



Master Agreement

Patterson Dental Supply Inc.
Dental Supplies, Equipment and Related Services
Master Agreement Number EI00077~2021MA
May 1, 2021

This Master Agreement (the “Agreement”) is effective as of May 1, 2021 by and between Patterson Dental Supply Inc., a corporation with offices located at 1031 Mendota Heights Rd., Mendota Heights, Minnesota 55120 (hereinafter referenced as the “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 (hereinafter referenced as “E&I”).

This Agreement has been established based on RFP#683451 for Dental Supplies, Equipment and Related Services, all addenda, Supplier response, best and final offer, and negotiations.

I. Scope

This National agreement shall apply to all E&I members (as listed in the Official Member List, as updated from time to time, to be provided to the Supplier), its divisions, subsidiaries and affiliates that apply to be a customer of Supplier and Supplier accepts as a customer. In addition, if E&I elects to participate in the Agreement, they shall be considered a member.

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

II. Term of Agreement

The Agreement term will be for five (5) years, effective 05/01/2021 through 04/30/2026, with one (1) five (5) year renewal. Prior to the end of the initial term, and for each successive term, the program will be evaluated in overall context and performance. Exercise of any renewal will require formal written notification and mutual agreement between E&I and Supplier at least one (1) year prior to Agreement expiration.

III. Pricing

The pricing and Category Discount programs for this Agreement for the products and/or services available to members are outlined in Attachment A-1 and shall be applicable to all purchases made under this Agreement. Price changes are permitted once per calendar year (January 01 to December 31) with forty-five (45) days advance notice to E&I. Percentage discounts off Supplier’s list price on products not included in Attachment A-1 shall remain firm for the life of the Agreement unless improved for the benefit of the membership. Price increases on products included in Attachment A-1 shall not exceed three percent (3%) on the aggregate during each Calendar Year. Supplier reserves the right to remove or replace products from Attachment A-1 at the time of a price change. For the avoidance of doubt, any item classified as personal protective equipment (PPE) on the Supplier’s website are not subject to the limitations on price changes included in this Agreement.

Supplier is authorized to offer members enhanced pricing on a case-by-case basis or under a Member Specific Agreement (“MSA”) and both shall be considered part of this Agreement.

IV. EDGAR Provisions

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#683451 EDGAR Certifications requirements.

V. Terms and Conditions

Unless otherwise superseded by the terms and conditions of the contracting member institution the terms and conditions contained herein 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.



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VI. Entire Agreement

This Agreement together with the Attachments annexed hereto, constitutes the entire agreement between the parties and except as set forth in paragraph B37 hereof supersedes all prior agreements whether written or oral between the parties. Documents subject to Freedom of Information Act may only be released after execution of this Agreement.

VII. 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 execution of this Agreement.

VIII. 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.

Patterson Dental Supply Inc.
Supplier

E&I Cooperative Services, Inc

DocuSigned by:

83A474512A9E44B...
Signature

DocuSigned by:

81C8F65B6DAC440...
Signature

Nicholas Abruzzo
Printed Name

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

VP Sales and GM, Strategic Accounts
Title

Chief Business Development Officer
Title

4/30/2021 | 9:10 AM CDT
Date

4/30/2021 | 10:15 AM EDT
Date



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Attachment A

Patterson Dental Pricing and Category Discount Programs

This Agreement provides E&I Members access to all Patterson's General Catalog Products, Equipment and Services. Their product depth & breadth, reliable service & support as well as their Value-Added Services are all available to members through this Agreement.

