

This Master Agreement (the "Agreement") is effective as of August 1, 2016 by and between The Sherwin Williams Company, an Ohio Corporation with offices located at 101 W. Prospect Avenue, Cleveland, Ohio 44115 (hereinafter referenced as the "Supplier"), and Educational and Institutional Cooperative Service, Inc., a New York not for Profit Corporation with offices located at 2 Jericho Plaza, Suite 309, Jericho, NY 11753 (hereinafter referenced as "E&I").

This Agreement has been established based on the RFP# 683288-A for Paint, Stain, Coatings, Painting Equipment, Supplies and Services, addenda, Supplier responses, best and final offer and negotiations.

I. Scope

This National agreement shall apply to all E&I Member Institutions their divisions, subsidiaries and affiliates. In addition, if E&I or any of its affiliates elect to participate in the Agreement, they shall be considered Member Institutions.

This Agreement does not constitute a purchase order or a commitment to purchase products and/or services by E&I or its Member Institutions. Any purchases made under this Agreement shall be made by the individual Member Institution and any resulting contract shall be between the Member Institution and the Supplier.

II. Term of Agreement

The Agreement term will be for five (5) years, effective 08/01/2016 through 07/31/2021, with one (1), five (5) year renewal at the option of E&I. On a quarterly basis for the first two years of this Agreement and as mutually agreed upon thereafter, the program will be evaluated in overall context and performance. If either party determines that the performance is not adequate, such party may terminate this Agreement as per the termination clause in Section 25 of this Agreement. Prior to the end of the initial five (5) year term, and for the successive term, the program will again be evaluated in overall context and performance. Exercise of the E&I renewal option may be initiated by E&I at least one (1) year prior to the Agreement expiration. The Supplier must then return formal written acceptance acknowledgement of the renewal within 30 days of receipt of the notification from E&I. If Supplier fails to provide such written acknowledgement of renewal within such period, then this Agreement shall expire by its terms on 7/31/21.

III. Pricing

The pricing and/or discount percentage for the goods and/or services as listed in Attachment A shall be applicable to all purchases made under this Agreement. Upon approval by E&I and with 60 days prior written notice, price changes are allowed one time each year on the anniversary date of this Agreement. New products and additional services may be added to this Agreement, with E&I Approval, at any time during the term of this Agreement by providing prior written notice and pricing to E&I. Deletion of products or services requires written notice to be sent to E&I prior to deletion of any products or services. Reasonable efforts must be made by the Supplier to notify E&I of product or service deletions as early as possible. Freight Terms for this Agreement are found on page 12 of this document.

IV. Agreement Audit

E&I may, no more than once per calendar year, during the Term of this Agreement, conduct an audit of the Supplier's records strictly pertaining to its compliance with the terms of the Report of Sales and CAF. E&I shall furnish, prior to the audit, a formal request with a list of any Member Institution whose records may be accessed during the audit. 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 relevant records, sufficient workspace and staff support to facilitate an audit. E&I's audit shall only include CAF calculations where applicable, accuracy and timeliness of submitted Reports of Sales and the related CAF. Any deficiencies or errors shall be corrected within ten (10) business days of E&I notification to the Supplier. Any audit may only be conducted in Supplier's Cleveland, Ohio headquarters. The parties acknowledge that audit information specifically excludes any information relating to costs, margins or proprietary information.

V. Report of Sales

The Supplier shall be required to file a monthly, line item detailed, report of sales, in U.S. dollars, by institution for all E&I Member sales activity in an electronic format (the "Report of Sales"). The electronic format for the Report of Sales is provided to the Supplier by E&I in the "Vendor Reporting File" (VRF). The Report of Sales shall include all sales activity under this Agreement and is due to E&I no later than twenty (20) calendar days following the end of each month. The first Report of Sales is due no later than September 20, 2016 and each successive month the report shall be due by



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the twentieth day. When the twentieth day of the month is a Saturday or Sunday the Report of Sales shall be due by the Monday immediately following the twentieth day. The Report of Sales shall be delivered by email to the following email address vrf@eandi.org with copies to the E&I National Category Director and Contract Manager.

