent should not disclose this information to any other firm or use it for any other purpose unless required by law or legal process.
- 3.5.13 Respondent proposals will be opened and reviewed at the convenience of E&I.
- 3.5.14 All proposals and related information submitted become the property of E&I; they will not be returned and may be subject to disclosure under the Freedom of Information Act, Open Records laws or other laws existing in E&I Members' states. As such, proposal(s) may be released to third parties, without prior notice to Respondent(s), as required to comply with legal requirements.
- 3.5.15 Respondents must clearly indicate which portions of their response are "Confidential" – considered to contain confidential or proprietary information.

4. Scope of Products and Services

4.1 Description of Scope

E&I is seeking proposals for a Constituent Relationship Management (“CRM”) solution suite (platform and related services) designed to leverage the power of one network across the entire education lifecycle for the purposes of recruiting and mentoring students, engaging alumni, and cultivating donors.

4.2 CRM Solution

The CRM platform should be scalable, spanning the entire student lifecycle from prospective student to enrolled student through graduation to transition to alumni. The proposed solution should have the flexibility to support one or more of the following areas of focus: recruitment, admissions, enrollment, communications and marketing, and the reporting and comparative analysis needs of these operations.

4.2.1 Admissions Marketing

- Campaign Management
- Event Management
- Campaign Analytics
- Marketing Automation

4.2.2 Enrollment Management

- Enrollment Opportunity Management
- Lead Management
- Reports & Dashboards
- Enrollment Data Analysis
- Enrollment Performance Management

4.2.3 Education Management

- Student Administrative & Academic Support
- Records Management
- Reporting & Analytics
- Forms & Applications

4.2.4 Career Services

- Continuing Education
- Workforce Development

4.2.5 Alumni Relations

- Commerce
- Alumni Directory
- Fundraising

4.3 Related Services

Related services should include a full range of professional services to effectively implement and support a CRM solution suite. Services may be offered either by the CRM provider or an authorized CRM implementation partner. Authorized implementation partners may be awarded solely on the services offered but must be capable of supporting the full suite of the CRM solution(s) they are authorized for.

4.3.1 Related Services

- Consulting
- Implementation & Integration
- Data Migration
- Project Management
- Training
- Support & Maintenance

4.4 Pricing

Pricing for all products and/or services are to be based off discounts from a specified price list (e.g., List Price, Education Price List). Pricing for the CRM solution and related services may be structured by tiers, per seat, fixed annual fee, hourly, flat fee, or any other means Respondent uses to quote its customers. It is strongly preferred that Respondents propose both a la carte pricing as well as bundled solutions for additional cost savings.

4.5 No Exclusions

E&I recognizes that any one Respondent may not offer CRM solutions that include all of the features and/or related services listed above. No products or services have been excluded from this RFP and E&I is open to receiving proposals for full-suite or modular CRM solutions. Respondents must clearly articulate all of the capabilities of the proposed platform and/or services in its proposal response.

In addition, Respondents may include additional products and/or services that further serve Members' needs beyond the scope of this RFP. Value-added products, services and solutions included in a Respondent's catalog can be offered for consideration.

5. Master Agreement Template

Upon award, each successful Respondent will sign a Master Agreement with E&I, which will serve as the contract vehicle Members use to purchase the awarded Supplier's proposed products/services. An individual with legal authority to bind Supplier to these terms and conditions must review and note any exceptions using tracked changes and comments for context. Highlighted sections will be completed by E&I. Objections not received prior to award will not be considered.

Master Agreement

This Master Agreement (the "Agreement") is effective as of **[[Start Date]]** ("Effective Date") by and between **[[Name (Primary Second Party)]]**, a corporation with offices located at **[[Street Line 1 (Primary Second Party)]]**, **[[City/Town (Primary Second Party)]]**, **[[State/Province (Primary Second Party)]]** **[[Postal Code (Primary Second Party)]]** ("Supplier"), and Educational and Institutional Cooperative Services, Inc., a New York non-profit corporation with offices located at 2 Jericho Plaza, Suite 309, Jericho, NY 11753 ("E&I"), hereinafter collectively referred to as the "Parties" or individually as the "Party."

This Agreement has been established based on RFP# **[[insert RFP number]]** for **[[insert RFP Name]]**, all addenda, Supplier response, best and final offer, and negotiations.

Accordingly, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Scope

- a. Description of Products and/or Services. This Agreement relates to Supplier's provision of **[[insert description of the products being provided]]** (the "Products") and **[[insert description services]]** (the "Services").
- b. Applicability to Members. This **[[insert Regional and/or National]]** Agreement shall apply to all E&I Member institutions ("Member" or "Members") **[[insert if Regional: the following States; <insert applicable States>]]** (as listed in E&I's Official Member List, as updated from time to time, to be provided to the Supplier), its divisions, subsidiaries and affiliates. In addition, if E&I elects to participate in the Agreement, they shall be considered a Member.
- c. This Agreement does not constitute a purchase order or a commitment to purchase Products and/or to utilize Services by E&I or its Members. Any purchases made and/or Services utilized pursuant to this Agreement shall be made by the individual participating Member and any resulting contract, service authorization form, local service agreement, Member-Specific Agreement, purchase order, or similar agreement, shall be between the Member and the Supplier.

II. Term of Agreement and Termination

- a. Initial and Renewal Term. The Agreement's initial term shall be for **[[insert number of years]] (x)** years ("Initial Term"), effective **[[Start Date]]** through **[[End Date]]**, and may be renewed for a renewal term not to exceed **[[insert number of years]] (x)** years ("Renewal Term"), which may be structured in one or multi-year terms not to exceed the overall Renewal Term. Prior to the end of the Initial Term, and for each successive Renewal Term, the Agreement will be evaluated in overall context and performance. Exercise of any Renewal Term will require formal written agreement between E&I and Supplier at least six (6) months prior to Agreement expiration. Supplier acknowledges that notification and/or agreement to exercise a Renewal Term may be required further in advance based on Member state regulations and/or other state-specific requirements.
- b. Termination for Convenience. Either Party may terminate this Agreement for any reason by delivering not less than one hundred eighty (180) calendar days' prior written notice thereof to the other Party.
- c. Termination for Breach. Upon discovery of a breach of this Agreement, the non-breaching party shall notify the breaching party. The non-breaching party may terminate this Agreement immediately upon the material breach of this Agreement by the breaching party by delivering written notice to the breaching party, or if such breach is capable of being cured, the non-breaching party shall notify the breaching party in writing of such breach and demand that the same be cured within thirty (30) calendar days, or as otherwise agreed upon between the Parties ("Cure Period"). Should the breaching party fail to cure the breach within the Cure Period, the non-breaching party shall then have the right to terminate this Agreement at the end of the Cure Period. A notice shall be sent to the breaching party to confirm the termination. In addition, E&I may terminate this Agreement upon discovery of any misrepresentation or other material defect in any certification or other response submitted by Supplier as part of the RFP process related to this Agreement.
- d. Continued Performance. In the event of termination, both Parties shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination.

- e. **Holdover.** Supplier shall continue to provide Products and Services pursuant to any service authorization form, local service agreement, Member-Specific Agreement, purchase order, or similar agreement executed prior to the expiration or termination of this Agreement. The term of this Agreement shall then automatically extend through the final invoice date or expiration of the service authorization form, local service agreement, Member-Specific Agreement, purchase order, or similar agreement, not including evergreen or automatic renewal periods (“Holdover Period”). The terms and conditions of this Agreement shall remain in effect for the duration of the Holdover Period.

III. Pricing

- a. **Pricing/Discount List.** The pricing/discount percentage for the Products and/or Services as listed on Attachment A, incorporated herein by reference, shall be applicable to all purchases made and Services Utilized pursuant to this Agreement for the Initial Term of the Agreement and any Renewal Term(s) thereafter, unless amended in writing by the Parties.
- b. **Taxes.** All prices listed and discounts offered pursuant to this Agreement are exclusive of all taxes. E&I is a non-profit corporation. Members may have varying requirements to pay taxes or may be exempt from state sales tax. As applicable, Supplier shall collect all taxes in connection with the sale, delivery, or use of any items, Products, or the Services included herein from Member or from E&I (if for the purpose of resale), at the taxable rate in effect at the time of invoicing. Supplier shall comply with the state sales tax requirements of each Member. If sales to Member are exempt from such taxes, Member shall furnish to Supplier a certificate of exemption in form and timeliness acceptable to the applicable taxing authority.
- c. **Firm Pricing.** Prices shall remain firm for at least the first twenty-four (24) months of the Agreement’s Initial Term unless improved for the benefit of Members. However, Supplier is authorized to offer Members enhanced pricing on a case-by-case basis or under a Member-Specific Agreement. Any variances in pricing for Members shall be reported to E&I’s applicable Sourcing Manager, and Supplier agrees to provide to E&I a copy of the Member-Specific Agreement upon its execution, or otherwise upon E&I’s request, unless Member’s policies prohibit the disclosure of such Member-Specific Agreement. If disclosure of the Member-Specific Agreement is prohibited by Member’s policies, Supplier shall still provide to E&I the relevant information related to the pricing variance(s).
- d. **Price Increase and Discount Change Requests.** Supplier agrees that it will make every reasonable attempt to keep the pricing and discounts indicated in Exhibit A firm throughout the term of the Agreement. However, after the first twenty-four (24) months of the Agreement Initial Term, the Supplier may request updates or changes to pricing and/or discounts in an amount not to exceed [appropriate price index or other agreed-upon cap]. Any requested update or change to pricing that will result in increased costs to the Member, or an update or change to a discount that will be less favorable to the Member, must be accompanied by (i) a complete and detailed justification for the request, including the reason(s) for the increased cost of providing the Products and/or Services; (ii) supporting documentation, which includes the specific costs that have increased that substantiate the increase (as applicable, this may include a manufacturer’s national price increase announcement letter, specific raw materials increase, index data, etc.); and (iii) the attempts Supplier has made to keep the pricing firm or otherwise as low as possible. Supplier must respond to E&I’s inquiries related to such a request. With any price increase request, the Supplier must certify in writing that the price change request meets the criteria in the Education/Pricing Parity provision herein. Price increases and any change to a discount must be approved by E&I, which approval shall not be unreasonably withheld so long as Supplier submits the requisite justification for the request in accordance with this section, no less than ninety (90) days in advance of the desired effective date for the change and/or discount to allow for proper communication to Members, and it must be memorialized in writing and signed by both parties as an amendment to this Agreement. A price increase or discount change request shall not be made more than once in a twelve (12) month period. If a subsequent request is made to update or change pricing and/or discounts within a twelve (12) month period, it will be denied. Supplier agrees that if at any point following E&I’s approval of a price increase Supplier’s cost to provide the Products or Services decreases, Supplier shall execute an amendment to this Agreement to reduce the cost of the Products or Services to Member, to maintain Supplier’s same profit margin.
- e. **Education/Pricing Parity.** The pricing and/or discounts established under this Agreement are to be equal to or less than those offered by Supplier to other cooperatives, comparable consortiums, or group purchasing organizations serving education. This provision is not applicable to Member-specific pricing agreed upon between the Supplier and Member, including as may be established pursuant to a Member-Specific Agreement. If, during the Initial Term of this Agreement, including any Renewal Terms, Supplier offers more favorable pricing and/or discounts for the Services to other cooperatives, comparable consortiums, or group purchasing organizations serving education, Supplier agrees to notify E&I in writing without delay, but in any event, no later than ninety (90) days prior to the implementation of any such pricing or agreement with another cooperative, comparable consortium, or group purchasing organization serving education. Supplier agrees to execute an amendment to this Agreement, including as applicable to any Renewal Terms, to reflect the more favorable pricing and/or discounts.

- f. **Price Gouging Prohibited.** Supplier shall not sell Products or Services which are vital and necessary for the health, safety, and/or welfare of consumers to a Member during a declared state of emergency at a price that is in excess of ten percent (10%) above the price that existed immediately prior to the declaration. A violation of this paragraph shall constitute a material breach of this Agreement and Supplier shall make prompt restitution to Member of the excessive amount charged. A declared state of emergency means, for the purposes of this Agreement, a circumstance in which government officials determine that there is a threat to the health and/or safety of the citizens of the United States or region thereof. During such a time, officials may implement procedures to protect or provide care for the affected population until the threat has diminished.

