



CONTRACT AWARD

Date of Award: February 1, 2021

Contract Number(s): EI00049-2021MA

Banner ID Number: X10921928

Procurement Officer: Robby Murray
Telephone: 316-978-5185
E-mail Address: robby.murray@wichita.edu

Item: Audio and Visual Equipment, Services

Period of Contract: February 1, 2021 through January 31, 2026
(option for one (1) 5-year renewal)

Contractors: AVI-SPL (formerly SKC Communications)
Sales Contact: Lucas Lenahan
Phone: 913-543-7222
Email: luke.lenahan@avispl.com

Purpose of the Contract:

The purpose of this contract is to provide Audio Visual Equipment. For assistance with obtaining a quote, contact Ryan Corcoran-Media Resources Center.

The use of this national agreement is available to all E&I Member institutions, their divisions, subsidiaries and affiliates for medical surgical products and equipment.

Procurement Cards: Agencies may use a P-Card for purchases from this contract. See attached for available ordering options.

Freight Terms: FOB Destination. Full freight allowed (Supplier pays freight) Additional charges may apply. See contract for details.

For additional contract related documentation contact the Purchasing office.



AV Integration & Unified Communications & Collaboration Solutions

AVI-SPL is an industry-leading global provider of audio video technologies, solutions, and services, with 48 locations across the U.S. The company designs, integrates, manages, and supports onsite and cloud-based communications and collaboration technologies that enable educational institutions to better collaborate, communicate, and connect—anytime, anywhere.

Experienced teams work hand-in-hand with you to create audiovisual (AV) and unified communications and collaboration (UC&C) solutions that are simple to use, scalable, serviceable, and measurable. Post-sales technical support helps troubleshoot situations, proactively anticipate and address any issues, and provide timely, accurate responses to members' questions. AVI-SPL's focus is to ensure that your institution is using the right technology to achieve your objectives now and into the future.

Contract Highlights:

- **Design/build methodology and consultative approach** enables members to collaborate and help determine the best solutions and products to maximize value and ROI.
- **Local support services are available** for integrated spaces, voice, video, and headset purchases, including proactive monitoring.
- **Technicians troubleshoot and maintain ownership** of customer issues through resolution.
- **Remote support is provided** to ensure member satisfaction.
- **Leader in innovative communications technology** that has been unlocking business value for over 40 years.

For more information, visit our website at www.eandi.org/contracts/AVI-SPL or contact your E&I Member Representative or Michael Mast, *Business Development Manager, Technology*, at mmast@eandi.org.

Contract Details

Getting Started:	Complete the Letter of Participation at www.eandi.org/lop-rfi/avi-spl . Use our EZ Button at www.eandi.org/ez to sign up for multiple E&I contracts at the same time. You must be registered and logged in to E&I's website to access the EZ Button.
Prices/Discounts:	Visit www.eandi.org/contracts/AVI-SPL for pricing and discount details.
Payment Terms:	Net 30. Orders of \$50,000 or greater (net of freight) may require a down payment and progress billing, depending on the scope of the project. Member and supplier may agree in writing to additional invoicing and payment terms on a case-by-case basis.
Credit Cards Accepted:	American Express, Discover, Mastercard, and Visa
Place Orders With:	Contact AVI-SPL P: 800.282.6733 F: 800.244.8630 E: Bids@avispl.com
Shipping Terms:	Visit www.eandi.org/contracts/AVI-SPL for shipping details.
Delivery Terms:	F.O.B. destination, full freight allowed, ground (supplier pays freight).
Installation Terms:	Installation services are available through AVI-SPL or third-party subcontractors as needed.
Warranty:	Original Equipment Manufacturer's policies shall apply.
Claims:	Contact the AVI-SPL account manager who will engage customer service. Packaging with visible damages should be refused and reported to the local account manager. Hidden damages must be reported as soon as possible.
Return Policy:	Contact the AVI-SPL account manager to request a Return Merchandise Authorization from the manufacturer. Manufacturers have limited time periods for returns.
Request Literature:	Contact Michael Mast, <i>Business Development Manager, Technology</i> P: 480-414-4401 E: mmast@eandi.org
Federal ID Number:	59-1958935
RFP Number:	Competitive Solicitation RFP #683455
Contract Number:	EI00049

Note: All E&I contract-related information and documentation is provided exclusively for the use of E&I members and shall not be distributed and/or shared outside of E&I's membership. Doing so is detrimental to the Cooperative and its members, as it impacts E&I's ability to negotiate and maintain competitive agreements.