VI. Contract Administrative Fee (CAF)

The Supplier will pay E&I a CAF on the net total invoice amounts (excluding floorcovering, taxes, returns, credits, bad debt and shipping) reported on the monthly Report of Sales, described above,

CAF shall be paid on all orders placed in person or by any other means pursuant to this Agreement directly from the Supplier in each month during the term of the Agreement. The CAF must be included in the price for all products and services offered in this proposal. CAF shall not be added as a line item to any invoice. Cash discounts are not to be netted against sales in calculating the CAF.

The CAF shall be calculated on a monthly basis and include all orders shipped during the preceding month. The CAF rate shall remain as agreed to herein regardless of any and all pricing methods utilized by the Member as described in special quotes pricing, all services including value added services and/or use of Supplier Diversity programs.

The CAF should be transmitted via BFT or by check to E&I no later than twenty (20) calendar days following the end of each month. The CAF payment must match the monthly Report of Sales calculation exactly each month. If any additional sales or credits are applied after the monthly report has been issued for Member purchases, such additional sales or credits must be applied to the Members purchases for the following month and included on the Report of Sales and CAF payment for the following month.

Supplier's failure to submit the CAF and Report of Sales when due may constitute grounds for E&I's termination of this Agreement. Supplier shall remain liable for all CAF owed up to and including the time the Agreement has been terminated by E&I or it expires.

VII. Terms and Conditions

Unless otherwise superseded by the terms and conditions of the contracting Member Institution, the terms and conditions contained in Attachment B shall apply to all purchases made under this Agreement. Any terms and conditions of any Supplier invoice or acknowledgment form which are inconsistent with the terms and conditions of this Agreement shall have no effect.

VIII. Member List

The Official list of E&I Member institutions will be sent to the Supplier via an electronic file from E&I Member Relations upon full execution of this Agreement.

IX. 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.

The Sherwin Williams Company
Supplier

Signature

Mark Henderson
Printed Name

Vice President National Accounts
Title

Date 7/31/16

E&I Cooperative Services, Inc

Signature

Gary D. Link, C.P.M.
Printed Name

Sr. Vice President, Consulting Group & Contracts
Title

Date 8/1/16



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ATTACHMENT A

- 1. All products sold by Sherwin Williams are available on the E&I Contract, excluding Floorcovering.**
- 2. Deeper discounts are available to Members where higher quantity purchases are needed, projects are occurring, local competition, etc. are in place, Sherwin Williams will provide the best value to the E&I member in order to achieve the business.**
- 3. Sherwin Williams will work with Contractors of the Members to be sure that they get the E&I Contract price on all products ordered for the Member. Sherwin Williams will also report such sales as new business in the monthly Report of Sales to E&I.**

Sherwin Williams has Paint, Stain and Coating products for all substrates and as part of this Agreement, all of the products will be discounted at least 30% off List Price. There will also be enhanced market basket pricing for the top 50 sundry items most commonly used in the Education and Institutional environment.

To view Contract pricing see - Attachment A – Sherwin Williams Price file and the Top 50 item Market basket of Sundry items.

Attachment B

As a result of RFP 683288-A this Agreement has been established between E&I and the Supplier. This Agreement has incorporated all of the relevant terms and conditions of the aforementioned RFP, the Supplier's proposal response as well as the Suppliers best and final offer and negotiations.

A. General Terms and Conditions

1. Interpretation, Enforcement and Forum of Laws

For disputes between the Member and Supplier, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws of the state in which the Member resides and the venue of any action shall lie in such state.

For disputes between E&I and Supplier, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws and within the Courts of the State of New York.

2. Compliance with Law

Supplier warrants and certifies that in the performance of this Agreement, it has complied with or will comply with all applicable statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof, including but not limited to, laws and regulations pertaining to labor, wages, hours and other conditions of employment.

3. Funding Provided by Federal Contracts or Grants

Where Federal Contracts or Grants provide funding to Members, it is the responsibility of the Supplier and the Member to comply with all FAR (Federal Acquisition Regulations) applicable laws and regulations by completing any certifications and disclosures and any other requirements. When Federal Contract or Grant funds are used on participating Member purchases under this Agreement, which exceed \$25,000, certification must be provided in writing that the Supplier is not debarred, suspended, or proposed for debarment by the Federal Government.

4. 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 cancel this Agreement without prior notice and without incurring any liability whatsoever to Supplier.

5. Assignments

Supplier shall not assign this Agreement or any of Supplier's rights or obligations hereunder, without E&I's prior written consent. Any purported assignment made without E&I's prior written consent shall be void and of no effect.