1. **Market Basket Program (Attachment A-1)** – The Market Basket Program is based upon the most frequently purchased items from historic member purchases. The number of items in the Market Basket and pricing for each item will vary each year. E&I and Patterson Dental will review the list annually and update the items and pricing upon mutual agreement. Market Basket Prices will be held firm during each calendar year. The initial Market Basket pricing, effective May 01, 2021, will remain firm until December 31, 2021, thereafter the products and pricing will be reviewed by the Parties annually to keep the Market Basket relevant and competitive. Market Basket price increase requests shall be submitted forty-five (45) days in advance of the effective date of the increase. The maximum allowable increase is not to exceed 3% on the aggregate each Calendar Year. Supplier is authorized to offer members enhanced pricing (deeper discounts, if available) on a case-by-case basis or under a Member Specific Agreement (“MSA”) and both shall be considered part of this Agreement. Market basket price reductions will be immediately passed on to E&I and its Members.
2. **Member Specific Hot List Program (Hot List)** – A Hot List may contain up to 300 items and pricing will be held firm during each calendar year. Any additions/deletions and price changes shall be reviewed and mutually agreed upon between the Supplier and the Member on an annual basis. Each individual member, with a Hot List, has full approval authority over the pricing and content of their institution's Hot List. This service will be provided if and when a E&I Member provides 12-month SKU level detail.
3. **Catalog Discount, Equipment Discounts, and Service Program** – See Attachment A-2

Relevant Terms

A1. Customer Support

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).

A2. Orders

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 Supplier's notice of acceptance shall create an agreement between the parties thereto containing all specifications, terms and conditions of the Agreement, to the extent that the terms and conditions are not inconsistent with the Members' terms and conditions.

A3. Invoices and Payment - Negotiated

Invoices shall be directed to the appropriate location(s) specified by the member. Invoices and payment terms must comply with the requirements of Supplier. 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 default payment term for members shall include invoicing at time of billing or delivery completion, whichever is later. Payments would then be made within thirty (30) days after receipt of a valid invoice or delivery, whichever is later.



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

A4. Order Fulfillment, Distribution and Installation Agreements - Negotiated

Order Accuracy rate shall be maintained at an average rate of 95% or greater across all member accounts. 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 an average rate 94% or greater across all member accounts after the first Contract Year. Order Fill rate is defined as “the number of items on an order shipped as ordered divided by the total number of lines on an order. . Supplier, 2-3 business days 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.

A5. 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 institutions’ 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 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.

A6. Member Specific Agreement (MSA)

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



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A7. Third Party Distributors/Subcontractors

In the event that Supplier chooses to subcontract any service 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 service at no additional cost to the member.

A8. 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.

A9. Minimum Orders

Supplier shall specify any minimum order charge or conditions under which the established price will be adjusted. It is preferred there not be a minimum order quantity or charge.

A10. Supplemental Charges

Supplier shall be required to state 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.

A11. Emergency Purchases - Negotiated

Members reserve the right to make purchases of items included under this Agreement, which may alter the pricing and shipping terms set forth in this Agreement, when emergency conditions exist. All emergency purchases shall be reported as regular sales to E&I.

A12. 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.

A13. 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 facilities during transport, 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 provided that any third-party shipper's tracking system is available and operational.

A14. Returns – Defective and Non-Conforming Products or Services - Negotiated

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, provided that the non-conformity or defect is not attributable to the actions or omissions of the member
- Cancellation: member may cancel an order or any part thereof for any undelivered portion, except for any custom or special items, 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 as a statement credit.



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- 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. This option shall only be available if all other options, including but not limited to multiple repair attempts, have been exhausted.
- Risk of Loss and Storage: All products shall be held at Member's risk and expense, including storage costs, for a period of fourteen (14) days. At the expiry of the fourteen (14) days or at the time Supplier takes possession of the products risk of loss shall transfer to Supplier and Supplier shall pay all expenses thereafter, including storage costs.
- Supplier Liability: The Supplier shall be liable for losses, claims, and expenses (including reasonable attorney's fees and court costs) resulting from Supplier's material breach of this Section A14. In no event shall Supplier be liable for any amounts greater than the actual amounts paid by a Member to Supplier in the month preceding the material breach.
- Products under warranty: The decision to replace such products or accept warranty repair shall be at the sole discretion of each respective manufacturer.
- After the Warranty Period: After the warranty period, The Supplier, the manufacturer or an authorized third party may provide the maintenance.
- Notwithstanding the provisions of A14 and A15, all returns shall be governed by Supplier's Standard Merchandise Return Policy.

A15. Reasons for Return or Credit - Negotiated

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 to member.