Attachment A-1
Updated June 1, 2021

Manufacturer / Product Category	Discount Rate	
AMX		
All items	Percent Off List	35%
Aruba		
All items except Support/Maintenance	Percent Off List	15%
Support/Maintenance	Percent Off List	5%
Audio Technica		
ES line microphones	Percent Off List	30%
Non ES Gear	Percent Off List	10%
Avaya		
All items	Cost Plus	17%
Avocor		
Interactive Displays	Percent Off List	20%
Warranties	Percent Off List	10%
Barco		
Projectors	Percent Off List	25%
Clickshare Products	Percent Off List	15%
Belden		
All Items	Cost Plus	16%
Biamp Systems		
All Items	Percent off list	40%
BMS		
All Items	Cost Plus	16%
Chief		
All Items	Percent Off List	30%
Christie		
All Items	Percent Off List	20%
Cisco		
Equipment	Percent Off List	35%
Maintenance	Percent Off List	12%
Crestron		
Crestron Flex Units	Cost Plus	12%
All Other Items	Percent off list	41%
Crown		
Amplifiers	Percent Off List	30%
Daktronics		
Video Walls	Percent Off List	15%
Dalite		
Screens	Percent Off List	28%
Dell		
All Items	Cost Plus	16%
Display Devices		
All Items	Cost Plus	16%
Epiphan		
All Items	Cost Plus	16%
Epson		
Projectors (Discount using Brighter Futures)	Percent Off List	15%
Evoko		
All Items	Cost Plus	16%
Extron		
All Items	Percent Off List	41%
Hitachi		
Now Maxell Discount for Maxell Projectors	Percent Off List	45%
Hovercam		

Attachment A-1
Updated June 1, 2021

Manufacturer / Product Category	Discount Rate	
All Items	Cost Plus	16%
Infocus		
All Items	Percent Off List	15%
Innovox		
All Items	Cost Plus	16%
ITS Solutions		
Pro Services	Percent Off List	5%
Data Center	Percent Off List	15%
Battery and Power	Percent Off List	20%
Cooling	Percent Off List	5%
Jabra		
Headsets	Cost Plus	21%
JBL		
Speakers	Percent Off List	30%
Kramer		
All Items	Percent Off List	18%
LG		
All Items	Percent Off List	22%
Logitech		
All Items	Percent Off List	15%
Lumens		
All Items	Percent Off List	20%
Marshall Furniture		
All Items	Cost Plus	16%
Mediasite (AKA Sonic Foundry).		
Hardware and service	Percent Off List	20%
Mersive		
All Items	Percent Off List	20%
Middle Atlantic		
All Items	Percent Off List	38%
Nanolumens		
All Items	Percent Off List	15%
NEC		
Projectors	Percent Off List	15%
Displays	Percent Off List	10%
Newline		
Interactive Displays	Percent Off List	25%
Panasonic		
Projectors	Percent Off List	40%
Flat Panel Display	Percent Off List	25%
Accessories (Lenses, bulbs)	Percent Off List	15%
PTZ Cameras	Percent Off List	15%
Peerless		
Display Mounts	Percent Off List	5%
Kiosks and Outdoor Displays	Percent Off List	3%
Poly		
DC2	Percent Off List	5%
DC3	Percent Off List	10%
DC4	Percent Off List	15%
DC6	Percent Off List	25%
DC8	Percent Off List	25%
DC10	Percent Off List	30%
DC12	Percent Off List	39%