6. Patent Trademark and Copyright Infringement

The Supplier warrants that the products/services hereby sold and manufactured by Supplier, either alone or in combination with other materials, 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. The Supplier agrees, at its own expense, to defend any and all actions or suits alleging such infringements and will hold E&I, its officers, agents, servants, employees and Members harmless from any and all losses, expenses, claims, (including reasonable attorney's fees), or judgments arising out of cases of such infringement.

7. Use of Name, Logos, etc. in Advertising

Supplier agrees not to make reference to this Agreement or use the logo of E&I or any of its Members in any advertising material of any kind without the expressed written permission of the party involved. E&I agrees not to make reference to this Agreement or use the logo of Supplier in any advertising and marketing materials of any kind without the expressed written permission of the Supplier.

8. Transactions between Supplier and E&I Member

The purchase of products and/or services by a Member from Supplier is a transaction solely between Member and Supplier. It is understood and agreed that if any litigation arises between Supplier and any E&I Member, Supplier shall not make E&I a party to that litigation. A violation of this provision shall be deemed a material breach of this Agreement warranting termination by E&I, and Supplier agrees to indemnify E&I against and hold it harmless from all costs associated with such litigation, including reasonable attorney's fees.

9. Indemnification of E&I and Member

Supplier agrees to indemnify and hold harmless E&I and its Members from and against all liability, to the extent of and in proportion to, losses, damages, claims, liens, and expenses (including reasonable legal fees) arising out of or connected with the products purchased, work or services performed, or resulting from property damage or injuries incurred by or to the Member or its officers, agents, servants and employees by reason of any defect in manufacture, construction, inspection, delivery, material, workmanship, and/or design of any goods and services furnished hereunder, excepting only such liability as may result from the acts of negligence of the Member, E&I or its employees. Supplier, at the request of the Member or E&I, shall undertake to defend any and all suits and to investigate and defend any and all claims whether justified or not, if such claim or suit is commenced against the Member or E&I, or their respective officers, agents, servants, and employees.

10. Insurance

Supplier will provide proof of insurance, as described below, to E&I upon execution of this Agreement. On an annual basis the Supplier will provide an updated proof of insurance document to the E&I Contract Manager.

If delivery fabrication, construction, installation, service or other work is specified to be conducted on Member's premises, Supplier shall maintain in force during the period of such work the following coverages: (a) worker's compensation, as required by the laws of the State of Member; (b) commercial general liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence; (c) automobile liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence. Supplier shall provide a certificate of insurance naming E&I and Member as additional insured. Supplier shall furnish to E&I satisfactory proof of such insurance coverage included with Supplier's proposal.

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.

11. Licenses/Permits/Taxes and Tax Exempt Status

Supplier shall be responsible for obtaining all permits, licenses and bonding, to comply with the rules and regulations of any state, federal, municipal or county laws or any city government, bureau or department applicable and assume all liability for all applicable taxes.

All prices listed and discounts offered are exclusive of all taxes. Supplier has the duty to collect all taxes in connection with the sale, delivery or use of any items, products or 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.

12. Americans With Disabilities Act

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act and applicable federal regulations under the Act.

13. Alcohol, Tobacco & Drug Rules and Regulations

Employees of the Supplier and its subcontractors shall comply with all instructions, pertaining to conduct and building regulations of the Members. The Member reserves the right to request the removal or replacement of any undesirable employee at any time.

All buildings on the Member's grounds are tobacco-free. Use of tobacco products is not permitted in any area inside Member's buildings. The Supplier is expected to respect this tobacco-free policy and fully comply with it.

The Supplier agrees that in the performance of this Agreement, neither the Supplier nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, in conducting any activity covered by this Agreement. E&I and the Member reserve the right to request a copy of the Drug Free Workplace Policy. The Supplier further agrees to insert a provision similar to this statement in all subcontracts for services required.

14. Equal Opportunity

The provisions of Section 202 of Executive Order 11246.41 C.F.R. Sec. 60-1.1 C.F.R. Sec. 60-250.4 and 41 C.F.R. Sec. 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.

15. Non-Discrimination

The parties agree to comply with applicable state and federal rules governing Equal Employment Opportunity and Non-Discrimination.