IV. Member-Specific Agreement

- a. **Agreement with Supplier.** Member and Supplier may enter into a separate Member-Specific Agreement (“Member-Specific Agreement” or “MSA”), which may include **or insert name of Supplier’s template MSA and reference as Exhibit I**, to further define the level of service requirements over and above the minimum defined in this Agreement, e.g., specific scope of work, invoice requirements, ordering requirements, on-campus service, specialized delivery, etc. Any MSA developed is exclusively between the Member and Supplier.
- b. **Copy to E&I.** Supplier shall provide a copy of, and otherwise report as requested by E&I, any applicable MSA information to E&I, which information shall include without limitation: pricing variation, start/end dates, etc. If disclosure of the MSA is prohibited by Member’s policies, Supplier shall still provide to E&I the relevant information related to the pricing variance(s). E&I’s efforts to assist Member with any pricing variance issues may be limited if such full and complete information is not shared.

V. Services or Product Specific Terms

- a. Services and/or product specific terms applicable to this Agreement are included as Attachment B, which is incorporated herein by reference.

VI. Terms and Conditions of Agreement

- a. **Order of Precedence.** Unless otherwise superseded by the terms and conditions of the contracting Member, the terms and conditions contained herein shall apply to all purchases made and the Services provided under this Agreement. Any of Supplier’s terms and conditions, including terms and conditions of the Supplier’s service agreement, order form, invoice, acknowledgment, purchase order, Member-Specific Agreement, or similar form or agreement which are inconsistent with the terms and conditions of this Agreement shall have no effect, and the terms and conditions of this Agreement shall apply.
- b. **No Waiver/Modification.** No waiver or modification of any of the provisions hereof shall be binding unless mutually agreed upon by E&I and the Supplier, in writing, with signatures of authorized representatives of both Parties authorizing said modification.

VII. Compliance with Laws and Regulations; Open Records

- a. **Compliance with Applicable Laws.** Supplier warrants and represents that in the performance of this Agreement, it has complied with, and will continue to comply with, all applicable federal, state, and local laws, statutes, rules, regulations, ordinances, and orders (collectively, “Laws and Regulations”). This includes, but is not limited to, the Immigration Reform and Control Act of 1986 in both its present form and any future requirements passed under the Act; all applicable Laws and Regulations related to labor, hours, and wages; and any industry-specific Laws and Regulations related to Supplier’s provision of the Products and Services provided pursuant to this Agreement.
- b. **FAR and EDGAR.** Where federal contracts or grants provide funding to Members used for orders or purchases made under this Agreement, it is the responsibility of the Supplier and the Member to comply with all Federal Acquisition Regulations (FAR) and Educational Department General Administrative Regulations (EDGAR) and other applicable laws and regulations by completing any certifications, disclosures, and any other requirements. E&I shall not be responsible for ensuring compliance with such standards, rules, and/or regulations. Supplier certifies compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances as acknowledged in Attachment C, Supplier’s response to RFP# **insert RFP number** EDGAR Certifications requirements.
- c. **ADA.** Supplier shall comply with all applicable provisions of the Americans with Disabilities Act (“ADA”), the Americans with Disabilities Act Amendments Act (“ADAAA”), and the Rehabilitation Act of 1973 (if applicable). All electronic and information technology, Products, and Services to be used by Member, including Member’s faculty, staff, students, program participants, or other constituencies, must be accessible and compliant with the ADA, the ADAAA, and Section 508 of the Rehabilitation Act of 1973 (if applicable), including as such Acts may be amended.

- d. Open Records. All information, documentation, and other materials submitted by Supplier to E&I in response to the solicitation or under this Agreement, including the Agreement itself, and any information, documentation, and other materials shared by Supplier with Member, may be subject to public disclosure under the Freedom of Information Act and/or state open records/access to public records laws of the Members.

VIII. Equal Opportunity and Non-Discrimination; Sexual Harassment

- a. Equal Opportunity and Non-Discrimination. In connection with the performance of Services and provision of Products, and in satisfying all obligations under this Agreement, Supplier agrees that it will comply with all applicable federal and state laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and non-discrimination, and will not discriminate against any Member, including its employees, or applicant for employment because of age, race, religion, color, disability, sex, sexual orientation, or national origin.
- b. Government Contracts. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The provisions of Section 202 of Executive Order 11246.41 CFR 60-1.1 CFR 60-250.4 and 41 CFR 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations, or orders of the U.S. Secretary of Labor. If applicable, the Parties will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- c. No Sexual Harassment. Federal law prohibits and protects individuals from discrimination based on sex, including sexual harassment. E&I prohibits sexual harassment and works to foster an environment that is built on respect and free of sexual harassment. Supplier is required to abide by all federal, state, and local policies, regulations, and laws that pertain to sexual harassment and non-discrimination and to exercise control over its employees, agents, and subcontractors so as to prohibit acts of sexual harassment. If Supplier becomes aware, whether through Member or otherwise, that any employee, agent, or subcontractor of Supplier is alleged to have engaged in sexual harassment, in addition to any action that Member may take pursuant to its policies and/or procedures, Supplier agrees to cause such person to be removed from Member's facility or from otherwise engaging with Member, including those who may be associated with Member (e.g. staff, students); to follow its own policies and procedures for investigating and resolving such allegations; and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

IX. Use of Name, Logos, and Other Licensed or Trademarked Material

- a. Supplier's Use of Member's Material. Supplier agrees not to use the name or logo of any Member, including in any advertising, publicity, promotional, and/or marketing materials of any kind, related to this Agreement without the express written permission of the Member and in accordance with Member's policies and/or procedures relating to the use of any licensed or trademarked material, including names and logos.
- b. Parties' Use of Material. E&I and the Supplier agree not to use the name or logo of the other Party, including in any advertising, publicity, promotional, and/or marketing materials of any kind, without the express written permission of the other Party. The use of the other Party's name and/or logo must be in the exact form and format provided and approved by that Party. The Parties agree that they shall not alter or otherwise modify the name or logo of the other Party. A request for any new or different use of the other Party's logo, or other licensed or trademarked material of the other Party, must be submitted in advance to that Party for approval. Supplier further agrees that it shall not express or imply any endorsement of its products or services, including the Products and Services covered under this Agreement, by E&I or any Member without express written consent from the relevant Party, and that it shall not seek endorsement in contravention of any applicable law, rule, or regulation.
- c. Supplier Warranty & Liability. Supplier warrants that it has the right to license all rights to the Products and/or Services hereby sold or provided, either alone or in combination with other materials; that such rights do not infringe upon or violate any patent, copyright, trademark, trade secret, application, or any other proprietary right of any third party existing under laws of the United States or any foreign country; and that Supplier has obtained all necessary permissions from third parties to license the rights, if applicable. Supplier agrees, at its own expense, to defend, indemnify, and hold harmless E&I, including its officers, agents, and employees, Members, and any other third party to whom E&I might be liable, from and

against any and all claims, demands, causes of action, losses, expenses, or judgments, including reasonable attorneys' fees, alleging such infringements or otherwise arising out of a breach of this provision. No limitation of liability set forth elsewhere in this Agreement is applicable to this indemnification, and this indemnity shall survive termination of this Agreement.

X. Transactions and Engagements Between Supplier and Member

- a. Transactions/Engagements. The purchase of Products and/or Services by a Member from Supplier is a transaction or engagement solely between Member and Supplier. Supplier acknowledges and agrees that E&I makes no representation or commitment that any Member will make a purchase, that any quantities will be purchased, or that Services will be utilized, whether by an individual Member or by Members collectively, and agrees that E&I shall have no liability relating to Member decisions to purchase or not purchase Supplier Products or Services.
- b. E&I Not a Party to Litigation. Supplier agrees that if litigation arises between Supplier and any Member, including as related to a breach of any Member-Specific Agreement or other agreement between Supplier and Member, Supplier shall not make or name E&I, its agents, or employees a party to that litigation. A violation of this provision by Supplier shall be deemed a material breach of this Agreement warranting termination by E&I, and Supplier agrees to indemnify, defend, and hold harmless E&I, including its officers, agents, employees, and assigns from and against all costs, demands, expenses, and losses associated with such litigation, including reasonable legal and attorney fees.

XI. Governing Law

- a. Between Member and Supplier. For disputes between the Member and Supplier, this Agreement and any Member-Specific Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with and pursuant to the internal laws of the state in which the Member resides, without regard to choice of law rules, and the venue of any action shall lie in such state.
- b. Between E&I and Supplier. This Agreement and all claims or defenses based on, arising out of, or related to this Agreement, including without limitation those arising from or related to the negotiation, execution, performance, or breach of this Agreement, whether in contract, tort, law, equity, or otherwise, shall be governed by, construed, interpreted, and enforced solely in accordance with and pursuant to the internal laws of the State of New York, without regard to choice of law rules. Further, the Parties: i) Agree that litigation initiated by either party concerning the interpretation or implementation of this Agreement shall exclusively be brought and litigated in a state or federal court of competent jurisdiction in New York; ii) Consent to the personal jurisdiction of such courts; and iii) Waive any defense of forum non conveniens.

XII. Indemnification of E&I and Member.

- a. Indemnification of E&I. E&I shall not be responsible for Supplier's performance under this Agreement. Supplier agrees to indemnify, defend, and hold harmless E&I, including its officers, agents, employees, and assigns, from and against all causes of action, lawsuits, demands, costs, losses, damages, claims (including from claims or amounts arising or recovered under the "Workman's Compensation Law"), liens, and expenses (including costs of defense, settlement, and reasonable attorney's fees), arising out of or connected with Supplier's, including its employees, agents, and subcontractors, performance under this Agreement, including as related to any act or omission in the performance of Services or work, Products purchased, or resulting from property damage or injuries, including death, incurred by or to any third party, E&I, or the Member, including E&I and Member's officers, agents, servants, and employees, whether by reason of any defect in manufacture, construction, inspection, delivery, material, workmanship, and/or design of any Products or Services furnished hereunder or otherwise, and any act of misconduct or negligence by Supplier or its employees, agents, or subcontractors, excepting only such liability as may result solely from the acts of negligence of E&I or its employees. Supplier, at the request of E&I, shall undertake to participate fully in the defense of E&I against any and all suits and to investigate and participate fully in the defense E&I against any and all claims, whether justified or not, if such claim or suit is commenced against or E&I or its respective officers, agents, servants, and/or employees. Supplier shall not have the authority to enter into any settlement agreement on behalf of E&I, or to otherwise bind E&I in any way, without the express written authorization of the appropriate officer or designated official of E&I. This indemnity shall survive termination of this Agreement.
- b. Indemnification of Member. Supplier agrees to indemnify, defend, and hold harmless Member, including its officers, agents, employees, and assigns, from and against all causes of action, lawsuits, demands, costs, losses, damages, claims (including from claims or amounts arising or recovered under the "Workman's Compensation Law"), liens, and expenses (including costs of defense, settlement, and reasonable attorney's fees) arising out of or connected with Supplier's, including its employees, agents, and subcontractors, performance under this Agreement, including as related to any act or omission in the performance of Services or work, Products purchased, or resulting from property damage or injuries,

including death, incurred by or to any third party, the Member or its officers, agents, servants, and employees, whether by reason of any defect in manufacture, construction, inspection, delivery, material, workmanship, and/or design of any Products or Services furnished hereunder or otherwise, and any act of misconduct or negligence by Supplier or its employees, agents, or subcontractors, excepting only such liability as may result solely from the acts of negligence of Member or its employees. Supplier, at the request of Member, shall undertake to participate fully in the defense of Member against any and all suits and to investigate and participate fully in the defense of Member against any and all claims, whether justified or not, if such claim or suit is commenced against or Member or its respective officers, agents, servants, and employees. Supplier shall not have the authority to enter into any settlement agreement on behalf of Member, or to otherwise bind Member in any way, without the express written authorization of the appropriate officer or designated official of Member. This indemnity shall survive termination of this Agreement.

XIII. Compliance with Member Policies and Requests

- a. Supplier, including its employees and subcontractors, shall conduct themselves in a businesslike and professional manner and comply with all applicable Member requests, policies, and rules pertaining to their presence, behavior, and conduct while on Member's campus, as well as Member owned, controlled, or leased property (including all land and buildings), including with respect to the prohibition, use, or possession of alcohol, tobacco, controlled substances, and other drugs; the possession, display, use, or storage of any weapon, explosive device, fireworks, or other item or substance prohibited pursuant to Member's policies or law; and other policies related to campus safety, including the wearing of an identification badge and other security practices or procedures. If requested by Member, Supplier shall have all applicable Supplier personnel execute acknowledgement of Member's conduct expectations as related to their work, behavior, and/or presence at Member's institution and its premises, as well as other applicable policies. The Member reserves the right to immediately remove from their premises, and to request the removal or replacement of, any of Supplier's employees and/or subcontractors who violate its policies, rules, or other instructions at any time. In addition, E&I and the Member reserve the right to request a copy of the Supplier's Drug Free Workplace Policy.
- b. Supplier agrees to notify all persons or entities who are employees, agents, officers, subcontractors, consultants, guests, invitees, or licensees of Supplier ("Supplier Notification Parties") of the responsibilities and restrictions contained in this Section, and Supplier agrees to include a similar provision indicating the same in any contract with a subcontractor related to the performance of this Agreement. Supplier further agrees to enforce this requirement against all Supplier Notification Parties.
- c. At any time during the term of the Agreement, a Member may require Supplier to provide a complete dossier, or other information as may be requested by Member, of each employee who has been given an assignment at a Member institution so that Member can ensure compliance with applicable public safety or other policies related to those present on its campus or property or performing Services under this Agreement.