Attachment A-1
Updated June 1, 2021

Manufacturer / Product Category	Discount Rate	
DC13	Percent Off List	20%
DC14	Percent Off List	41%
DC15	Percent Off List	25%
DC16	Percent Off List	43%
DC99	Percent Off List	0%
Poly Headsets		
Office H Series Headsets	Cost Plus	10%
Adapters & SOTA	Cost Plus	10%
Cisco Headsets	Cost Plus	10%
Wireless Headsets	Cost Plus	15%
UC Headsets	Cost Plus	10%
Avaya Wireless	Cost Plus	13%
Small/Home Office	Cost Plus	20%
M Series Mobile	Cost Plus	15%
Bluetooth	Cost Plus	15%
Calisto	Cost Plus	20%
PC Headsets	Cost Plus	20%
Aviation Headsets	Cost Plus	20%
Spare Parts	Cost Plus	20%
Primeview		
Video Walls	Percent Off List	30%
Qomo		
All Items	Cost Plus	16%
QSC		
All Items	Percent Off List	30%
Ricoh		
All Items	Cost Plus	16%
Samsung		
Displays	Percent Off List	29%
Sharp		
All Items	Percent Off List	20%
Shure		
All Items	Percent Off List	31%
Smart		
All Items	Cost Plus	16%
Sony		
Projectors	Percent Off List	40%
Displays	Percent Off List	40%
Cameras	Percent Off List	35%
Unilumin		
Video Walls	Percent Off List	30%
Vaddio		
All Items	Percent Off List	10%
Vivitek		
All Items	Cost Plus	10%
Wacom		
All Items	Cost Plus	10%
Wolfvision		
All Items	Percent Off List	17%
Voice Cloud		
Ring Central		Custom Quote
Avaya Cloud Offering (ACO)		Custom Quote
Genesys - Contact Center	Cost Plus	8%

Attachment A-1
Updated June 1, 2021

Manufacturer / Product Category	Discount Rate	
Non-Listed AV Equipment		
All Items	Cost Plus	16%
SKC Professional Services		
		Labor Rate
A/V Design	Per Hour	\$80
Programming, Crestron/AMX	Per Hour	\$95
Installation, AV & Video	Per Hour	\$80
Union/Subcontractor/Prevailing Wage Installation	Per Hour	\$130
Conferencing Service, Toll Free	Per Minute	\$0.06
Unified Communication Design, Consulting & Implementation	Per Hour	\$140
Voice Programming for Avaya, Cisco, Microsoft	Per Hour	\$140
Telepresence Design, Install, Support	Per Hour	\$140
Project Management and CAD	Per Hour	\$80
SKC Managed Services Cisco, Tandberg, Polycom		Custom Quote
A/V Support		Custom Quote
Elite Advantage		Custom Quote
Elite		Custom Quote
Phone Support		Custom Quote
VNOc		Custom Quote
Ground Shipping		
All	No Charge	No Charge
Freight may apply in the following instances:		
Rush or overnight delivery.		
Oversized items (including DIM weight), which includes orders greater than 100 pounds.		
Custom products which include orders requiring staging, pre-configuration/pre-assembly, or custom installation according to members specification.		
Freight charges estimated at time of quotation		



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

This Master Agreement (the “Agreement”) is effective as of February 1, 2021 by and between SKC Communication Products LLC, a corporation with offices located at 8320 Hedge Lane Terrace, Shawnee Mission, Kansas 66227 (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#683455 for Audio/Video Technologies, Solutions and Services, all addenda, Supplier response, best and final offer, and negotiations.

I. Scope

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

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 02/01/2021 through 01/31/2026, 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/discount percentage for the products and/or services as listed on Attachment A-1 shall be applicable to all purchases made under this Agreement. Price changes may only be made annually with sixty (60) days of advance notice to E&I. Specific or extraordinary product price changes may only be permitted under the following conditions:

- With thirty (30) days advance written notice to E&I
- If the Supplier receives notice from its manufacturer/distributor of a change in the price of any part that is individually listed on Attachment A-1 (i.e., identified with a manufacturer/distributor part number).
- If the manufacturer/supplier discontinues or adds replacement parts.

In the event of any annual or specific price change, Static or Hosted Catalogs which are integrated into Member’s electronic procurement platform (e.g. Jaggaer) must hold pricing for up to thirty (30) days to ensure that orders executed and transmitted prior to the any price change are not charged and shipped at the higher price.

Percentage discounts off Supplier’s list price shall remain firm for the life of the Agreement unless improved for the benefit of the membership. 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 Supplier’s response to RFP#683455 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.



Master Agreement

SKC Communication Products LLC
Audio/Video Technologies, Solutions and Services
Master Agreement Number EI00049~2021MA
February 1, 2021

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.