16. Sexual Harassment

Federal law and the policies of E&I prohibit sexual harassment. Supplier is required to exercise control over its employees so as to prohibit acts of sexual harassment. If a Member in its reasonable judgment determines that any employee of Supplier has committed an act of sexual harassment, Supplier agrees as a term and condition of this Agreement to cause such person to be removed from Member's facility and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

17. Compliance with Specifications

The Supplier warrants that all goods, services, or work supplied under this Agreement shall conform to specifications, drawings, samples, or other descriptions contained or referenced herein. The Supplier also warrants that all goods 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, goods may be disposed of without cost to Member. Neither receipt of goods nor payment therefore shall constitute a waiver of this provision.

18. Gratuities

E&I may, by written notice to Supplier, cancel the Agreement if it discovers that gratuities, in the form of entertainment, gifts or the like, were offered or given by Supplier to any officer or employee of E&I or any Member with a view toward securing an agreement or securing favorable treatment with respect to the awarding of this Agreement.

19. Covenant Against Contingency Fees

Supplier certifies that it has neither offered nor paid a contingency fee to any individual, agent, employee of E&I, or employee of any Member to secure or influence the decision to award this Agreement to Supplier.

20. Suspension or Debarment

E&I may, by written notice to the Supplier, immediately terminate the Agreement 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.

21. Conflict of Interest

In order to avoid even the appearance of any conflict of interest, neither E&I nor Supplier shall solicit for employment any officer or employee of the other party for a period of one year from the date hereof unless such employment is as a result of response to a general advertisement for employment.

22. 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 that may be necessary to insure 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 insure the satisfactory performance of the Agreement during the time Supplier is unable to perform the required duties. Any costs incurred by E&I and/or any Member, as a result of such job action, shall be reimbursed by the Supplier.

23. Force Majeure

Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement, excepting payment obligations, are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, said party is unable to prevent.

24. Modification of Terms

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 all parties authorizing said modification.

25. Termination for Convenience

Either E&I or Supplier may terminate this Agreement for any reason (convenience) by delivering not less than 180 days prior written notice thereof to the other party.

26. Termination and Termination for Default

E&I will notify the Supplier upon discovery of a breach of this Agreement. E&I may terminate this Agreement upon the breach of this Agreement by Supplier by delivering written notice to Supplier, or if such breach is capable of being cured, E&I shall notify the Supplier in writing of such breach and demand that the same be cured within fourteen (14) calendar days. Should the Supplier fail to cure the same within said period, E&I shall then have the right to terminate this Agreement at the end of the fourteenth (14th) day. A notice will be sent to the Supplier to confirm the termination.

The failure of E&I on behalf of its Members to exercise its rights of termination for cause due to Supplier's failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance.

An order by a Member may be cancelled due to non-appropriation of funds. This funding out clause is required by several states and can be for non-appropriation of State and Federal funds.

27. Continuation of Performance Through Termination

Supplier shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination, as directed in the termination notice. Please reference the Hold Over Clause on page 15 of this Agreement.

28. Open Records

E&I considers all information, documentation and other materials requested to be submitted in connection to this Agreement to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure after execution of this Agreement except pricing information, which will be kept confidential. Supplier is hereby notified that E&I responds to open records requests as per statutes, court decisions and the opinions of the Members' states regarding the disclosure of contract information.

29. Proprietary/Confidential Information

Supplier has clearly marked "Confidential" on any portion of the information provided to E&I, which is considered to contain confidential or proprietary information. All information, documentation, and other materials submitted by Supplier in response to the solicitation or this Agreement may be subject to public disclosure under the Freedom of Information Act and/or Open Records laws of the Members.

30. Strict Compliance

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.

31. Entire Agreement

This Agreement together with the Attachments annexed hereto constitutes the entire agreement between the parties and supersedes all prior agreements whether written or oral between the parties. Documents subject to Freedom of Information Act will only be released after execution of this Agreement.