A16. Restocking Policy

Supplier shall not impose a restocking fee on member under the following circumstances, unless the circumstance was created by the action or inaction of the member or its agents:

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

A17. Disclaimer of Warranty - Negotiated

PATTERSON MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE EQUIPMENT OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. NOTHING HEREIN WILL BE CONSTRUED AS A WAIVER BY CUSTOMER OF ANY WARRANTY THAT MAY BE PROVIDED BY THE THIRD PARTY MANUFACTURER OF ANY EQUIPMENT, BUT CUSTOMER'S SOLE REMEDY FOR ALLEGED DEFECTS IN THE DESIGN OR MANUFACTURE OF THE EQUIPMENT WILL BE AGAINST SUCH THIRD PARTY MANUFACTURER.

A18. Extended Warranty Option – Intentionally Omitted

A19. User Manuals - Negotiated

At the purchaser's request, Supplier will contact the manufacturer to 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



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

A20. New and Discontinued Products

The Supplier shall, at least thirty (30) days prior to their introduction or discontinuance, notify E&I and the 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 proposed. If the Supplier offers a different discount structure for new products, then a separate category of “New Products” pricing should be added to the proposed discount structure on appropriate attachment. In such a case, the Supplier shall clearly indicate the number of months products are considered as “new products.”

A21. Replacement Parts

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

A22. Business Review Meetings

In order to maintain a partnership between the member and the Supplier, members may require business review meetings. These meeting shall be held on a quarterly basis, if not more frequently. The business review meeting shall include, but not be limited to, the following:

- Review of Supplier performance
- Review of minimum required reports (as described in the following section)

A23. Reporting - Negotiated

At a minimum, the following reports shall be provided to members, as requested, in an electronic format on a quarterly basis:

- 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 Customer error
- Total re-stocking charges (\$) applied
- Number of orders returned
- Total dollar value of surcharges, transaction fees, delivery charges, and other misc. charges

A24. Employee Purchase Program – Intentionally Omitted

A25. Samples

If requested, 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.



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Attachment B
E&I General Terms and Conditions

B1. 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 and interpreted solely in accordance with the laws of the State of New York, and the venue of any action shall lie in the appropriate federal or state courts located in the State of New York.

B2. Compliance with Laws

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

B3. 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 Federal Acquisition Regulations (FAR) and Educational Department General Administrative Regulations (EDGAR) applicable laws and regulations by completing any certifications and disclosures and any other requirements.

B4. 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.

B5. 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.

B6. Resale – Intentionally Deleted

B7. Patent Trademark and Copyright Infringement - Negotiated

Supplier warrants that the work and services provided do not infringe upon or violate any trade secret, application or proprietary right of any third party 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 or judgments, including reasonable legal fees, arising out of cases of such infringement.

B8. 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 E&I. 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.

B9. 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. Supplier acknowledges that E&I makes no representation or commitment that any quantities will be purchased or services utilized and agrees that E&I shall have no liability relating to member decisions to purchase or not purchase Supplier



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products or to use or not use Supplier services. 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 legal fees.

B10. Education Pricing/Pricing Parity - Negotiated

The Education pricing, terms and conditions established under this Agreement are to be equal to or better than those offered to other cooperatives or comparable consortiums serving educational institutions making purchases under substantially similar terms and conditions (Product mix; Service volumes; Disposable Supply purchases, contract term; participation, compliance and commitment levels; and market segment). If, during the term of this Agreement, Supplier offers more overall favorable terms and conditions or prices to other cooperatives or comparable consortiums, Supplier agrees to notify E&I in writing. Supplier agrees to immediately amend the agreement to reflect the more overall favorable terms, conditions or prices. E&I must be notified of any proposed changes thirty (30) days prior to their implementation.

B11. Responsibility for Damage Claims

The Supplier shall hold harmless E&I from third-party suits, actions or claims brought on account of any injuries or damages sustained by any person or property resulting from the negligence or willful misconduct of Supplier. Supplier shall be responsible for all damage or injury to property occurring during the prosecution of the work resulting from a negligent act or willful misconduct on its part or on the part of any of its 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.