SKC Communication Products LLC
Supplier

DocuSigned by:


E248474D13084CA...
Signature

Jennifer Lowe
Printed Name

Chief Financial Officer
Title

1/29/2021 | 10:16 AM PST
Date


E&I Cooperative Services, Inc

DocuSigned by:

81C8F65B6DAC440...
Signature

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

Chief Solutions Officer
Title

1/29/2021 | 2:15 PM EST
Date

DS




Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

Attachment A

Pricing/Discount Schedule

Refer to Attachment A-1 for product and services pricing/discounts.

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 – See Attachment B-1

A3. Invoices and Payment – See Attachment B-1

A4. Order Fulfillment, Distribution and Installation Agreements

Order Accuracy rate shall be maintained at 98% or greater. Order Accuracy rate is defined as “the number of items delivered as ordered divided by the total number of items ordered.”

Order Fill rate shall be maintained at 95% or greater. Order Fill rate is defined as “the number of items on an order filled completely as ordered divided by to the total number of lines on an order.”

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

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

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

A5. Delivery – See Attachment B-1

A6. Member Specific Agreement (MSA)

Member and Supplier may enter into a separate MSA 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 MSA 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.

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.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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 – See Attachment B-1

A11. Emergency Purchases

Members reserve the right to make purchases of items included under 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.

A14. Returns – Defective and Non-Conforming Products or Services – See Attachment B-1

A15. Reasons for Return or Credit – See Attachment B-1

A16. Restocking Policy – See Attachment B-1

A17. Warranty and Product Condition of Sale – See Attachment B-1

A18. Extended Warranty Option

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

A19. User Manuals

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

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



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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

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

A24. Employee Purchase Program

Supplier may offer discounted products to Members’ students, faculty and staff for personal purchases. If offering an Employee Purchase Program, Supplier shall describe how it intends to protect Members from liability from personal purchases made by students and employees.

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.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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 – See Attachment B-1

B6. Resale – See Attachment B-1

B7. Patent Trademark and Copyright Infringement – See Attachment B-1

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 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. Supplier and any Member may agree in writing to additional amendments to this Agreement as it pertains to the Member institution. At no time shall such an amendment negate any of the Terms and Conditions agreed to between E&I and Supplier.

B10. Education Pricing/Pricing Parity – See Attachment B-1



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

B11. 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 as a consequence of any neglect in safeguarding the work by the Supplier; or from claims or amounts arising or recovered under the “Workman’s Compensation Law” or any other laws. Supplier shall be responsible for all damage or injury to property occurring during the prosecution of the work resulting from any act, omission, neglect, or 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

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, Supplier shall make appropriate restitution. If the Supplier fails to pay for damage, the amount of such damage 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.

B13. Indemnification of E&I and Member – See Attachment B-1

B14. Insurance – See Attachment B-1

B15. Licenses/Permits/Taxes and Tax-Exempt Status – See Attachment B-1

B16. Americans With Disabilities Act and Rehabilitation Act

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act of 1973 and applicable federal regulations. All electronic and information technology and products and services to be used by E&I Member institutions' faculty/staff, students program participants or other constituencies must be compliant with the Americans With Disabilities Act and Section 508 of the Rehabilitation Act of 1973, as amended from time to time. Compliance means that a disabled person can acquire the same information, engage in the same interactions and enjoy the same services as a nondisabled person, in an equally effective manner, with substantially equivalent ease of use.

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

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.



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 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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.

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, 41 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

At any time during the term of the Agreement, a Member may require Supplier to provide a complete dossier of each 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.

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.



Master Agreement

SKC Communication Products LLC
Audio/Video Technologies, Solutions and Services
Master Agreement Number EI00049~2021MA
February 1, 2021

B26. Compliance with Specifications – See Attachment B-1

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.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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.

B34. Termination for Convenience

E&I may terminate this Agreement for any reason (convenience) without penalty or liability of any kind by delivering not less than one hundred eighty (180) calendar days prior written notice thereof to the Supplier.

B35. Termination for Default – See Attachment B-1

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

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. 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 – See Attachment B-1

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.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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.