XIV. Protection of Member's Property

- a. The Supplier shall take care not to damage the premises or the property of others, including that of any Member, and in case such damage occurs as the result of Supplier's, and/or any of Supplier's subcontractors, operations or performance, including the Services, under this Agreement, Supplier shall make appropriate, reasonable restitution. If the Supplier fails to pay for damage, in addition to any legal remedies available, the amount of such damage may be deducted from any remaining balance due to the Supplier and/or Member may delay payment on any outstanding balances until a resolution has been reached regarding such damage.

XV. Member Alignment Process

- a. When an E&I Member chooses to align to the Agreement, the Member will complete E&I's online form indicating their desire to purchase Products and/or Services offered under this Agreement ("Alignment Authorization Form"; this form may be referred to as a "Statement of Intent" when a scope/statement of work ("SOW") or Member-Specific Agreement is required or when a Member desires to align to the Agreement but such alignment may require further support, additional terms and conditions, or other information gathered before a purchase takes place.). The content and format of the Alignment Authorization Form/Statement of Intent is at the sole discretion of E&I in collaboration with the Supplier. At a minimum, the Alignment Authorization Form/Statement of Intent will contain the following fields: First Name, Last Name, Title, Institution Name, Department, Primary Role, Phone, E-mail, and Supplier.
- b. The Alignment Authorization Form/Statement of Intent shall supersede any previous Member declaration for the purchase of Products and Services, unless otherwise specified, and will remain in effect during the term of this Agreement, including any Renewal Terms and extensions. Supplier shall provide to E&I, and maintain, an email address and point of contact for the receipt of the Alignment Authorization Forms/Statements of Intent.

- c. With respect to a Statement of Intent, Supplier shall contact the Member within three (3) business days of receipt to determine the Member's needs in order to complete alignment to the Agreement and initiate the SOW and/or sign the MSA.
- d. Upon receipt of the Alignment Authorization Form/Statement of Intent, and upon execution of the SOW or MSA if required or as otherwise applicable, Supplier shall:
 - i. Link all relevant Member accounts to the Agreement within seven (7) business days;
 - ii. Attribute all future purchases to Member and E&I whether an existing or new client of Supplier ("Alignment;" the effective date for this action is the date the Member submits the Alignment Form or, as applicable, executes the SOW or MSA);
 - iii. Provide Member a confirmation email message within 24 hours of completed Alignment; and
 - iv. Submit confirmation of completed Alignment to E&I using E&I's Supplier Portal or as otherwise directed by E&I. For the avoidance of doubt, SOW and/or MSA execution or finalization is not required for Alignment to be complete if an SOW and/or MSA is not required or otherwise applicable prior to Member making a purchase or initiating the Services.
- e. Notwithstanding the forgoing, any Members who are existing, previously aligned customers of an incumbent Supplier will automatically be converted from the expiring agreement to which they were aligned to this Agreement without a new Alignment, unless the Member elects to opt out through written notification to E&I and Supplier. Supplier shall also notify the applicable E&I Sourcing Manager upon notification by the Member that the Member does not want to align to the Agreement. The effective date of this automatic conversion shall be the effective date of this Agreement.
- f. In the event the Supplier has a direct agreement ("direct agreement" is defined as an agreement with the Member that is not an E&I agreement) with a Member, the Supplier shall encourage the Member to align to this Agreement at the next renewal or termination of the direct agreement.
- g. Supplier is responsible for working with Member to ensure all accounts, as specified by Member, are linked and aligned to this Agreement. Should Supplier fail to correctly align such accounts, Supplier shall be solely liable for any resulting damages, demands, claims, losses, or expenses incurred by Member, including all such amounts as may result from Member's payment for Services and/or Products at prices higher than they would have been had their account(s) been correctly aligned and/or Member's failure to receive the correct discount pursuant to this Agreement. Supplier agrees to indemnify, defend, and hold harmless E&I, including its officers, agents, and employees, and any other third party to whom E&I might be liable, from and against any and all claims, demands, causes of action, losses, expenses, or judgments, including reasonable attorneys' fees, arising from Supplier's failure to correctly align any Member account, including all accounts of any one Member.

XVI. Data Privacy and Security

- a. Data Protection. Supplier agrees that it shall protect the data it receives from or on behalf of E&I and Member at all times in accordance with this Agreement. Supplier shall follow all applicable laws and all relevant publicly posted policies, notices, and statements concerning the collection, use, processing, storage, transfer, and security of information, including personal information, in the conduct of the Services being provided and Products being purchased. Supplier shall provide true and correct copies of all current privacy policies and practices adopted by Supplier in connection with their provision of the Services and sale of Products, as applicable, when requested.
- b. Compliance with Applicable Law. Where applicable, Supplier acknowledges and agrees that it has (i) complied with all applicable laws, regulations, and standards related to the protection, privacy, and security of sensitive personal information, including, but not limited to, the Gramm-Leach-Bliley Act, the Family Educational Rights and Privacy Act, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), General Data Protection Regulation (GDPR), the Financial Modernization Act of 1999 as related to financial information, including payment card and financial account numbers; (ii) that Supplier is PCI-DSS compliant, if receiving payment card numbers as per the requirements indicated in the PC Security Standards Council; and (iii) that Supplier has a program in place to identify, detect, and address warning signs of identity theft pursuant to the FACT Act and corresponding "Red Flag Rules." Supplier further agrees that it has complied with any similar federal, state, or foreign law and other laws regarding the disclosure of, and the protection requirements for, data; not violated applicable privacy policies or laws; and taken commercially reasonable steps to protect and maintain the confidential nature of the personal information provided to the Supplier in accordance with its applicable privacy policies and the law.
- c. FERPA. Student education records are protected by the federal Family Educational Rights and Privacy Act and its implementing regulations, 20 U.S.C. § 1232g, 34 C.F.R. § 99.1 et seq. ("FERPA"). Should Supplier receive or have access to any student education records in the performance of its Services or other obligations under this Agreement, Supplier agrees:
 - i. That it shall protect the confidentiality of student education records, including personally identifiable information found in such records, in compliance with FERPA ("FERPA-protected records");

- ii. That any FERPA-protected records may only be used for the purposes authorized by the Member and within the course and scope of performing Supplier's Services or obligations under this Agreement and any corresponding MSA;
 - iii. That Supplier will not access or make any disclosures of FERPA-protected records, whether provided by Member or obtained on Member's behalf, to third parties without prior notice to and written consent from Member; and
 - iv. That Member may require transparency about how student data obtained or collected under this Agreement is used and/or Supplier's plans for data security, which Supplier agrees it shall have in place based on commercially reasonable and accepted standards, how Supplier will notify Member of any data breach involving FERPA-protected records, and how Supplier will maintain the confidentiality of FERPA-protected records (including personally identifiable information).
- d. In the event of a data breach, Supplier agrees to notify the affected party or parties, including E&I and/or Member as applicable (collectively, the "Affected Parties"), in accordance with any applicable law and regulations governing Supplier's notification requirements, and to cooperate with the Affected Parties with respect to any investigation into the breach, Affected Parties' notification or other subsequent requirements, and as related to any remedial measures.

XVII. Confidentiality

- a. Confidential Information. In the course of performing their respective obligations under this Agreement, the Parties acknowledge that each Party and their employees may come into the possession of proprietary or confidential information owned by or in the possession of the other Party (in such a case, the "Receiving Party"). Neither Party will share, disclose, or use any such information for its own benefit or make such information available to any third party, firm, corporation, or other organizations, whether or not directly or indirectly affiliated with either Party, without the written consent of the Party who owns or possesses the proprietary or confidential information ("Disclosing Party") or unless required by law, regulation, or accounting oversight body in accordance with the process identified in (b) below.
- i. Definition. "Confidential Information" means information and data, including hard copy or electronic form, written or oral, which a reasonable person would consider to be confidential in nature based on the circumstances of the disclosure, or based on applicable state and/or federal laws related to the disclosure of such information or data, as well as information designated at the time of disclosure as confidential by the Disclosing Party. Notwithstanding the foregoing, Confidential Information shall not include any reports or other information required to be provided or reported to E&I pursuant to this Agreement.
 - ii. Exceptions. Confidential Information does not include information that (1) becomes public through no breach of this Agreement by Receiving Party; (2) Receiving Party lawfully receives from a third party without restriction; (3) Receiving Party develops independently without use of or reference to Disclosing Party's Confidential Information, as shown by then-contemporaneous records kept in the ordinary course of business, or already had knowledge of prior to disclosure by Disclosing Party; and (4) Disclosing Party gives to any third party without confidentiality limitations. The Parties' obligations under this section will survive the termination of this Agreement for a period of three (3) years, except as related to trade secrets, which protection shall continue in perpetuity or for so long as such Confidential Information remains a trade secret.
 - iii. Obligations. The Parties agree that Disclosing Party's Confidential Information shall not be shared or disclosed, except to those employees of Receiving Party who have a need to know based on the course and scope of their employment with Receiving Party and as related to the performance of this Agreement. The Parties further agree that any Confidential Information provided pursuant to this Agreement shall only be used for the purpose of performing their obligations and responsibilities hereunder, and shall be held in confidence and protected with no less than the same degree of care in which each Party protects their own Confidential Information.
 - iv. Response to Legal Process. In the event the Receiving Party or any of Receiving Party's representatives is requested, pursuant to subpoena or other lawful demand, or by an accounting oversight body, to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party prompt written notice so that the Disclosing Party may seek a protective order or other legal remedy and/or waive compliance with the provisions of this Agreement. In the event such protective order or other remedy is not obtained, or in the event the Disclosing Party waives compliance with the provisions of this Agreement, the Receiving Party or the Receiving Party's representative(s) shall furnish only that portion of the Confidential Information that is legally compelled to be disclosed.

XVIII. Warranties and Compliance with Specifications

- a. The Supplier warrants that all Products supplied under this Agreement shall conform to specifications, drawings, samples, or other descriptions contained or referenced herein (including as indicated in Supplier's response to the RFP), shall be merchantable of good quality and workmanship and free from defect. The Supplier also warrants that all Products covered by this Agreement which are the product of the Supplier or are in accordance with its specifications, will be fit and subject to the Member's inspection before acceptance, and also to later rejection if use reveals defects not apparent upon receipt;

and if rejected will be held at Supplier's risk and expense for storage and other charges; after 60 days of storage, Products may be disposed of without cost to Member, at Supplier's expense. Neither receipt of Products nor payment therefor shall constitute a waiver of this provision.

- b. Supplier warrants that all of the Services to be performed under this Agreement shall be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training, and experience for the type of Services they are assigned to perform, that Supplier owns or has sufficient rights in all Products and Services to be delivered by Supplier, that the Products and Services delivered by Supplier will not infringe upon or violate any intellectual property of any third parties, and that any code or software developed or delivered by Supplier under this Agreement will not contain any viruses, worms or other disabling devices or codes.

XIX. Limitation of Liability

- a. Supplier agrees that E&I shall have no liability for any lost profits, loss of revenue, loss of opportunity, loss of use, indirect damages, special damages, consequential damages, incidental damages, punitive damages, or multiple damages arising out of or in connection with this Agreement, regardless of any notice of the possibility of such damages and regardless of whether such liability arises in contract, tort (including negligence), or otherwise.

XX. Insurance, Licenses, and Permits

- a. Requirements if on Member's Premises. If fabrication, construction, installation, Services, or other work is specified to be conducted or performed on Member's premises, Supplier shall maintain in force during the period of such work the following coverages: (i) worker's compensation, as required by the laws of the state of Member; (ii) commercial general liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence; (iii) automobile liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence.
- b. General Requirements. Supplier shall be responsible for obtaining and maintaining: (i) all applicable permits and licenses, including any professional licenses that are required to perform the work and/or Services; (ii) other insurance as related to the Services being provided (e.g. professional liability insurance), in amounts not less than industry-standard related to the Services being provided; and (iii) bonding, if applicable, to comply in each instance with all federal, state, municipal, and county laws, as well as the rules and regulations of any applicable city government, bureau, department, or licensing body, and assumes liability for all applicable taxes.
- c. Certificate of Insurance. Supplier shall provide a certificate of insurance naming E&I and Member as additional insureds. Upon request, Supplier shall furnish to E&I satisfactory proof of such insurance coverage.
- d. Additional Coverage. Individual Members may require coverage in addition to the above limits. If the need for additional coverage develops, it will be the responsibility of the Member to arrange for such coverage with the Supplier. Supplier shall furnish to Member satisfactory proof of such insurance coverage prior to commencement of the work.