B12. Protection of Property and Liability - Negotiated

The Supplier shall take care not to damage the premises or the property of others, and in case such damage occurs as the result of operations under this contract conducted solely by Supplier, Supplier shall make appropriate restitution.

B13. Indemnification of E&I and Member - Negotiated

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 work or services performed or resulting from property damage or injuries incurred by or to any third party, the member or its officers, agents, servants and employees by reason of any defect in services furnished hereunder, excepting only such liability as may result solely from the acts of negligence of the member, E&I or its employees. Supplier, at the request of the Member and/or E&I, shall undertake to participate fully in the defense of the Member (in accordance with the statutes of the State where the Member resides) and/or E&I against any and all suits and to investigate and participate fully in the defense of the Member (in accordance with the statutes of the State where the Member resides) and/or E&I against any and all claims whether justified or not, if such claim or suit is commenced against Member or E&I, or their respective officers, agents, servants, and employees.

B14. Insurance - Negotiated

If 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 insureds. Upon request, Supplier shall furnish to E&I satisfactory proof of such insurance 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 but shall not be obligated to purchase further insurance.



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B15. 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.

E&I is a non-profit corporation. Members are 501(c)(3) corporations but have varying requirements to either pay or are exempt from state sales tax.

All prices listed and discounts offered are exclusive of all taxes. Supplier shall 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.

B16. Americans With Disabilities Act and Rehabilitation Act - Negotiated

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act of 1973 and applicable federal regulations.

B17. 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.

B18. 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 shall comply with this tobacco-free policy. 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.

B19. Non-Appropriation of Funds - Negotiated

An order by a member may be cancelled prior to shipment 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. Refer to Supplier's Return Policy if cancellation is not effective.

B20. Weapons, Explosive Devices and Fireworks

Supplier agrees that neither its employees or agents nor its subcontractors, their employees or agents shall use, possess, display or store any weapon, explosive device or fireworks on all land and buildings owned, leased or under the control of E&I member institutions or their affiliated or related entities, unless written permission is given by the commanding officer of the member's police department or a designated representative. Notification by Supplier to all persons or entities who are employees, agents, officers, subcontractors, consultants, guests, invitees or licensees of Supplier ("Supplier Notification Parties") is a requirement of this Agreement. Supplier further agrees to enforce this requirement against all Supplier Notification Parties.



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B21. Equal Opportunity and Non-Discrimination

The parties will comply with all applicable federal and state laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and non-discrimination, including but not limited to the Americans with Disabilities Act.

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.

B22. Sexual Harassment

Title IX protects individuals from discrimination based on sex, including sexual harassment. E&I fosters an environment that is built on respect and free of 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.

B23. Employee Documentation – Intentionally Omitted

B24. 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 this agreement or those terms will expire.

B25. 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 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.

B26. Compliance with Specifications - Negotiated

All products covered by this Agreement are subject to a member’s inspection before acceptance.

Supplier also 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 services to be delivered by Supplier of will not infringe upon or violate any intellectual property of any third parties.



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B27. 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.

B28. 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.

B29. Suspension or 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.

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.

Supplier certifies that the Supplier and its principals are eligible to participate in this transaction 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 State 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.

B30. Conflict of Interest

In order to avoid even the appearance of any conflict of interest, neither E&I nor Supplier shall employ any officer or employee of the other party for a period of one year from the date hereof.

B31. 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 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 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.

B32. Force Majeure

Neither party shall be held responsible for delays, failures or any losses resulting from the performance of the terms of this Agreement where such performance is outside of the performing party's control by exercising reasonable diligence and which such party is unable to prevent. 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, or failure of a public regulated utility or governmental statutes or regulations superimposed after the fact (Force Majeure). 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 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. The party claiming circumstances of Force Majeure shall promptly notify the other party of the conclusion of the event.

B33. 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.



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B34. Termination for Convenience - Negotiated

Either party may terminate this Agreement for any reason (convenience) without penalty or liability of any kind by delivering not less than three hundred sixty-five (365) calendar days prior written notice thereof to the other party.

B35. Termination for Default - Negotiated

E&I will notify the Supplier upon discovery of a breach of this Agreement. E&I may terminate this Agreement immediately 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 thirty (30) 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 twenty-one (21st) day. A written 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.