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 R. Robbins
 Vice President, Strategic Sourcing & Contract Management
 E&I Cooperative Services, Inc.
 2 Jericho Plaza, Suite 309
 Jericho, NY 11753
 irobbins@eandi.org

If to Supplier: Jennifer Lowe
 SKC Communication Products LLC
 8320 Hedge Lane Terrace
 Shawnee Mission, KS 66227
 (800) 882-7779
 Jennifer.Lowe@skccom.com



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

Attachment B-1

Negotiated Terms and Conditions

A2. Orders

All terms and conditions of an individual Member's standard procurement terms for ordering may apply; provided, however, that any such terms and conditions not consistent with the terms of this Agreement are not applicable unless set forth in an MSA. 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 and terms and conditions of the order, to the extent that the terms and conditions are not inconsistent with this Agreement or an MSA.

A3. Invoices and Payment

Invoices shall be directed to the appropriate location(s) specified by the Member. Invoices and payment terms must comply with the requirements of each Member to the extent set forth in an MSA. 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 an MSA does not specify payment terms, or in the absence of an MSA, the default payment term for Members shall include invoicing at time of delivery, except as set forth below. Payments would then be made within thirty (30) days after receipt of a valid invoice.

Orders of \$50,000 (USD) or greater (net of freight) may require a down payment and progress billing, depending on the scope of the project. Member and Supplier may agree in writing to additional invoicing and payment terms depending on the particulars of these orders.

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)

Additional freight terms and charges shall apply in the following instances:

1. Overnight and rush delivery.
2. Oversized products (including DIM weight_ and large orders, which include item and orders over 150lbs.
3. Customized products, which include orders requiring staging, pre-configurations/pre-assembly, or custom installation according to a Member's specifications.

Selection of a carrier for shipment will be at the Supplier's option unless otherwise specified in an MSA. 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.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

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. Supplier reserves the right to charge a transaction fee for credit card charges over \$25,000. If Supplier offers multiple pricing options (i.e., drop ship, inside delivery, delivered and installed) they shall be specified herein.

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

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, to the extent available under the original equipment manufacturer's ("OEM's") terms and conditions or support services purchased:

- **Repair and Replacement:** Supplier shall promptly repair, replace, or correct non-conforming or defective products and services at the Supplier's own expense.
- **Cancellation:** Member may cancel an order or any part thereof or any undelivered portion thereof without incurring any liability to Supplier and any payments made by Member for products or services purchased shall be refunded by the Supplier and/or its agents.
- **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.
- **Removal:** Supplier shall remove such products at its own expense and if the Supplier fails to remove such products, Member may return all or any portion of such products at the expense of Supplier.
- **Risk of Loss and Storage:** All products shall be held at Supplier's risk and the Supplier shall pay all expenses incurred including storage costs.
- **After the Warranty Period:** After the warranty period, the Supplier is responsible to make sure that service agreements are available to the Member. The Supplier, the manufacturer or an authorized third party may provide the maintenance.

A15. Reasons for Return or Credit

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

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

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

Notwithstanding the foregoing, returns and credits are subject to the OEM's terms and conditions only. Products may not be returned unless the OEM has issued a Return Authorization ("RA"). Products returned without a RA is considered unauthorized and will not be accepted. Product returns due to defects are subject to the OEM's warranty. If a RA is issued for products returned without cause, the Member will be invoiced for, and is required to pay, return shipping charges, the OEM's restocking fee, and any charges incurred by Supplier for such return.

A16. Restocking Policy

Supplier shall not impose a restocking fee on Member under if item is returned due to damage, incorrect product shipped, or Supplier customer service order entry error.

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



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

A17. Warranty and Product Condition of Sale

Product Warranty: Supplier is an authorized reseller, but not the manufacturer, of any products (including software) furnished by Supplier. Any product warranties, licenses and indemnities are provided directly to Member by the OEM. Supplier will provide to Member the OEM information detailing any license, warranty and indemnity right it receives from an OEM upon request and will reasonably cooperate with Member in enforcing such rights. OEM warranty periods start the date equipment is shipped from the OEM, not the date of installation, unless shipment and installation dates are the same. Nothing in this Agreement shall be construed as expanding or adding to any OEM warranty terms or terms otherwise required under an OEM license agreement.