XXI. Suspension or Debarment

- a. No Suspension or Debarment. Supplier represents and warrants that the Supplier is presently not debarred, suspended, proposed for debarment, declared ineligible, is not in the process of being debarred, nor is voluntarily excluded from covered transactions by any federal, state, or local governmental entity.
- b. Termination for Suspension or Debarment. At any time during the term of this Agreement or any Renewal Term, E&I may, by written notice to the Supplier, immediately terminate the Agreement without penalty if it is determined that the Supplier has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor by any public procurement unit or other governmental body.
- c. Supplier Eligibility. Supplier represents and warrants that the Supplier and its principals are eligible to participate in this Agreement and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity, that Supplier is in compliance with all applicable statutes and rules relating to procurement, and that Supplier is not listed on the federal government's terrorism watch list as described in Executive Order 13224, or any new or subsequent related Order.

XXII. Ability to Perform

- a. Expropriation. Suppliers must notify E&I and Member if, by any existing agreement with any party, its operations, delivery vehicles, and/or personnel can be in any way expropriated or annexed. If such an agreement exists, Supplier must indicate when that agreement or those terms will expire.

- b. Ability to Perform. Supplier must disclose any existing agreement or other obligation that may impact its ability to perform under this Agreement. If requested by E&I or Member, Supplier must submit audited financial statements demonstrating financial capability to provide the goods and/or Services covered by this Agreement.

XXIII. Non-Appropriation of Funds

- a. Many Members are publicly funded institutions, and their ongoing financial obligations are subject to allocation of funds by parties not controlled by the Member. Accordingly, Services may be discontinued, and, if applicable, orders for Products may be cancelled, due to non-appropriation of funds, whether such non-appropriation is of state and/or federal funds. Member is responsible for notifying Supplier, consistent with its policies or other applicable requirements, of any non-appropriation of funds and the subsequent need to discontinue Services or cancel an order.

XXIV. Conflicts of Interest and Non-Solicitation

- a. Conflicts of Interest & Gratuities. Supplier represents and warrants that it has not offered, given, accepted, or promised gratuities, in the form of entertainment, gifts, or other incentives (financial or otherwise) to or from any officer or employee of E&I or any Member to secure this Agreement or to secure favorable treatment with respect to the awarding of this Agreement or any post-award activities, including potential Renewal Terms.
- b. No Contingency Fee. Supplier represents and warrants that it has neither offered nor paid a contingency fee or other financial or similar incentive to any individual, agent, or employee of E&I or Member to secure or influence the decision to award this Agreement to Supplier.
- c. Non-Solicitation. During the term of this Agreement, to include Renewal Terms, neither Party shall solicit for employment or contractor relationship any employee of the other Party who was engaged in or became known to the other because of the performance of this Agreement, provided that the foregoing shall not prohibit offers of engagement which result from general, non-targeted solicitations.

XXV. General Terms and Conditions

- a. Insolvency. In the event of any proceedings in bankruptcy or insolvency by or against Supplier, or in the event of the appointment (with or without its consent) of an assignee for the benefit of creditors or a receiver, E&I may terminate this Agreement without prior notice to Supplier without penalty, and without incurring any liability whatsoever to Supplier.
- b. Assignments. Neither Party shall assign or delegate this Agreement or any of their rights or obligations hereunder, in whole or in part, including by transfer of stock or ownership, without the other Party's prior written consent and an executed agreement between the Parties regarding the same. Any purported assignment or delegation made without the other Party's prior written consent shall be void and of no effect.
- c. Strikes or Lockouts. In the event Supplier should become involved in a labor dispute, strike or lockout, Supplier will be required to make whatever arrangements may be necessary to ensure that the conditions of this Agreement are met in their entirety. Should the Supplier be unable to fulfill its obligations under this Agreement, E&I and/or Member shall have the right to make alternative arrangements to ensure the satisfactory performance of the Agreement during the time Supplier is unable to perform. Any reasonable costs incurred by E&I and/or any Member as a result of such labor dispute, strike, or lockout shall be reimbursed by the Supplier. The Parties agree, or Supplier shall work with Member, whichever is applicable, to set a reimbursement schedule, or a date by which reimbursement shall be made, within thirty (30) days of the end of any labor dispute, strike, or lockout.
- d. Force Majeure. Neither party shall be held responsible for delays, failures, or any losses related to the performance of the terms of this Agreement where such performance is outside of the performing party's control and the performing party exercised reasonable diligence to prevent such delay, failure, and/or loss. Such delays, failures, or loss may include, but shall not be limited to, acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, riot, war, act of terrorism, freight embargo, pandemic/epidemic, failure of public regulated utility or governmental statutes or regulations superimposed after the fact, or generalized lack of availability of raw materials or energy; provided that the Parties stipulate that Force Majeure shall not include the novel coronavirus Covid-19 pandemic, which is ongoing as of the date of the execution of this Agreement. The performing party shall be released without any liability on its part from the performance of its obligations under this Agreement, but only to the extent and only for the period of time that its performance of such obligations is prevented by circumstances of Force Majeure, and that the party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and provided that such party shall have given notice to the other party within forty-eight (48) hours of the commencement of the event of Force Majeure. Such notice shall include a description of the nature of the event of Force Majeure, its cause, and its possible consequences, as well as the length of time the force majeure event is anticipated to last, if such time can be reasonably determined. The party claiming circumstances of Force Majeure shall promptly notify the other party of the conclusion of the event and immediately resume performance of its obligations under this Agreement.

- e. Independent Audit. Members may audit the Supplier’s records pertaining to its compliance with the terms of this Agreement, including after the expiration of this Agreement, and Supplier acknowledges and agrees that the period for such audit may be dependent on the laws of the state in which the Member resides and/or the Member institution’s policies. The audit will be conducted by Member and/or its designee. Supplier shall provide Member with reasonable access to records related to Supplier’s performance under and compliance with the terms of this Agreement. The audit may address any or all of the following areas, as applicable, but may not be limited to;: product compliance, pricing, order processing, order fulfillment, delivery records, invoicing, and receipt of payment.
- f. Utilization of Diverse Suppliers. As used in this Agreement, “Diverse Supplier” means a supplier who maintains a valid certification as a minority, women, veteran (including disabled- veteran, service-disabled) or small business enterprise from any of the following organizations: (a) the National Minority Supplier Development Council (NMSDC), (b) the Women’s Business Enterprise National Council (WBENC), (c) the US Department of Veteran Affairs, (d) US Small Business Administration, or (e) any third party certification organization approved in advance by E&I members. Supplier agrees to provide Diverse Suppliers with the maximum practicable opportunity to participate in any subcontracts or orders it may award in connection with this Agreement. Supplier, upon request and as agreed by the Parties, will report to E&I the amount of such purchases on a quarterly basis, or as otherwise reasonably requested by E&I, the level of diverse Supplier participation in support of this Agreement (Tier 2 Reporting) if applicable.
- g. No Waiver and Strict Compliance. The failure of either Party to exercise its right to terminate for cause due to the other Party’s failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance. In addition, the failure of either Party to insist in any one or more instances upon the performance of any one or more provisions of the Agreement or to pursue any rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights. The Parties may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.
- h. Agreement Modification. This Agreement may not be modified unless in writing and signed by E&I and Supplier.
- i. Entire Agreement. This Agreement, together with any documents incorporated by reference and the attachments included hereto, constitutes the entire agreement between the Parties and supersedes all prior agreements or negotiations, whether written or oral, between the Parties.
- j. Survival of Terms. The respective obligations of Supplier and E&I that by their nature would continue beyond the termination or expiration of this Agreement shall survive such termination or expiration.
- k. Severability. If any provision of this Agreement is declared to be invalid, illegal or unenforceable, such declaration shall not in any way affect the validity or enforceability of any other provision.
- l. Official Member List and Members Utilizing the Agreement. The E&I Official Member List, which may be updated from time to time, will be sent to the Supplier via an electronic file from E&I’s Member Success Team upon execution of this Agreement. In addition, Supplier shall also provide to E&I, upon request, a complete list of all Members currently utilizing, or Members that at any point during the term of the Agreement utilized, this Agreement.
- m. Relationship of the Parties. The relationship of the Parties is one of independent contractors, and this Agreement does not create a partnership, joint venture, or other relationship (e.g. principal-agent).
- n. Notices. Any notice to be given by any party hereunder shall be in writing, mailed by certified mail, return receipt requested, or by delivery to a reputable overnight courier with a copy thereof furnished by email to the recipient’s email address set forth below and shall be effective the earlier of (a) actual receipt or (b) five days after mailing or one day after delivery to overnight courier and shall be addressed as follows:

If to E&I: **[[Contact Name (Primary First Party Contact)]]**
 [[Contact Title (Primary First Party Contact)]]
 E&I Cooperative Services, Inc.
 2 Jericho Plaza, Suite 309
 Jericho, NY 11753
 [[Contact E-mail (Primary First Party Contact)]]

If to Supplier: <contact name>
 [[Name (Primary Second Party)]]
 <street address>
 <city, state, zip>
 <phone number>
 <e-mail address>

- o. **Signatures.** In witness whereof, the parties have executed this Agreement and do hereby warrant and represent that their respective signatories whose signatures appear below have been, and are on the date of this Agreement, duly authorized to execute this Agreement.

Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by electronic mail in portable document format (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

[signature page to follow]

[[Name (Primary Second Party)]]	E&I Cooperative Services, Inc
Supplier	
Signature	Signature
Printed Name	Printed Name
Title	Title
Date	Date

ATTACHMENT A- PRICING

A1. [insert pricing structure; discount table; other relevant information related to the same]

ATTACHMENT B - Services and Products Specific Terms

B1. Supplier Point of Contact for Member

Supplier shall provide a single point of contact plus a backup for each Member. This individual may support multiple Members. Members shall have access to their corresponding customer service representative during normal business hours of every business day (8am to 5pm ET).

B2. Orders/Purchases

All terms and conditions of Member's standard terms and conditions for ordering may apply. With each ordering occurrence, it is mutually agreed that the Supplier's notice of acceptance shall create an agreement between the parties thereto containing all pricing, specifications, and terms and conditions of the agreement, to the extent that the terms and conditions are not inconsistent with the Members' terms and conditions or this Agreement.

B3. Invoices and Payment

Invoices shall be directed to the appropriate location(s) specified by the Member. Invoices and payment terms must comply with the requirements of each Member. The Member placing the order with the Supplier shall alone be liable and responsible for payment for Products and/or Services ordered and will be invoiced direct by the Supplier. Neither E&I nor its other Members shall be liable for the indebtedness of any one Member.

If a Member does not specify payment terms, the default payment term shall be no later than thirty (30) days after receipt of a valid invoice or delivery, whichever is later, and include invoicing at time of billing or delivery completion, whichever is later.

Discounts for prompt payment may be offered to any Member from the date of receipt and acceptance of Products or Services or the invoices, whichever is later. Supplier is encouraged to offer/propose discounts for expedited payment of invoices rendered under this Agreement. Negotiated discounts with Members for aggregated billing (monthly/bi-weekly, etc.) may be negotiated on an individual basis.

B4. Order Fulfillment, Distribution and Installation Agreements

Order Accuracy rate shall be maintained at **x%** or greater. Order Accuracy rate is defined as "the number of items delivered as ordered divided by the total number of items ordered."

Order Fill rate shall be maintained at **x%** or greater. Order Fill rate is defined as "the number of items on an order filled completely as ordered divided by to the total number of lines on an order."

Supplier, within twenty-four (24) hours after receiving a purchase order, shall notify the Member of any potential delivery delays. The following information regarding backorder(s) shall be provided to the Member:

- PO Number, if applicable
- Item ID
- Item Name & Description
- Reason for shortage
- Plan of action (when delivery may be expected or suggested replacement)

Members may have their own order fulfillment/distribution/installation agreements with a third-party agent or distributor. The terms and pricing of this Agreement are passed through to the Member and separate from any additional distributor terms and conditions, fees or markups resulting from Members' separate fulfillment/distribution/installation agreements.

B5. Delivery

Deliveries to Members range from but are not limited to: (1) one central receiving location, (2) multi-campus locations, (3) campus building(s), or (4) department(s). Frequency of delivery may range from: (1) daily, (2) weekly, (3) monthly, or (4) as needed to assure that Members' needs are met. Delivery may be based on storeroom delivery, Just-in-Time agreements, drop shipments, and delivered and installed.