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32. 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 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: Gary D. Link C.P.M.
Sr. Vice President, Consulting Group & Contracts
E&I Cooperative Service Inc.
2 Jericho Plaza, Suite 309
Jericho, NY 11753

If to Supplier: James M. Cooley
National Account Executive
770 Dedham Street, Suite 5
Canton, MA 02021
781-828-3551
james.cooley@sherwin.com

B. Special Terms and Conditions

i. Marketing and Sales Responsibilities – Suppliers

a) Education Sales Activities

Supplier is responsible for Education sales activities which may include:

- Understanding Education buying procedures and practices
- Providing manufacturer specific marketing materials as necessary
- Guiding and assisting the Member in the purchasing, receipt and use of the manufacturer's product and/or services

b) Internet/E-Commerce Site

To encourage and facilitate high usage of this Agreement, the Supplier should make available an e-commerce website dedicated to the E&I Agreement. The website should include, but not be limited to, contract specific products and prices, technical specifications, implementation of a hosted or punch-out e-catalog on a variety of platforms, quoting capability, online ordering, shipment, tracking and payment.

Both hosted and punch-out catalog formats are available through this Agreement by providers such as SciQuest and ESM.

c) Additional Business Services

Within 30 days after execution of this Agreement, Supplier shall, at its own expense, provide to E&I:

- A comprehensive "go-to-market" plan, detailing the role of the E&I Agreement in Supplier's Education market strategy and how Supplier intends to leverage the E&I Agreement to build and expand Education business.
- A dedicated Education Agreement Administrator able to act with full authority to address day-to-day issues under the E&I Agreement. The Education Agreement Administrator shall meet with appropriate E&I representatives no less than on a quarterly basis to discuss and measure marketing strategies, performance, Report of Sales, CAF and other Agreement related issues.
- The Education Agreement Administrator or designee(s) shall coordinate with appropriate E&I representatives as necessary to strategize and discuss market opportunities and join as a strategic partner in E&I presentations to the appropriate university/hospital business administrators to leverage the best available pricing, delivery, and services for our Members.
- A contact list of Company Owned store locations, agents, account representatives and service assistants with experience and knowledge of this Agreement. Supplier will provide initial and ongoing training and awareness of the E&I 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.
- Agents and account representative(s) shall meet with Members as reasonably requested by the individual Member or by E&I.
- Initial and continuing Member based customer service and order problem resolution.
- 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, "The Purchasing Link" and "The CPU - Contract Portfolio Update", and E&I website Headline News.
- 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.

d) Marketing Opportunities

- E&I encourages participation, annually and throughout the term of this Agreement, as an exhibitor and business affiliate member at the annual NAEP/E&I Meeting and Product Exhibition. For additional information on the conference and business affiliate program, please visit the NAEP website at www.naepnet.org.
- E&I encourages participation, annually and throughout the term of this Agreement at NAEP regional meetings, Member Town Meetings, Member regional meetings, Member on-campus supplier fairs and Member presentations.

- E&I encourages participation, annually and throughout the term of this Agreement, at applicable product exhibitions and conferences.
- ii. Supplier Commitment**
- a) **Supplier Corporate Commitment**
The Supplier commits that its awarded Agreement with E&I:
- Shall be the Supplier's primary (go to market) offering for Education
 - Has the support of the Supplier's senior management
 - Shall be promoted to existing Higher Education clients
- b) **Supplier Pricing and Product Commitment**
The Supplier commits that its awarded Agreement with E&I:
- Shall be the lowest available pricing (net to buyer) to Education (as further set forth in Section viii "Education Pricing/Pricing Parity" below)
 - Shall provide products and services that meet or exceed the member requirements
- c) **Supplier Sales Commitment**
The Supplier commits that its awarded Agreement with E&I:
- Shall be aggressively marketed by Supplier
 - Shall be enhanced by Supplier's sales force which is trained, engaged, and committed to the success of the Program
 - Shall report Sales accurately and timely to E&I as required
- iii. Marketing and Sales Responsibilities – Suppliers and E&I**
Joint Responsibilities – Supplier in collaboration with E&I shall jointly:
- Develop, approve and implement an annual marketing plan to be reviewed on a quarterly basis
 - Establish and maintain member relations
 - Collaborate to identify leads and opportunities, develop key target lists and leverage existing relationships to build membership and business
 - Make sales calls to members, as appropriate
- iv. Marketing and Sales Responsibilities – E&I**
- E&I will create ongoing member awareness of the E&I Portfolio of Products and Services via online and direct marketing, marketing communications, face-to-face interactions with Members and other venues as appropriate.
 - Upon execution of this Agreement, E&I will notify all Members and make specific contract information available online.
 - E&I's field team of Member Relations Executives will identify and share sales leads as appropriate and assist with Supplier sales activities when possible and in a variety of ways.
 - E&I will make representatives available to Supplier to facilitate sales training about E&I.
 - E&I will share relevant market intelligence it gathers through surveys, etc.
- v. New and Discontinued Products**
The Supplier shall use commercially reasonable efforts, at least thirty (30) days prior to their introduction or discontinuance, to notify E&I and the E&I Membership of any new or discontinued products. Unless noted otherwise the discount and pricing established for new products will be equal to the pricing structure in the Agreement. If the Supplier offers a different discount structure for new products then a separate category of "New Products" pricing should be added to the discount structure on appropriate attachment. In such a case, the Supplier should clearly indicate the number of months products are considered as "new products."
- vi. Replacement Parts**
Unless noted otherwise the discount and pricing established for replacement parts will be equal to the pricing structure in this Agreement.