Services Warranty. Supplier warrants to Member that any Services performed by Supplier or its subcontractors will be carried out in a professional and workmanlike manner by qualified personnel in accordance with the specifications agreed upon in writing by the parties. If the Services have not been so performed, and Supplier receives Member's detailed request to cure a non-conformance within 30 days of acceptance of the Services, Supplier will promptly re-perform those Services as Member's sole and exclusive remedy for a breach of the foregoing warranty. Any Services specified in writing to be performed by an OEM comes with the OEM's standard warranty, licenses and indemnities only, and the OEM is solely responsible for the performance of such Services, including without limitation design, completion and Member acceptance/sign off.

A/V Support Services: In addition to the warranties set forth above, A/V support services may be separately purchased. The A/V Support Services Terms and Conditions, which may be updated from time to time, are located on Supplier's website at <http://www.skccom.com/about-us/disclosureslegal/>. For the avoidance of doubt, (1) Supplier A/V Support Services, if purchased, begin on the 1st day after acceptance of the products and services in all cases and (2) if Supplier A/V Support Services are not purchased, then any services requested after the warranty period will be performed by Supplier on a time and materials basis, with Supplier A/V Support Services customers receiving priority.

WARRANTY DISCLAIMER: THE WARRANTIES AND REMEDIES PROVIDED BY SUPPLIER ARE SPECIFICALLY LIMITED AS DESCRIBED IN THIS AGREEMENT. EXCEPT AS SET FORTH IN THIS AGREEMENT OR EXPRESSLY AGREED TO BY THE PARTIES, SUPPLIER MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY PRODUCTS OR SERVICES OR OTHERWISE RELATED TO THIS AGREEMENT, AND SUPPLIER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES RELATED TO INFRINGEMENT (TO THE EXTENT NOT SET FORTH IN THIS AGREEMENT), MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

B5. Assignments

Supplier may freely (a) assign this Agreement to an affiliated entity or an entity that purchases substantially all of its assets or a majority of its equity and (b) subcontract any Services to be performed hereunder; provided, however, that any such third-party assignee must agree in writing to assume all of the assigning party's obligations hereunder. This Agreement is solely for the benefit of Supplier, E&I, and the Members and shall confer no rights or benefits to the any third parties.

Supplier shall immediately notify E&I of any assignments. Any purported assignment made without E&I's prior written consent shall be void and of no effect.

B6. Resale

Neither E&I nor any Member may purchase any products for resale.

B7. Patent Trademark and Copyright Infringement

The Supplier agrees, at its own expense, to defend any and all actions or suits by third parties alleging that the products/services hereby sold, either alone or in combination with other materials, infringe upon or violate any patent, copyright, trademark, trade secret, application or any other proprietary right of such third party existing under laws of the United States and will hold E&I, its officers, agents, servants, employees and Members (each an "Indemnified Party") harmless from any and all losses, expenses, claims, (including reasonable attorney's fees), or judgments arising out of cases of such infringement. Supplier's obligations under this Section are conditioned on the following: (i) the Indemnified Party promptly notifies Supplier of any infringement claim in writing upon being made aware of the claim (ii) the Indemnified Party gives Supplier (and Indemnified Party acknowledges that Supplier may give its manufacturer/supplier) sole authority and control of the defense and (if



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

applicable) settlement of the claim, and (iii) the Indemnified Party provides all information and assistance reasonably requested by Supplier (or its manufacturer/supplier) to handle the defense or settlement of the claim.

If a product/service sold hereby, or Supplier reasonably believes such a product/service may become, the subject of an infringement claim, then Supplier may, at its own expense and option: (i) procure for the Indemnified Party the right to continue use of such product/service, (ii) replace or modify the product/service, or (iii) refund to the Indemnified Party a pro-rated portion of the applicable fees for the products/services based on a linear depreciation monthly over a five-year useful life, in which case Indemnified Party ceases all use of such products/services and returns it to Supplier.

Supplier will have no defense or indemnity obligation for any infringement claim based on (i) a product/service sold by Supplier to any of the Members ("SKC Product") that has been modified other than by Supplier, (ii) an SKC Product that was modified by Supplier in accordance with specifications or instructions provided by any of the Members, (iii) any products not purchased from Supplier ("Third-Party Products"), (iv) use or combination of any SKC Product with Third-Party Products, or (v) possession or use of a product/service after Members were informed of modifications or changes in the SKC Product required to avoid such claim, if such claim would have been avoided by implementation of such suggestions to the extent Member did not provide Supplier with a reasonable opportunity to implement such suggestions.