B36. 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.

B37. Holdover Clause

This holdover clause authorizes Supplier to continue to provide products and services pursuant to any quotation, purchase order, or MSA 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 MSA. The terms and conditions specified herein shall remain in effect for the duration of the holdover period.

B38. Independent Audit - Negotiated

Members may, for a period of three years after expiration of this Agreement, audit the Supplier's records pertaining to its compliance with the terms of this Agreement, but no more than once per year. The audit will be conducted by member and/or its designee. Supplier shall provide member with access to records. The audit may address any or all of the following conditions and may not be limited to the stated conditions: product compliance, pricing, order processing, order fulfillment, delivery records, invoicing, and receipt of payment.

B39. Open Records

All information, documentation, and other materials submitted by Supplier in response to the solicitation or under this Agreement may be subject to public disclosure under the Freedom of Information Act and/or Open Records laws of the members.

B40. Student Educational Records.

Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA). Supplier will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from Member or as otherwise provided by law.

B41. 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.

B42. Limitation of Liability - Negotiated

The parties agree that both parties 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. Additionally, Supplier shall have no liability for claims made against Supplier more than three years after the related cause of action arose.



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B43. Letter of Participation

E&I Members will complete an online form (“Letter of Participation”) indicating their desire to purchase products and/or services offered under this Agreement. The content and format of the Letter of Participation is at the sole discretion of E&I. At a minimum, the Letter of Participation will contain the following fields: First Name, Last Name, Title, Institution Name, Business Unit, Primary Role, Phone, E-mail, and Supplier.

The Letter of Participation shall supersede any previous Member declaration for the purchase of product and services, unless otherwise specified, and will remain in effect during the term of this Agreement, including any renewals and extensions. Supplier shall provide E&I an email address and point of contact for the receipt of Letters of Participation prior to Contract Launch.

Upon receipt of the Letter of Participation, Supplier shall enroll E&I Member (all accounts) in its E&I program within 4 to 7 business days; credit all future purchases to E&I Member and E&I whether an existing or new client of Supplier (the effective date for this action is the date the Member submits the Letter of Participation); provide E&I Member a confirmation email message within 24 hours of its receipt of the Letter of Participation; and send E&I Member a final confirmation email message once the new or existing account(s) is/are linked to its E&I Agreement.

Notwithstanding the forgoing, Any E&I Members who are existing customers of Supplier will automatically be converted to this Agreement (unless the E&I Member elects to opt out through written notification). The effective date of this automatic conversion shall be the effective date of this Agreement.

B44. Confidentiality

In the course of the performance of this Agreement, either party (the “Recipient”) acknowledges that its employees may, in the performance of the Contract come into the possession of proprietary or confidential information owned by or in the possession of the other party (“Owner”). Neither party will use any such information for its own benefit or make such information available to any person, firm, corporation, or other organizations, whether or not directly or indirectly affiliated with either party without the written consent of owner or unless required by law, regulation, or accounting oversight body. “Confidential Information” means information, including hard copy or electronic form, written or oral, which a reasonable person would consider to be confidential in nature. Confidential Information does not include information that (1) becomes public through no breach of Recipient; (2) Recipient rightfully receives from a third party without restriction; (3) Recipient develops it independently or already had knowledge of such information prior to disclosure by Owner; and (4) Owner gives to any third party without confidentiality limitations. All Confidential Information will be considered trade secrets and will be entitled to all protections under the law for trade secrets. The parties’ obligations under this section will survive the termination of this Agreement.

B45. Price Gouging Prohibited

Supplier shall not sell goods or services which are vital and necessary for the health, safety and 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.



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B46. 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: Ian Robbins
 Vice President, Sourcing & Contracts
 E&I Cooperative Services, Inc.
 2 Jericho Plaza, Suite 309
 Jericho, NY 11753
 irobbins@eandi.org

If to Supplier:
 Patterson Dental Supply Inc.
 ATTN: Office of the General Counsel
 1031 Mendota Heights Rd.
 St. Paul, MN 55120



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Attachment C
EDGAR Certifications