Normal delivery of orders must be accomplished at established times as set by the Member. On-time delivery shall be maintained at 95% or greater. On-time delivery is defined as delivery of order within the specified delivery time frame after the placement of order. Orders will be defined as late without approved notification. The Supplier shall have the capability of expediting the delivery of orders to assure no shortage of Product(s) during installation.

Title and risk of loss shall pass to the Member at the F.O.B. destination point or after installation by authorized dealer/representative. The title and risk of loss of the Products shall not pass to a given Member until receipt and acceptance of the Products at the point of delivery and or installation. The Products furnished shall be delivered:

F.O.B. Destination, Full Freight Allowed (Supplier pays freight)

Selection of a carrier for shipment will be at the Supplier's option unless otherwise specified by the Member. If special delivery or handling charges are applicable, they shall be pre-approved by the order initiator.

The Supplier shall maintain records evidencing the delivery of Products and upon request by the Member provide such proof of delivery.

B6. Third Party Distributors/Subcontractors

If Supplier chooses to subcontract any Services or delivery of the Products under the terms herein, Supplier shall fully warrant prompt performance of the subcontractor in a fully complete, workmanlike manner customary to the trade. Failure by the subcontractor to perform in a timely manner as specified above shall not relieve Supplier of its obligations to make complete timely delivery of Products, supplies, or Services and shall be at no additional cost to the Member.

B7. Substitutions

No substitutions of alternate items for Products ordered are permitted without the express prior written approval of the Member. Any and all remanufactured or refurbished products are not acceptable, in lieu of a new product, unless authorized in writing by the Member.

B8. Minimum Orders

<insert minimum order details as outlined in RFP>

B9. Supplemental Charges

Supplier shall be required to state, at the time of order or purchase where applicable, all supplemental charges that may be assessed in addition to the pricing for the Products and/or Services provided, including additional shipping charges, cost of products, delivery, freight fuel surcharges, installation or any other charges incurred by the Member. If Supplier offers multiple pricing options (i.e. drop ship, inside delivery, delivered and installed) they shall be specified herein. Notwithstanding the foregoing, Supplier shall not assess any type of transaction/convenience fee for the acceptance of a credit card as a method of payment. Supplemental charges shall not be applied to entire pricing lists or discount tiers and shall not be applied Agreement-wide. Supplemental charges apply to individual orders or purchases only between the Supplier and Member.

B10. Emergency Purchases

Members reserve the right to make purchases of items included under this Agreement when emergency conditions exist and do not require a Member Alignment Form. All Emergency Purchases shall be reported as regular sales to E&I. An Emergency Purchase, for the purposes of this Agreement, means a purchase made where immediate action is required to prevent the possible loss of life or property, significant financial loss, or environmental impacts, and includes without limitation situations related to a natural disaster or health crisis. An Emergency Purchase may be made when the existence of an emergency condition creates an immediate need for Products and/or Services that cannot be met through normal procurement methods.

B11. Storage

If applicable, Supplier or Dealer shall be responsible for all warehousing and storage expenses, which may be incurred, until Products are delivered and/or installed as per the terms of the Member's order.

B12. Tracking Lost and Damaged Shipments

If Supplier fails to deliver, or erroneously delivers Products, Supplier shall take immediate corrective action to make the correct delivery at no cost to Member.

Should any action on the part of the Supplier or a subcontractor cause visible damage to the Products and/or Member's facilities during transport or delivery, the Supplier shall immediately contact Member and forward a confirming damage report detailing the damages. Supplier shall track all shipments and provide order status to Members.

B13. Returns – Defective and Non-Conforming Products or Services & Liability

If any Products or Services furnished under the Agreement are defective or non-conforming, or fail to meet warranties, specifications, or any other provisions of the Agreement or Member's purchase order, any of the following remedies shall be available to the Member:

- Repair and Replacement: Supplier shall promptly repair, replace, or correct non-conforming or defective products and services at the Supplier's own expense.
- Cancellation: Member may cancel an order or any part thereof or any undelivered portion thereof without incurring any liability to Supplier, and any payments made by Member for Products or Services purchased shall be refunded by the Supplier and/or its agents (including any subcontractors and third-party distributors).
- Like-for-Like: Like-for-like equipment throughout the entire term of the contract for maintenance or warranty shall be provided at no cost to the Member if the equipment experiences excessive down-time or fails to maintain acceptable quality standards.
- Removal: Supplier shall remove such products at its own expense and if the Supplier fails to remove such products, Member may return all or any portion of such products at the expense of Supplier.
- Risk of Loss and Storage: All products shall be held at Supplier's risk and the Supplier shall pay all expenses incurred including storage costs.
- Supplier Liability: The Supplier shall be liable for any and all losses, claims, expenses (including reasonable attorney's fees and court costs), and other incidental and consequential damages resulting from such failure to meet all the requirements of this Agreement and/or a Member order.
- Products under warranty. The decision to replace such products or accept warranty repair shall be at the sole discretion of the Member except in the event the Member fails to provide timely notice of product failure to the Supplier.
- After the Warranty Period: After the warranty period, the Supplier is responsible to make sure that service agreements are available to the Member. The Supplier, the manufacturer, or an authorized third party may provide the maintenance.

B14. Reasons for Return or Credit

The Supplier shall accept the following as reasons for return or credit:

- The Product is defective or nonconforming.
- The Product is incorrectly ordered or shipped. The Product is received as an overage or the order is duplicated and shipped in error and the overage is noted on the shipping document(s).
- The Product receipt is late or delayed and because of the late or delayed delivery is deemed in good faith by the Member to be unusable or no longer needed.

Supplier and/or its agents will issue credit with waiver of any claims against Member.

B15. Restocking Policy

Supplier shall not impose a restocking fee on Member under the following circumstances:

- Item/Product is returned due to damage, incorrect product shipped, or Supplier customer service order entry error.
- Product(s) is returned within 24 hours of delivery.
- Product(s) is returned but exchanged for other inventory.

Re-stocking fees for all other reasons can be no greater than 10% of the value of the items needing re-stocking.

B16. General Warranty and Product Condition of Sale; Extended Warranty

At a minimum, there shall be a three (3) year warranty from the date of delivery to include parts, labor, and travel. For third party providers, the manufacturer's standard warranty shall apply. Lifetime warranties shall remain in full force and effect, including upon termination or expiration of this Agreement, Renewal Term, or any subsequent agreement

Supplier may offer a warranty that clearly illustrates an improvement to the manufacturer's standard warranty and benefit to the Member. Supplier shall track the product warranty for all Products sold to Member. Loaner products shall be made available while Member's Product, including equipment if applicable, is out for warranty repair, and such loaner products shall be of the same quality and quantity (if applicable) as Member's original Product(s).

Supplier certifies and warrants that all Products sold to Members shall be:

- New and genuine
- Free from defects in content and materials
- Provided as per manufacturer's requirements
- Sold or manufactured via legal and reputable channels
- Not misbranded

Supplier certifies and warrants those Services provided under this Agreement will be provided in a competent and professional manner and in accordance with industry standards. This warranty shall be valid for ninety (90) days from performance of Services.

Supplier shall offer an optional one (1) year warranty extension on all products. The same terms and conditions that apply to the standard warranty coverage shall apply during the additional year of ownership if the extended warranty option is included in the original purchase.

B17. Hazardous Materials and OSHA Communication Standards

The Supplier shall be responsible for providing Material Safety Data Sheets (MSDS) to the Member, when applicable. The Supplier shall retain title and/or ownership and responsibility for hazardous materials delivered in error. Within three working days of notification, the Supplier shall retrieve hazardous materials that are delivered in error. The Supplier shall safely and legally dispose of all hazardous materials generated in the performance of this Agreement. In addition, the Supplier shall provide its employees with chemical safety training mandated by OSHA Hazard Communication Standard. The Supplier shall provide E&I and its Members with safety/recall updates for any equipment/products provided.

B18. User Manuals

Supplier shall provide on-line links to original instruction manuals for each unit ordered, including complete documentation on all components used. Electronic notification of bulletins, revisions and corrections shall be provided as they are issued. Instruction manuals shall contain:

- Definition of equipment capabilities
- Technical description of equipment operation
- Description of malfunction identification
- Troubleshooting procedures
- Detailed schematics
- Installation and use instructions
- Operating system software manual

B19. New and Discontinued Products

The Supplier shall, at least thirty (30) days prior to their introduction or discontinuance, notify E&I and the Member of any new or discontinued products. Unless noted otherwise, the discount and pricing established for new products will be better or equal to the pricing structure established as part of this Agreement. If the Supplier offers a different discount structure for new products, then a separate category of “New Products” discount structure should be added to, and consistent with, the discount structure established as part of this Agreement. In such a case, the Supplier shall clearly indicate the number of months products are considered as “new products.”

B20. Replacement Parts

If Supplier offers replacement parts, then a separate category of “Replacement Parts” pricing should be added to the discount structure established as part of this Agreement.

B21. Business Review Meetings

To maintain a partnership between the Member and the Supplier, Members may require business review meetings. These meetings may be held on a quarterly basis, or as agreed to by the Supplier and Member. The business review meeting may include, but not be limited to, the following:

- Review of Supplier performance
- Review of minimum required reports (as described in the following section)
- Order or purchase summary over a specified period of time

B22. Reporting

At a minimum, the following reports shall be provided to Member, as requested, in an electronic format on a quarterly basis, or as negotiated between Supplier and Member:

- Total orders year to date, including item ID, item description, unit of measure, total quantity ordered, total quantity shipped, sales price, list price, total sales price (total quantity shipped x sales price), method of payment, department
- Overall order accuracy and fill rates
- Number of orders returned due to Member error
- Total re-stocking charges (\$) applied
- Number of orders returned due to Supplier error

- Total dollar value of surcharges, transaction fees, delivery charges, and other misc. charges
- Current market updates, i.e., company news, systems failures, product recalls, etc.

B23. Employee Purchase Program

Supplier may offer discounted products to Members' students, faculty, and staff for personal purchases. If offering an Employee Purchase Program, Supplier agrees to make its policies and terms related to the use of any such program available to the Member.

B24. Resale

If E&I and/or Member purchase any Products for resale, the customer shall have the benefit of every right, warranty, and interest enjoyed by E&I and/or Member.

B25. Samples

As applicable, if requested by a Member, Supplier shall provide samples of the Products for evaluation free of charge. The quantity of any sample requested will be reasonable but sufficient to undertake an appropriate evaluation.

6. Supplier Performance Expectations

The following performance expectations outline Supplier's responsibilities in supporting the resulting awarded Agreement. An individual with legal authority to bind Supplier to these terms and conditions must review and note any exceptions using tracked changes and comments for context. Highlighted sections will be completed by E&I. Objections not received prior to award will not be considered.

“Month End” shall mean the last calendar day of each month.

I. Report of Sales

The Supplier is required to file a monthly report of sales (in U.S. Dollars) to E&I by Members to include their divisions, subsidiaries and affiliates (the “Report of Sales”). The Report of Sales shall include: (1) all of the required fields in the Vendor Reporting File (“VRF”), as delineated in Attachment A; (2) all sales to Members which the Supplier invoiced during the prior month; and (3) a calculation of the Contract Administrative and Marketing Fee based on such sales. In addition, Supplier shall indicate on its Report of Sales if, with respect to any Member, there is a variation in pricing established in conjunction with the Master Agreement pursuant to a Member-Specific Agreement or other agreement with Member for purchases (for both products and services) under the Master Agreement.

The Report of Sales is due no later than **ten** (**[[Number of Days VRF Due Past Period End]]**) days following Month End. All reports shall be sent via e-mail in the required format to vrf@eandi.org, **[[Contract Managers]]**, and **[[Business Development Manager]]** **[[Insert Contract Manager/BDM email address]]**, or as otherwise directed by E&I to submit such reports (e.g. through an E&I portal). E&I will communicate any change to the way in which Reports of Sales should be submitted reasonably in advance of such change.

All sales, regardless of method, shall be included in the total report of total U.S. dollar sales by Member. Regarding the Report of Sales and the Contract Administrative and Marketing Fee below, the effective date of reporting/submission shall be the date of Alignment as defined in the Master Agreement.

The Supplier shall notify E&I when a change in personnel responsible for submitting, calculating, or otherwise managing the Report of Sales and/or corresponding Contract Administrative and Marketing Fee is made and provide updated contact information using the same email addresses, or other email addresses as may be communicated to Supplier by E&I, as indicated above, or as otherwise directed by E&I to communicate such personnel changes.