B10. Education Pricing/Pricing Parity

The Education pricing established under this Agreement are to be equal to or better than those offered to other cooperatives or comparable consortiums serving higher education. If, during the term of this Agreement, Supplier offers more overall favorable 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 prices. E&I must be notified of any proposed changes thirty (30) days prior to their implementation.

B13. 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 actual damages caused by its negligence (and its subcontractors' negligence) arising out of or connected with the products purchased, 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 manufacture, construction, inspection, delivery, material, workmanship, and/or design of any products and 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

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.

An individual Member may request insurance coverage in addition to the above limits; however, any such additional coverage will be provided by Supplier only upon the mutual written agreement of Supplier and such Member. Supplier shall furnish to Member satisfactory proof of such insurance coverage prior to commencement of the work.

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



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

all applicable taxes and fees related to obtaining any such permits, licenses and bonding. If a Member requires a bond for any project, the costs to obtain such bond will be invoiced to and paid by such Member.

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.

B26. Compliance with Specifications

With respect to products manufactured or supplied by third parties to Supplier for resale to Members, Supplier makes no warranties of any kind in addition to or exceeding the warranty supplied or offered by the respective manufacturer or supplier that may be transferred or assigned to Members, and Members' recovery is limited to recovery against such manufacturer or supplier for breach of any applicable warranties of manufacturer or supplier. In the event of a claim by Members for breach of product warranty, Members must follow the warranty policy established by the manufacturer. This policy may require return of the warranted item to the manufacturer for repair. At Member's request, Supplier agrees to take all actions reasonably necessary or appropriate to secure Member's rights and to protect its interests under such third-party warranties. Work performed by Supplier, not covered by third party warranty, will be billed to Members at the applicable labor rates agreed to in writing by the parties. Neither receipt of good/services nor payment thereof constitute a waiver of the warranties available under this provision.

In addition to the other warranties set forth in this Agreement, Supplier warrants that (a) it owns or has sufficient rights in all products and services to be delivered by Supplier, (b) the services, and to the knowledge of Supplier, the products delivered by Supplier will not infringe upon or violate any intellectual property of any third parties, and (c) that any code or software developed or delivered by Supplier under this Agreement will not contain any viruses, worms, or other disabling devices or codes to Supplier's knowledge.

B35. Termination for Default

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 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.

In addition, Supplier may terminate this Agreement immediately upon the breach of this Agreement by E&I by delivering written notice to E&I, or if such breach is capable of being cured, Supplier shall notify E&I in writing of such breach and demand that the same be cured within thirty (30) days. Should E&I fail to cure the same within said period, Supplier shall then have the right to terminate this Agreement. The failure of Supplier to exercise its rights of termination for cause due to E&I's failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance.

B42. Limitation of Liability

Neither Supplier nor E&I shall have any 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.



Master Agreement

SKC Communication Products LLC
Audio/Video Technologies, Solutions and Services
Master Agreement Number EI00049~2021MA
February 1, 2021

TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, NEITHER SUPPLIER'S NOR ANY MEMBER'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, IN TORT OR BY STATUTE OR OTHERWISE) SHALL EXCEED THE PURCHASE PRICE AND FEES PAID BY MEMBER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTHS PRIOR TO THE CLAIM.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

Attachment C Data Security Terms

C1 Purpose and Scope of Application

Supplier acknowledges that, in the course of providing products and services under this Agreement, it may gain access to Member's Institutional Information and/or IT Resources (both defined below). The terms contained in this section specify Supplier's cybersecurity and risk management responsibilities when Supplier has access to Institutional Information and/or IT Resources.

Supplier agrees to be bound by the obligations set forth herein if the specifications agreed upon by Member and Supplier require Supplier to gain access to Member's Institutional Information and/or IT Resources in order to provide the products and services. To the extent applicable, Supplier also agrees to impose, by written contract, these same terms and conditions on any third-party retained by Supplier to provide or assist in providing the products and services to Member if such third-party is required to gain access to Member's Institutional Information and/or IT Resources in order to provide the products or services.