vii. Design Cost, Reconfiguration Cost, Charges and Extras

Supplier shall address cost (if any) related to design services, reconfiguration cost, and other value added services. Supplier shall be required to state all supplemental charges that may be assessed in addition to the pricing for the goods and/or services provided including additional shipping charges, cost of goods, 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 must be specified herein.

viii. Education Pricing/Pricing Parity

The Education pricing for all products and services, terms and conditions established under this Agreement are to be equal to or better than those provided by Supplier to any other Similarly-Situated Customer, as defined here. Similarly-Situated Customer shall be defined as a customer, compared to the aggregate, annual volume of purchases (as measured in gallons or packaged units relative to such volumes) made by or for all Members under the E&I Agreement, that purchases products from Supplier's stores, is a school, university, educational institution or an educational consortium dedicated primarily to public or private education, and which customer annually purchases the same or similar mix of products and or services, at the same aggregate volumes of such products and or services or similar products and or services which the customer is subject to the same or substantially similar contract terms and conditions, including contract duration, when taken as a whole.

If, during the term of this Agreement, Supplier provides to such Similarly-Situated Customer more favorable terms, conditions or prices for products and or services, when taken as a whole, than those prices for products and or services, terms and conditions, when taken as a whole, that are then in effect under this Agreement, then Supplier agrees to notify E&I in writing. After consultation with E&I, then Supplier will propose that the parties amend this Agreement to reflect the more favorable terms, conditions or prices for products and or services for future purchases. E&I must be notified of any proposed amendment prior to the implementation. Notwithstanding the foregoing statements, Supplier shall have no obligation to make any price adjustments for E&I or any Member on any prior invoices for purchases made under this Agreement for the products and or services amended.

ix. Method of Ordering and Electronic Commerce

Members may use various methods to order products or services from Supplier in which case the Supplier is expected to accommodate any such requirements including, hard copy purchase orders, telephone orders, procurement cards, and electronic commerce.

x. Orders

Supplier must specify any other charges or conditions under which the established price will be adjusted. There is no minimum order quantity or charge in this Agreement. Supplier shall provide adequate toll free telephone access for Members to order products and promptly reach customer service. All terms and conditions of an individual Member's standard procurement terms for ordering may apply.

With each ordering occurrence, it is mutually agreed that the Member's notice of acceptance shall create an agreement between the parties thereto containing all specifications, terms and conditions of this Agreement, except as amended by the Member's own acceptance notification.

xi. Hazardous Materials and OSHA Communication Standards

The Supplier shall be responsible for providing Material Safety Data Sheets (MSDS) to the appropriate user(s). The Supplier shall also retain title and/or ownership and responsibility for hazardous materials delivered in error. Within three working days of notification, the Supplier must retrieve hazardous materials that are delivered in error.

In addition, the Supplier shall be responsible for providing its employees 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.

xii. Invoices and Payment

Invoices shall be directed to the appropriate location(s) specified by the Member. Invoices and payment terms must comply with the reasonable requirements of each Member. The Member placing the order with the Supplier shall alone be liable or 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 payments would then be made within thirty (30) days after receipt of a valid invoice or delivery, whichever is later unless superseded by State Statute (i.e. the State of Oklahoma has Net 45 payment terms).

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

xiii. Receipt of Product and/or Service

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 institutions' needs are met. Delivery may be based on storeroom delivery, Just-in-Time agreements, or drop shipments.

It is preferred that product deliveries are provided with a 99% fill rate by line item. Normal delivery of orders must be accomplished at established times as set by the Member. The Supplier(s) shall have the capability of expediting the delivery of orders to assure no shortage of product during application.