In addition, Supplier agrees, upon request, to provide to E&I a complete list of all Members currently utilizing, or Members that at any point during the term of the Master Agreement utilized, the Master Agreement.

II. Contract Administrative and Marketing Fee (CAF)

The Supplier shall provide to E&I a Contract Administrative and Marketing Fee (CAF) of **[[CAF Rate]]**% of total invoice price for all purchases and/or orders placed by Members, including their divisions, subsidiaries, and affiliates, under the Master Agreement. Supplier's use of a third-party to deliver or provide part or portion of the Products and/or Services covered under the Master Agreement does not negate Supplier's responsibility to identify and remit CAF on such Products and/or Services. The CAF shall be calculated monthly and include all sales invoiced during the prior month, as per the corresponding Report of Sales. The CAF rate shall remain firm for the Master Agreement Initial Term, including Renewal Term(s), regardless of any and all pricing methods utilized by the Member, special quoted pricing, all services including value added services, and/or use of Supplier Diversity programs. Supplier shall not charge Members more than permitted in the then-current price list in order, or in an attempt, to offset the CAF or any administration or similar fee Supplier pays to a state procurement office/division. The CAF shall be transmitted via EFT to E&I no later than forty-five (**[[Number of Days CAF Due Past Period End]]**) days following Month End. Failure to submit the CAF as specified shall result an interest charge of 1½% per month levied upon Supplier until the CAF is paid in full.

III. Cash Discounts and Rebates

Any and all cash discounts/rebates shall have no effect on the reporting and payment of the Contract Administrative and Marketing Fee. In addition, all cash discount/rebate activity shall be reported to E&I. If Supplier proposes that E&I distribute rebate payments directly to its Members, Supplier shall provide E&I with a rebate activity report that separates Member rebate payments from Contract Administrative and Marketing Fee payments.

IV. Failure to Submit Report of Sales or Pay CAF

In addition to the interest charge identified in II. above, Supplier's failure to submit the CAF and/or Report of Sales when due shall constitute grounds for E&I's termination of the Master Agreement as a material breach. In addition, failure to submit the CAF and/or Report of Sales when due may cause Supplier's proposal to be rejected in any subsequent solicitation or request for proposal issued by E&I, in E&I's sole discretion.

In accordance with the holdover clause included in the Master Agreement, Supplier shall continue to submit the CAF and supporting Report of Sales for the duration of the Holdover Period.

V. Report of Sales and CAF in the Event of Termination

In the event of termination of the Master Agreement, Supplier shall remain liable to E&I for all CAF owing up to and including the effective termination date of the Master Agreement and any active Member-Specific Agreements or other agreement with Member for purchases under the Master Agreement through the Holdover Period. If Supplier agreed to an annual minimum sales volume commitment/guarantee and the CAF on actual sales up to and including the effective termination date of the Master Agreement is less than the guaranteed CAF, Supplier shall be liable to pay E&I the guaranteed CAF on a prorated basis from the beginning of the annual period specified herein up to and including the effective termination date of the Master Agreement.

VI. Agreement Audit

E&I may, at any time during the term of this Agreement and for a period of three (3) years after the receipt of the last Report of Sales and payment of CAF covering the period through the date of termination, audit the Supplier's records pertaining to its compliance with the terms of this Agreement. An audit may be scheduled or announced by providing the Supplier a minimum of ten (10) business days' advance written notice. Every effort will be made to arrange a mutually convenient time for the audit but in no event shall an audit be delayed more than twenty (20) business days from the date of notice, unless agreed to by E&I in its sole discretion. The audit will be conducted by E&I and/or its designee. Supplier will provide E&I with access to all records needed for E&I to perform the audit, including all sales records and access to Member data and information, as well as a complete list of all Members currently utilizing, or Members that at any point during the term of the Master Agreement utilized, the Master Agreement, and sufficient workspace if E&I will be on-site to facilitate an audit. E&I's audit may include, but is not limited to, product compliance, Member pricing, order processing, order fulfillment, delivery, terms and conditions, invoicing, rebate calculations where applicable, accuracy and timeliness of submitted Reports of Sales and the related CAF, and any other reports or payments required under the terms of the Master and Supplemental Agreements.

Any deficiencies or errors related to payments required under the terms of the Master and Supplement Agreements shall be corrected as soon as reasonably possible by Supplier, but in any event, no later than forty-five (45) days following Supplier's receipt of notice from E&I regarding such deficiencies and/or errors. If the discrepancy is greater than 5% from amounts reported, the cost of the audit shall be paid by the Supplier and Supplier shall cooperate in a detailed or larger scope audit at E&I's sole discretion. Other deficiencies or errors may be handled pursuant to Section IX, Issue Resolution, below.

VII. Issue Resolution

In the event of general, non-material issues related to noncompliance or nonperformance, the Parties shall agree to a Corrective Action Plan ("CAP") prior to exercising other available remedies. The CAP is to be used to enhance the E&I and Supplier relationship and is the basis for written assurance that the original conditions that caused or allowed noncompliance and/or nonperformance will be, or have been, remedied. Accordingly, the Party raising the issue of noncompliance and/or nonperformance shall prepare a CAP, in consultation with the other Party, to address all issues related to noncompliance and/or nonperformance, internal control weaknesses, reportable conditions disclosed in an applicable audit report, or issues identified based on Member feedback. For each issue noted, the CAP shall include, but not be limited to: (1) a brief description identifying the issues and/or findings; (2) the specific steps to be taken to correct the deficiency and/or issue(s); (3) a timetable for completion of the corrective action steps; (4) a description of monitoring (if applicable) to be performed to ensure that the steps are taken; and (5) the responsible party for CAP activities. Should either Party fail to comply with the CAP ("Non-compliant Party"), and following a mutually-agreed upon time to comply following notice from the other Party ("Affected Party") of such failure, the Affected Party may terminate the Master Agreement and shall provide notice of the same to the Non-compliant Party.

Either Party shall have the ability to terminate the Master Agreement for material breach of the Master Agreement and/or the Supplemental Agreement without first entering into a CAP with the other Party.

VIII. Marketing and Sales Responsibilities – E&I

- a. E&I shall create ongoing Member awareness of the E&I Portfolio of Products and Services via online and direct marketing, marketing communications, and face-to-face interactions with Members, social media, and other venues, as appropriate.
- b. Upon commencement of Agreement, E&I will notify all Members and make specific Master Agreement information available online.
- c. E&I will identify, and share sales leads as appropriate and assist with Supplier sales activities where applicable and where feasible. For the avoidance of doubt, E&I does not serve as an extension of the Supplier’s sales team and cannot guarantee a minimum number of leads or sales to the Supplier.
- d. E&I shall assign a Business Development Manager (BDM) to Supplier to facilitate the execution of the business development plan.
- e. E&I will share relevant market intelligence gathered through Member surveys, advisory boards, and other feedback mediums with the Supplier.

IX. Marketing and Sales Responsibilities – Supplier and E&I Joint Responsibilities

- a. The Parties will develop and implement a Business Development Plan to include Marketing & Communications Plans Revenue Goals and other Sales Plans, Reporting Requirements, and other Relationship Management Plans as applicable. Business Development Plans shall be reviewed annually at a minimum and updated where necessary and applicable.
- b. Collaborate to identify leads and opportunities, develop key target lists and leverage existing relationships to build Membership and business
- c. Make sales calls to Members, as appropriate
- d. Respond to requests for quotes and inquiries of a general nature from Members in a timely manner.
- e. Market and communicate the E&I Master Agreement to relevant franchisees, dealers, and other related parties to ensure education of the Master Agreement and proper alignment.

X. Marketing And Sales Responsibilities – Supplier

- a. Education Sales Activities – Supplier shall be responsible for sales activities which may include:
 - i. Understanding Education buying procedures and practices
 - ii. Providing manufacturer specific marketing materials as necessary
 - iii. Guiding and assisting the Member in the purchasing, receipt, and use of the manufacturer’s product and/or services
- b. Additional Business Services – Supplier shall, at its own expense, provide to E&I:
 - i. A comprehensive “go-to-market” plan, detailing the role of E&I in Supplier’s Education market strategy and how Supplier intends to leverage the Agreement to build and expand Education business.
 - ii. A dedicated Education Agreement Administrator able to act with full authority. The Education Agreement Administrator shall meet with appropriate E&I representatives on a scheduled basis to discuss and measure marketing strategies, performance, and other Master and Supplemental Agreement related issues.
 - iii. A contact list of dealers, agents, account representatives and service assistants with experience and knowledge of the Master Agreement. Supplier shall provide initial and ongoing training and awareness of the Master Agreement to all inside and outside sales representatives as well as to its distribution chain, including quarterly meetings at corporate headquarters, call centers, regional offices, etc.
 - iv. Initial and continuing Member-based customer service and issue resolution.
 - v. Descriptive product marketing literature, catalogs, and product price schedules, links to Supplier’s website, content for “micro-site” on E&I website, e-mail communications, articles for inclusion in the electronic monthly newsletters, and on the E&I website.
 - vi. E&I staff contract rollout training and follow-up training sessions as required, to include training webinars, conference calls and on-site training as appropriate to educate E&I employees of Supplier’s Member offerings.
- c. Marketing Opportunities
 - i. E&I encourages participation, annually and throughout the term of the Master Agreement as an exhibitor at the annual National Association of Educational Procurement (NAEP) Meeting and Product Exhibition. For additional information on the conference, please visit the NAEP website at www.naepnet.org.
 - ii. E&I encourages participation, annually and throughout the term of the Master Agreement upon notification, at NAEP regional meetings, Member town meetings, Member regional meetings, Member on-campus supplier fairs and Member presentations.

- iii. E&I encourages participation, annually and throughout the term of the Master Agreement, at applicable product exhibitions and conferences and other partner associations where necessary.

XI. Supplier Commitment

- a. Corporate Commitment – Supplier commits that the Master Agreement with E&I:
 - i. Shall be the Supplier’s primary (go to market) offering for Education
 - ii. Has the support of the Supplier’s senior management
 - iii. Has the support of Supplier’s sales team
 - iv. Shall be promoted to Supplier’s existing Education customers
- b. Pricing and Product Commitment – Supplier commits that Master Agreement with E&I:
 - i. Shall provide products and services that meet or exceed Member requirements
- c. Sales Commitment – Supplier commits that the Master Agreement with E&I:
 - i. Shall be marketed by Supplier as their go to market offering for Education
 - ii. Shall be enhanced by Supplier’s sales force which is trained, engaged, and committed to the success of the program

XII. Confidentiality and Non-Disclosure

The terms and conditions contained in this Supplemental Agreement are confidential and shall not be disclosed by either Party hereto without the prior written consent of the other Party. Notwithstanding the forgoing, E&I may disclose the details of the CAF for this Supplemental Agreement to a Member at its request if that Member signs a non-disclosure agreement between E&I and Member. If a Member requests Supplier to disclose the CAF details, or other terms and conditions of this Supplemental Agreement, Supplier shall refer that Member to E&I. If either Party should receive a subpoena or other lawful demand from a governmental or judicial entity to disclose any or all of the terms and/ or conditions contained herein (“receiving party”), the receiving party, prior to such disclosure, shall give prompt written notice to the other party so that the other party may seek a protective order, or pursue other legal and/or equitable remedies, from a court of competent jurisdiction barring and/or limiting such disclosure. In the event receiving party is compelled to make such disclosure, the receiving party shall only disclose that information, term(s), or condition(s) which it is legally compelled to disclose.

XIII. E&I Marketplace and Member Marketplace

Supplier shall adhere to the Electronic Commerce Appendix for the E&I Marketplace and Member Marketplace as specified in Attachment B.

XIV. Severability

If any provision of this Supplemental Agreement is declared to be invalid, illegal or unenforceable, such declaration shall not in any way affect the validity or enforceability of any other provision.

XV. Waiver

The failure of either Party to exercise its right to terminate for cause due to the other Party’s failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance. In addition, the failure of either Party to insist in any one or more instances upon the performance of any one or more provisions of the Supplemental Agreement or to pursue any rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights. The Parties may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

XVI. Modification of Agreement

This Supplemental Agreement may not be modified unless in writing and signed by E&I and Supplier.

XVII. Signatures

In witness whereof, the Parties have executed this Supplemental Agreement and do hereby warrant and represent that their respective signatories whose signatures appear below have been and are on the date of this Supplemental Agreement duly authorized to execute this Supplemental Agreement.

Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Supplemental Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Supplemental Agreement or any other document contemplated hereby bearing an original or electronic signature by electronic mail in portable document format (.pdf) form, or by any other electronic means intended to preserve the original

graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

[[Name (Primary Second Party)]]
Supplier

E&I Cooperative Services, Inc

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

Attachment A

<Insert sample VRF provided by Supplier>

Vendor Reporting File (VRF) Required Fields

Field #	Field Label	Field Description	Field Type	Field Length	Justification	Field Format	Required Fields
1	vendor_report_file	E&I Vendor Report File (file name)	text	18	L		Yes
2	vendor_name	Name of Vendor Reporting	text	40	L		Yes
3	vendor_contact	Name of Individual To Contact Regarding This Report	text	40	L		Yes
4	vendor_id	The Vendor Number Assigned By E&I	text	15	L		Yes
5	contract_id	The E&I Contract Number Governing Transactions	text	10	L		Yes
6	period_start	Start Date of Reporting Period	date	8	R	yyyymmdd	Yes
7	period_end	End Date of Reporting Period	date	8	R	yyyymmdd	Yes
8	customer_id	Vendor/Supplier Customer ID#	text	12	L		Yes
9	member_number	E&I Member Number	text	12	L		Yes
10	member_name	E&I Member Name	text	40	L		Yes
11	member_address	E&I Member Address	text	40	L		Yes
12	member_city	E&I Member City	text	40	L		Yes
13	member_state	E&I Member State	text	2	L		Yes
14	member_zip	E&I Member Zip Code	numeric	10	R		Yes
15	po	E&I Member Purchase Order #	text	15	L		Yes
16	invoice	Supplier/Vendor Invoice #	text	15	L		Yes
17	invoice_date	Supplier/Vendor Invoice Date	date	8	R	yyyymmdd	Yes
18	order_date	Date order was placed	date	8	R	yyyymmdd	No
19	ship_to	E&I Member's Ship to Name/Department	text	40	L		Yes
20	ship_to_address	E&I Member's Ship to Address	text	40	L		Yes
21	ship_to_city	E&I Member's Ship to Address City	text	40	L		Yes
22	ship_to_state	E&I Member's Ship to Address State	text	2	L		No
23	ship_to_zip	E&I Member's Ship to Address Zip Code	numeric	10	R		Yes
24	item	Supplier/Vendor Ordered Item #	text	40	L		Yes
25	manufacturer	Item Manufacturer	text	40	L		Yes
26	manufacturer_part	Manufacturer Item #	text	40	L		Yes
27	um	Supplier/Vendor Ordered Item Unit of Measure	text	2	L		No
28	desc	Description of Item Ordered	text	60	L		Yes
29	unspsc	United Nations Standard Products and Services Code	text	10	L		Yes
30	category	Supplier's Product Category	text	40	L		Yes
31	subcategory	Supplier's Product Subcategory	text	40	L		Yes
32	retail_price	Supplier/Vendor List Unit Price	numeric	9	R	nnnnn.nnn	Yes
33	contract_price	Supplier/Vendor Agreed E&I Unit Member Pricing (Net sales price)	numeric	9	R	nnnnn.nnn	Yes
34	qty	Quantity Sold to Member	numeric	9	R	nnnnn.nnn	Yes
35	purchase_dollars	Total \$ of Purchases (Qty x E&I \$)—automatically calculated	numeric	12	R	nnnnnnnn.nnn	Yes
36	caf	Contract Administrative Fee (CAF) Percent (%)	numeric	7	R	nn.nnn	Yes
37	caf_dollars	Contract Administrative Fee (CAF) Dollar Amount (\$)	numeric	9	R	nnnnn.nnn	No

Vendor Reporting File (VRF) Required Format

vendor_report_file
 vendor_name XXXXX
 vendor_conta John Contract
 vendor_id NXXXX
 contract_id CNRXXXXX
 period_start 01/01/2018
 period_end 01/31/2018

customer_id	member_num	member_name	member_address	member_city	member_state	member_zip	po	invoice	invoice_date	order_date	ship_to	ship_to_address	ship_to_city	ship_to_state	ship_to_zip	item	manufacturer	manufacturer_part	um	desc	unspsc	category	subcategory	retail_price	contract_price	qty	purchase_dollars	caf	caf_dollars
Supplier Specific Customer ID	E&I Member Number	Member Name	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	288047	05/01/2018	05/01/2018	Member Name	XXXXXXXX	XXXXXX	X	XXXXXX	X	GAT 70607	AAAAA	GAT 70607	AAA A	ababa b		bcbcbc							
Supplier Specific Customer ID	E&I Member Number	Member Name	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	288047	05/01/2018	05/01/2018	Member Name	XXXXXXXX	XXXXXX	X	XXXXXX	X	GAT 70607	AAAAA	GAT 70607	AAA A	ababa b		bcbcbc							
Supplier Specific Customer ID	E&I Member Number	Member Name	XXXXXXXX	XXXXXXXX	XX	XXXXXX	288047	05/01/2018	05/01/2018	Member Name	XXXXXXXX	XXXXXX	XX	XXXXXX		GAT 70607	AAAAA	GAT 70607	1 AAA	ababa b		bcbcbc	9.62	4.81	2.00	9.62	0.02	0.19	
Supplier Specific Customer ID	E&I Member Number	Member Name	XXXXXXXX	XXXX	XX	XXXXXX	764577	05/03/2018	05/03/2018	Member Name	XXXXXXXX	XXXXXX	XX	XXXXXX		UP 2242	B888	UP 2242	1 AAA	ababa b		bcbcbc	10.48	5.24	1.00	5.24	0.02	0.10	
Supplier Specific Customer ID	E&I Member Number	Member Name	XXXXXXXX	XXXX	XX	XXXXXX	644244	05/10/2018	05/10/2018	Member Name	XXXXXXXX	XXXXXX	XX	XXXXXX		FIL 3386	CCCCC		1 AAA	ababa b		bcbcbc	22.02	6.606	1.00	6.61	0.02	0.13	

Attachment B

Electronic Commerce Appendix for E&I Marketplace and Member Marketplace

In consideration of Supplier's ability to provide its Products and/or Services through the E&I Marketplace and/or Member's Marketplace, as defined below, Supplier and E&I agree to the following terms and conditions of this Electronic Commerce Appendix ("Appendix").

I. Definitions

- a. **E&I Marketplace** means E&I's electronic web-based Marketplace powered by EqualLevel, Inc. ("EqualLevel" or "EqualLevel, Inc.").
- b. **Member Marketplace** means Member's electronic web-based purchasing and catalog system.
- c. **Catalog(s)** means a listing of detailed product information, manufacturer part numbers, and services descriptions relating to Supplier's products and/or services to be offered to Members that is maintained either as a Punch-Out Catalog, a Hosted Catalog or in a combination of Punch-Out and Hosted catalog formats.
- d. **eProcurement** means E&I's and/or Member's electronic web-based purchasing and catalog systems.
- e. **Go Live Date** means the date on which a Catalog will be active.
- f. **Hosted Catalog** means a Catalog that is a properly formatted computer file supplied to E&I and/or Member Locations through the Location's respective eProcurement system.
- g. **Order** means a purchase order for products and/or services placed by a User through an eProcurement system.
- h. **Order Data** means all data and information relating to Orders, including, without limitation, the information provided to process the transaction.
- i. **Punch-out Catalog** means a Catalog hosted by Supplier on Supplier's Site. Users may access this Punch-out Catalog via an internet link provided by Supplier to E&I and/or Member that redirects a User from their eProcurement system to Supplier's Site. **Supplier Site** means an internet site operated and maintained by Supplier for the products and/or services offered under the Master Agreement.
- j. **User** means an individual authorized by a Member location to make purchases through an eProcurement system and/or associated Supplier Site as necessary.
- k. **Product/Service Description** means a complete description that includes: (i) relevant characteristics of the product/item/service; (ii) any terms that a User may use to search or filter for this item; (iii) manufacturer name and manufacturer part number, as applicable.
- l. **Product Image(s)** means a URL to an image file so that Users may see the product/item.

II. Terms and Conditions for E&I Marketplace

- a. Right to Use.
 - i. Supplier acknowledges that E&I has engaged EqualLevel, Inc. to administer its e-Procurement platform as the E&I Marketplace.
 - ii. E&I grants to Supplier the right to sell products and/or services to E&I Members through the E&I Marketplace, subject to the terms of this Appendix and the Master Agreement. Enablement is at the sole discretion of E&I. Supplier acknowledges that nothing herein is, or should be construed as, E&I granting to Supplier any license or sublicense to any software service offered by EqualLevel, Inc.
 - iii. Supplier is responsible for any costs, including without limitation those related to costs of operation, incompatibility, and any dispute with regard to its interface with E&I's eProcurement system(s) and the E&I Marketplace, including any loss or other issue that may result or arise therefrom.
- b. E-Procurement System Responsibilities.
 - i. Except as otherwise set forth herein, each Party will be responsible, at its own expense, for: (1) developing, operating and maintaining its relevant system(s); (2) acquiring and maintaining its server hardware and software (or obtaining third-party hosting services) for its relevant system(s); and (3) maintaining internet connectivity.

- ii. Supplier's Catalog must: (1) be in a file format that will interface seamlessly with E&I's Marketplace, and (2) be consistent and compliant with the scope and terms of the E&I Master Agreement and this Appendix. Supplier agrees to work with E&I to electronically link the functionality of their respective systems, using commercially reasonable efforts.
 - iii. Purchase order and invoice/credit memo data shall be transmitted between the systems according to the appropriate method for each E&I and/or Member; cXML, xCBL, or EDI standards are preferred. Other methods of purchase order, invoice/credit memo, order confirmation, and ship to notification transmission will only be allowed at the discretion of each Member.
 - iv. A Supplier's Punch-out site (if applicable) shall permit: (1) Users to access the Supplier Site when a User selects the Punch-out Catalog; (2) Supplier Site to send back User-selected items to the E&I Marketplace or Member's eProcurement system; (3) User to create an Order through the Member's eProcurement system; and (4) Transmitting an Order to Supplier for confirmation and Order processing along with Order status inquiry.
- c. Implementation and Maintenance of Catalogs.
- i. *General Requirements for Punch-Out and Hosted Catalogs*
 - 1. Supplier is responsible for maintaining Catalogs that contain accurate pricing and data in accordance with the E&I Master Agreement, including without limitation, that the Catalog shall be limited to the categories/scope specified in the Master Agreement, with additional categories allowed at E&I's discretion, or as otherwise agreed between E&I and Supplier. Supplier agrees if E&I determines that any product(s) and/or category in the Catalog should be excluded or was not awarded under the Master Agreement, the Supplier shall remove any such products and/or category.
 - 2. Product Images and Product/Service Descriptions must be included in a fully qualified URL link to an image file (not the containing page) on the Supplier's Site. The image must be high quality and the image and description must be displayed in search results and on the product's detail page. A fully qualified URL link to a specification file on the Supplier's site must also be included, with a link to view or download the file displayed on the product/service's detail page. In addition, Supplier must:
 - a. Ensure that the name of the item includes the most relevant terms that may be used to search for the item, including a high-level descriptive term, to appear in search results and Orders.
 - b. Include a "Supplier Part Number," which is the part number used by Supplier to identify the item and must be a unique number for each item, as well as the manufacturer and manufacturer part number.
 - c. Include a description of the product/service to appear on the product/service detail page.
 - d. Include a "UNSPSC" standard classification code that best describes the product/service. If a commodity-level code is not available, the Supplier should assign a higher level code that is most applicable.
 - e. Include the product/service "List Price," which is the price of the product/service available to the public, as well as the E&I Member contract price, which is the contract price of the product/service for the E&I Member, and which reflects any available discount off of the List Price.
 - f. Include a Unit of Measure ("UOM") and UOM Quantity (the number of units in the UOM). Prices should be in reference to one UOM, and the User will order in quantities of this UOM.
 - g. Include the following to assist Users:
 - i. Categories-product categories used for navigation, separating multiple categories by commas.
 - ii. Keywords-additional terms used to match the items in searches, separated by commas, semicolons, or spaces.
 - 3. Supplier understands and agrees that E&I may develop Catalog data and/or image quality best practices, which will be communicated to Supplier and which Supplier agrees to use its best and reasonable efforts to implement.
 - 4. In addition to the requirements identified in the Master Agreement regarding data privacy and security, including without limitation PCI-DSS compliance, Supplier shall develop, implement, maintain, and monitor a written information security program that includes administrative, technical, and physical safeguards to protect Member's confidential information, to include personal information, that is disclosed and/or exchanged pursuant to Member's purchase from Supplier, including through the Supplier Site. Such program must:
 - a. Ensure the security and confidentiality of the confidential information.
 - b. Protect against any anticipated threats or hazards to the security or integrity of such information.
 - c. Protect against unauthorized access to or use of such information.