Title and risk of loss shall pass to the Member at the Members location (destination) - F.O.B. destination. The title and risk of loss of the goods shall not pass to a given Member until receipt and acceptance of the goods at the point of delivery. The products furnished shall be delivered:

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

Selection of a carrier for shipment will be the Supplier's option unless specified by the Member.

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

xiv. Compliance with Immigration Reform and Control Act of 1986

Supplier is aware of, is fully informed, and in full compliance with its obligations under the Immigration Reform and Control Act of 1986. Supplier shall be responsible for assuring that all persons engaged in the performance of work hereunder are authorized to work as required by the Act in both its present form and any future requirements passed under said Act.

xv. Employee Documentation

If the need should arise during the term of this Agreement, a Member may request the Supplier to provide documentation for an employee who has been given an assignment at the Member institution. This may include employment history, education, job references, certificates and licenses, conviction records and documentation of random drug testing. Supplier agrees to work with the Member if an issue between a Suppliers Employee and the Member is reported to either party.

xvi. Federal Debarment

Supplier certifies that it 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 department or agency.

xvii. Expropriation

Suppliers should indicate 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 should indicate when such agreement or those terms will expire.

xviii. Responsibility for Damage Claims

The Supplier shall hold harmless E&I and the Member from all suits, actions or claims brought on account of any injuries or damages sustained by any person or property to the extent caused by any neglect in safeguarding the work by the Supplier; or from claims or amounts arising or recovered under the "Workman's Compensation Law" or a violation by Supplier of any other applicable laws. Supplier shall be responsible for all damage or injury to property occurring during the prosecution of the work to the extent caused by any act, omission, neglect, or misconduct on their part or on the part of any of their employees, in the manner or method of executing the work; or from its failure to execute the work properly; until all claims have been settled and suitable evidence to that effect furnished to E&I and the Member.

xix. Protection of Property and Liability

The Supplier shall take care not to damage the premises or property of others, and to the extent such damage is caused by Supplier's operations under this contract, it shall make appropriate restitution. If the Supplier fails to pay for damage, the damages may be deducted from any remaining balance due to the Supplier or may be processed as a breach of contract to the full extent the law allows.

xx. Storage

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

xxi. Third Party Distributors/Subcontractors

In the event that the Supplier chooses to subcontract any service or delivery of the products under the terms herein, the 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 the Supplier of its obligations to make complete timely delivery of products, supplies or service at no additional cost to the Member.

xxii. Order Fulfillment, Distribution and Installation Agreements

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.

xxiii. Supplemental Agreements

Member and Supplier may enter into a separate supplemental agreement to further define the negotiated pricing to the Member, level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, on campus service, specialized delivery, etc. Any supplemental agreement developed is exclusively between the Member and Supplier. E&I, its agents, Members and employees shall not be made party to any claim for breach of such agreement.

xxiv. No Substitutions

No substitutions of alternate items for products ordered are permitted without the express prior written approval of the Member.

xxv. Warranty and Product Condition of Sale

At a minimum, there shall be a warranty which is set forth on the label of the container of the Product at the time of purchase.

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

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

xxvi. Tracking Lost and Damaged Shipments

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

Should any action on the part of the Supplier or a subcontractor lead to visible damage to the facilities during transport, the Supplier is required to immediately contact the Member and forward a confirming damage report detailing the damages. Supplier shall be able to track all shipments and provide order status to the Member.

xxvii. Returns - Defective and Non-Conforming Goods or Services

If any goods or services furnished under this Agreement are defective or non-conforming, or fail to meet warranties, specifications or any other provisions of this Agreement or Member purchase orders (in the case of Member purchase orders, only upon prior written agreement of Supplier), any of the following remedies shall be available to the Member:

- **Replacement:** Supplier shall promptly replace non-conforming or defective goods 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.
- **Like-for-Like:** Like-for-like equipment throughout the entire term of the contract maintenance or warranty shall be provided at no cost to the Member in the event that the equipment experiences excessive down-time or fails to maintain acceptable quality standards.
- **Risk of Loss and Storage:** All goods 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 direct damages, claims, expenses, (including reasonable attorney's fees and court costs) 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 refund shall be at the sole discretion of the Supplier.

xxviii. 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 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.