- d. Include a method for identifying internal and external risks to the security of confidential information, as well as steps to appropriately apply relevant measures or fixes to combat such risks once identified.
 - e. Include appropriate access controls for Supplier's personnel, including employees and subcontractors.
 - f. Include a process for notifying the affected party or parties in the event of a data breach, including E&I and/or Member as applicable (collectively, the "Affected Parties"), in accordance with any applicable law and regulations governing Supplier's notification requirements, and to cooperate with the Affected Parties with respect to any investigation into the breach, Affected Parties' notification or other subsequent requirements, and as related to any remedial measures. Supplier agrees that E&I shall not be responsible for any notification or costs associated with such notification or otherwise related to the breach.
5. Supplier shall clearly identify products as Hazardous Materials, Radioactive, Controlled Substances, and as otherwise may be required, where applicable, in the Supplier's Catalog, whether Hosted or Punch-out.

ii. Hosted Catalogs

1. Supplier must provide E&I with updated versions of the Catalog file with, at a minimum, complete Product/Service Descriptions and Product Images that Supplier currently utilizes for items offered on its Supplier Site and Punch-out Catalogs.
2. Product, price, and/or discount changes must be in accordance with the terms and conditions of the Master Agreement, and Supplier shall provide to E&I an updated Catalog within thirty (30) days of such approved change. If a price file update has an activation date of January 1, Supplier must submit proposed files at least five (5) weeks prior to the first working day in January. Upon E&I's approval of the new Hosted Catalog file, E&I and Supplier will confirm the Go Live Date, and the updated version of the Hosted Catalog file will be made effective on that Go Live date.
3. Unless otherwise agreed between Supplier and E&I, Supplier must notify the designated E&I Contract Manager at least thirty (30) days in advance of the proposed Go Live Date if it will be requesting additions, deletions, or modifications to the Hosted Catalog, including but not limited to, substituting items, changing SKU numbers, or changing the number of items in a package in any Hosted Catalog. Supplier must provide E&I with a spreadsheet containing the requested additions, deletions, or modifications at the same time it provides such notification.
4. If there is any error in the Hosted Catalog content, including without limitation product pricing, Product Images, and Product Definition, Supplier shall resubmit an updated catalog within three (3) business days. If E&I determines there are errors in the pricing or data, E&I will notify Supplier of those errors in writing and reject the Hosted Catalog. Supplier will review and correct the errors within three (3) business days.

iii. Punch-Out Catalogs

1. Supplier shall use commercially reasonable efforts to make the Punch-Out Catalog(s) available for at least 99.5% of the time (determined monthly), seven (7) days a week, twenty-four (24) hours per day, not including any unavailability that: (i) results from regularly scheduled Supplier maintenance; (ii) results from the failure of a communication service or other outside service or equipment not within the control of Supplier; (iii) or is beyond the reasonable control of Supplier.
 2. In addition to the User Support requirements identified herein, Supplier understands and agrees to the following service level requirements:
 - a. Supplier shall use commercially reasonable efforts to correct reproducible errors or malfunctions to enable Supplier's eProcurement platform and systems, including the Catalog(s), to substantially perform in accordance with terms and conditions specified herein.
 - b. Supplier shall use commercially reasonable efforts to deliver a solution or action plan to correct reported incidents or other issues in accordance with Supplier's standard incident response practices.
- d. Warranty Disclaimer.** E&I does not represent or warrant, and expressly disclaims any such representation or warranty, that access to any or all e-Procurement sites, including the E&I Marketplace, will be uninterrupted, that any EqualLevel-managed integration points between the e-Procurement sites and the Supplier Site will be error-free, that any e-Procurement site or the server are free of viruses or other harmful code or disabling components, or that the results obtained by use of any e-Procurement sites will be error-free.

III. Terms and Conditions for Member Marketplace

a. E-Procurement System Responsibilities.

- i. Supplier and Member are responsible for all aspects of, and costs associated with, their respective e-Procurement systems. Supplier's eProcurement system should integrate with Members' existing Enterprise Resource Planning Systems. Supplier agrees to engage directly with Member and/or Member's Marketplace supplier to address and resolve any integration or other issues.
- ii. The Supplier will make available its Catalog to any Member that requests one, the scope of which shall be agreed between Supplier and Member. Supplier agrees to work with Member to electronically link the functionality of their respective systems, using commercially reasonable efforts.
- iii. Purchase order and invoice/credit memo data shall be transmitted between the systems according to the appropriate method for each Member; cXML, xCBL, or EDI standards are preferred. Other methods of purchase order, invoice/credit memo, order confirmation, and ship to notification transmission will only be allowed at the discretion of each Member.
- iv. A Supplier's Punch-out site (if applicable) shall permit: (1) Users to access the Supplier Site when a User selects the Punch-out Catalog; (2) Supplier Site to send back User-selected items to the Member's eProcurement system; (3) User to create an Order through the Member's eProcurement system; and (4) Transmitting an Order to Supplier for confirmation and Order processing along with Order status inquiry.
- v. Supplier agrees that it shall: (1) accommodate Orders and invoices for Member's ship to addresses, which may include more than one location, sharing a single eProcurement platform; (2) identify the Punch-out session and transmitted Order (Purchase Order or PCard) as being from the individual ship to address; and (3) if providing a Punch-out catalog, accommodate multiple Member ship to addresses on a single platform using a single Punch-out site.

b. Implementation and Maintenance of Catalogs.

- i. Implementation and maintenance of a Supplier Catalog, whether Punch-Out or Hosted, shall be determined between the Supplier and Member.
- ii. Supplier is responsible for maintaining Catalogs that contain accurate pricing and data in accordance with the E&I Master Agreement.
- iii. Unless otherwise negotiated between the Member and Supplier, including pursuant to a Member-Specific Agreement, Supplier agrees to the minimum following criteria:
 1. Price changes and any product changes for Hosted Catalogs must be communicated no less than 30 days in advance to the Member and updated price files must be provided to Member at least biannually.
 2. Supplier shall timely respond and work with Member to implement the Catalog(s), and Supplier shall use its best efforts to prioritize the requests from E&I Members. Unless otherwise agreed between Supplier and Member, implementation of the Catalog should not exceed six weeks from the date of Member's request.
 3. Supplier shall clearly identify products as Hazardous Materials, Radioactive, Controlled Substances, and as otherwise may be required, where applicable, in the Supplier's Catalog, whether Hosted or Punch-out.
 4. Supplier shall adhere to the requirements identified in II.c.ii. and II.c.iii. above related to Hosted and Punch-Out Catalogs.

c. Warranty Disclaimer

- i. E&I makes no warranty or representation, and expressly disclaims any warranty or representation, related to any Member's Marketplace or Supplier's interactions with any Member's Marketplace.

IV. Supplier Liability & Indemnification

- a. Supplier acknowledges that E&I has engaged EqualLevel, Inc. to manage its e-Procurement site, including as related to the use, processing, storage, and transmission of any Member p-card and other financial or payment information or data (collectively, "Financial Information"). E&I does not use, process, store, or transmit any Member Financial Information, and Supplier understands and agrees that E&I is not responsible for the protection or security of any Financial Information.
- b. Supplier understands and agrees that Supplier is solely responsible for ensuring accurate pricing and other information in its Catalog(s), including any updates and corrections related thereto, and that it shall be solely liable for any resulting damages, demands, claims, losses, disputed invoices, or expenses incurred by Member, including all such amounts as may result from

Member's payment for services and/or products at prices higher than they would have been had Supplier's pricing/discounts been accurately reflected in the Catalog(s), related to any such inaccuracy, error, or omission in the pricing or other information contained in the Catalog(s). Supplier shall work with Members to promptly address and remedy any pricing error or inaccuracy, invoice dispute, or other issue related to the invoicing and/or payment of a Member's Order.

- c. Supplier understands and agrees that E&I has no ability to control any Member's actions or interactions as related to the E&I Marketplace or any Member Marketplace, and E&I makes no representation or guarantee that Member will keep the pricing, contract terms, or other information contained on or linked from the eProcurement site, E&I Marketplace, or Member Marketplace confidential.
- d. **In exchange for the ability to make its products and/or services available on the E&I Marketplace and/or Member Marketplaces, Supplier expressly releases E&I, including its officers, employees, and agents (collectively with E&I, the "E&I Parties"), from any and all liability, losses, claims, demands, expenses, and damages, and waives all claims that may be made or brought by Supplier or its successors against E&I Parties that arise or result from: (1) Any error, omission, misrepresentation, or inaccuracy in Supplier's Catalog, including as related to pricing, discounts, or other information; (2) Any failure by EqualLevel, Inc. to properly protect, secure, or otherwise safeguard any of Member's Financial Information and/or data or any Supplier information and/or data; (3) Any use of, or interruption to, the E&I Marketplace and/or any Member Marketplace; and (4) Any Member's breach of confidentiality as related to the pricing and/or contract terms identified in Supplier's agreement with E&I and/or as contained on the E&I and/or Member Marketplace, including Supplier's Catalog(s).**
- e. **Without limiting any other indemnification obligations Supplier may have to E&I, Supplier agrees to indemnify, defend, and hold harmless E&I including its officers, agents, and employees, from and against any and all claims, demands, causes of action, losses, expenses, or judgments, including reasonable attorneys' fees, arising or resulting from: (1) Any error, omission, misrepresentation, or inaccuracy in its Catalog(s), including without limitation any pricing, discounts, or other information related to its products and/or services, (2) Any failure by Supplier to properly protect, secure, or otherwise safeguard any of Member's Financial Information and/or data, including as related to any data breach; and (3) any Member's agreement to Supplier's terms and conditions related to a purchase through the E&I Marketplace and/or the Member Marketplace, including without limitation as related to the validity and/or enforceability of any such agreement between Supplier and Member, or breach of any such agreement.**

V. General Terms and Conditions

- a. Order of Precedence. With respect to E&I and Supplier, this Appendix shall control regarding the subject matter addressed herein. With respect to Member and Supplier, Member-specific terms and conditions related to use of Member's Marketplace and/or the Member's Catalog shall take precedence. In the absence of such terms and conditions, or in the absence of any particular term or condition in Member's terms and conditions otherwise addressed herein, this Appendix shall control.
- b. Supplier's MSA. If Supplier requires a Member-Specific Agreement or that Member agree to any additional terms and conditions prior to making a purchase, Supplier is responsible for working with Member to execute an agreement regarding such terms and conditions, which agreement is solely between Supplier and Member. E&I is not responsible for any such agreement.
- c. Accessibility Requirements. In providing a Catalog and making available products/services through the E&I and Member Marketplaces, Supplier shall comply with all applicable laws and regulations related to accessibility and equal access, including without limitation the Americans with Disabilities Act ("ADA") and the Americans with Disabilities Act Amendments Act ("ADAAA"). All electronic and information technology, including the Catalog, to be used by Members as part of the E&I and Member Marketplaces and Supplier Site must be accessible and compliant with such applicable laws and regulations. In addition, Supplier agrees that:
 - i. Any Catalog content provided to E&I and/or Member will comply with the accessibility requirements of WCAG 2.2AA, including as such requirements may be updated in the future.
 - ii. Supplier will promptly respond to and resolve any complaint regarding accessibility of any Catalog content provided to E&I and/or Member.
- d. User Support by E&I and Supplier.

- i. *E&I Support for E&I Marketplace.* E&I will provide its Members with initial contact and system support assistance on all functionality and use issues (including links to the Supplier Site) related to the E&I Marketplace. When known, E&I will promptly notify Supplier of any such issues relating to the Catalog, the Supplier Site, and/or other Supplier materials/systems.
- ii. *Supplier Support.* Supplier will provide all customer support directly to Members relating to Punch-Out and Hosted Catalogs on both the E&I and Member Marketplaces in a manner consistent with the customer support that Supplier provides to other customers, and with no less than commercially reasonable efforts to provide such support. Any additional terms and conditions related to Member support may be negotiated directly between Supplier and Member. Supplier acknowledges and agrees that E&I does not have any responsibility or obligations with respect to Member's Marketplace or Member's third-party e-Procurement provider.
- e. Multiple Suppliers. Supplier acknowledges that all e-Procurement sites utilized by E&I and its Members are intended to facilitate Users' ability to obtain products and/or services from more than one supplier and that any such site is non-exclusive. Nothing in this Appendix shall be construed to prevent E&I from entering into similar agreements with any third parties including, without limitation, current and/or future E&I suppliers, including those suppliers that may be in competition with Supplier.
- f. CAF Payment. Supplier acknowledges and agrees that all purchases made by Members aligned to or otherwise utilizing the E&I Master Agreement, including through both/either the E&I and Member Marketplace, are subject to the agreed-upon CAF as identified in the Supplemental Agreement between E&I and Supplier.