xxix. Certification of Independent Pricing

Supplier certifies, and in the case of a joint offer, each Supplier hereto will certify as to its own organization, that: (1) it has not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive pricing in connection with the proposal; (2) the prices in the proposal have been arrived at independently without consultation or communication, or agreement, as to any matter relating to such prices with any other Supplier or with any competitor; (3) unless otherwise required by law, the prices quoted in the offer have not been knowingly disclosed by the Supplier and will not be knowingly disclosed by it directly or indirectly to any other Supplier or to any competitor; and (4) no attempt has been made or will be made by Supplier to restrict competition unfavorably.

xxx. Samples

If requested, Supplier is to provide samples of the products. Samples for evaluation must be provided free of charge. The quantity of any sample requested will be reasonable but sufficient to undertake an appropriate evaluation. Limit of one gallon per Member.

C. Other Relevant Terms:

1) Hold Over Clause

Prior to the expiration of this Agreement all parties, E&I, the Member and the Supplier, acknowledge and agree that if a Quotation or a Purchase Order (Blanket order or single purchase PO) has been issued to a Member prior to the expiration of Agreement number CNR01400, the Term of the Master Agreement shall automatically extend through the Project Completion and Final Invoice Date on a month by month basis utilizing the same terms and conditions as listed in this Agreement. The intent of this clause is to allow Supplier to continue to provide products and services pursuant to any Quotation and/or Purchase Order which has been issued prior to the expiration or termination of this Agreement. The Supplier shall provide written notice to E&I and the Member that the specific project being held over is covered by this "Hold Over" clause specifying the amount of time that this Agreement will be held over for the Member.

2) Transition Support

Upon notification of award Sherwin Williams will assign a local sales person to work directly with each member. A transition letter that E&I can customize to insure the roll out goes as planned will be provided by the Supplier.

Supplier will:

- Work with your member to establish service requirements and manage those service levels through the Sherwin Williams servicing store location.
- Work with their painters to insure they are comfortable with our products and maintain or improve their productivity.
- Match existing colors for repainting

3) Training

Supplier will hold training sessions upon request for the any member to review the paint specifications, scope of work for painters and our role in supporting the member. In addition, upon request, we will review painting scope and specifications in a joint meeting format with paint contractors and members for larger products that may be outsourced and track these to your program.

Additional Training is available to include Paint Basics, Drywall Repair, Touch-UP and Green Practices & Sustainability.

4) Service Commitment (All Free to E&I Members)

- **Next business day delivery** for locally stocked products based on forecasted needs. There are no minimum order quantities or delivery fees for these products.
- **Local Sales Rep** will be assigned to each property and work with the designated Member contact to insure that all technical and operational service needs are met. These reps will provide written specifications and training upon request
- **Members will have a single point of contact for the Corporate Level Management** to coordinate the national effort, administer the contract and to work with the Member to develop strategic initiatives. The goal will be to set up a program that rewards the Member and provides continuous improvement efforts.
- **Specification & Field Support** will be available to all Members upon request. For larger capital or common area paint projects a SW sales representative will visit the institution, make recommendations for painting substrates and produce a professional written specification and scope of work. The lead time on this service will be no more than 7 days.
- **Exterior Repaint Warranties** will be available upon request prior to the start of the project. These will vary depending on the condition of the substrate and the products used. Warranties are offered when SW develops the specification.
- **Controlled Distribution / Vertical Integration** – From manufacture until the paint gets into the Members hands.
- **Company Owned Stores and reps** will service 100% of this Agreement. This gives us the ability to deliver the same product in the same color to all E&I Members. Sherwin Williams field reps are also all direct company employees. Sherwin Williams people are highly trained in the industry and backed by a Fortune 300 company.

Master Agreement
The Sherwin Williams Company
Paint, Stain, Coatings, Painting Equipment,
Supplies and Services
Master Agreement Number CNR01400
August 1, 2016

- **Centralized Administration** gives E&I the added confidence that Sherwin Williams is the best possible solution to tracking direct and contractor purchases for the purpose of reporting and maximizing E&I CAF. These reports will aid in the timely administration of rebates and commissions. They will also provide valuable information with regards to usage, which can be used to further identify potential member participation.
- **Marketing and Customer Centric programs** developed to improve the member experience and in turn quality ratings, can be tested locally and implemented nationally. Concepts include Feature Wall Program, Color Photo Imaging, and Custom Color Cards.