If Supplier engages in transactions with Member affiliated individuals (including but not limited to: students, staff, faculty, customers, patients, guests, volunteers, visitors, research subjects, etc.), as a benefit and result of the Agreement, Supplier must treat any data about Member affiliated individuals that Supplier creates, receives, and/or collects in the course of those transactions with the same level of privacy and security protections and standards as required of Institutional Information by the terms contained herein.

C2 Defined Terms

- **BREACH:** (a) Any disclosure of Institutional Information to an unauthorized party or in an unlawful manner; (b) Unauthorized or unlawful acquisition of information that knowingly compromises the security, confidentiality, or integrity of Institutional Information and/or IT Resources; or (c) The acquisition, access, use, or disclosure of protected health information (PHI) or medical information in a manner not permitted under the Health Insurance Portability and Accountability Act (HIPAA).
- **ILLICIT CODE:** (a) Any code Member would not reasonably expect to be present or operating; (b) Hidden software or functionality with adverse or undesired actions or consequences; (c) Code that replicates or transmits Institutional Information or activates operating systems or other similar services without the express knowledge and approval of Member; (d) Code that alters, damages, or erases any Institutional Information or software without the express knowledge and approval of Member; or (e) Code or apparatus that functions in any way as a: key lock, node lock, time-out, "back door," "trap door," "booby trap," "dead drop device," "data scrambling device," or other function, regardless of how it is implemented, which is intended to alter or restrict the use of or access to any Institutional Information and/or IT Resources.
- **INSTITUTIONAL INFORMATION:** Any information or data created, received, and/or collected by Member or on its behalf required to be provided to, or managed by Supplier on behalf of Member in order to perform the services, including but not limited to: application logs, metadata, and data relating to, derived from, or generated from such data pursuant to this Agreement; provided, that any such information or data includes personally identifiable information.
- **IT RESOURCE:** IT infrastructure, cloud services, software, and/or hardware with computing and/or networking capability that is Supplier owned/managed or Member-owned, or a personally owned device that stores Institutional Information, is connected to Member systems, is connected to Member networks, or is used for Member business. IT Resources include, but are not limited to: personal and mobile computing systems and devices, mobile phones, printers, network devices, industrial control systems (including but not limited to: SCADA, PLCs, DPC, Operational Technology, etc.), access control systems, digital video monitoring systems, data storage systems, data processing systems, backup systems, electronic and physical media, biometric and access tokens, Internet of Things (IoT), or any other device that connects to any Member network.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

- **MAJOR CHANGE:** The implementation of a material change by Supplier that could adversely influence the security of an IT Resource or Institutional Information. The scope includes changes to architectures, processes, tools, metrics, and documentation, as well as changes to IT services and other configuration items. These include changes related to:
 - technology upgrades or migrations
 - responses to Security Incidents
 - modifications of scope (data elements, features, location of Institutional Information, etc.)
 - regulatory guidance
 - law and legal regulations
 - responses to risk assessments
 - addressing vulnerabilities
 - material updates or shifts in technologies used by Supplier
- **SECURITY INCIDENT:** (a) A material compromise of the confidentiality, integrity, or availability of Institutional Information; (b) A single event or a series of unwanted or unexpected events that has a significant probability of compromising Member business operations or threatening Institutional Information and/or IT Resources; (c) Any event involving a cyber intrusion; or (d) A material failure of Supplier's administrative, technical, or physical controls that resulted or could have resulted in an adverse impact to the confidentiality, integrity, or availability of Institutional Information or IT Resources.

C3 Access to Institutional Information and IT Resources

Supplier must limit its access to, use of, and disclosure of Institutional Information and IT Resources to the least invasive degree necessary required to provide products and services. For the avoidance of doubt, Supplier may not access, use, or disclose Institutional Information and IT Resources outside the scope of this Agreement for purposes of, including but not limited to: product development, marketing, advertising, research, product demonstration, sale, or licensing unless expressly approved in writing by Member.

If products and/or services include the review of a specific Security Incident or a threat to or anomaly in Institutional Information or IT Resources, Supplier must limit inspection to the least invasive degree necessary required to perform the investigation.

C4 Supplier's Information Security Plan and Responsibilities

Supplier acknowledges that Member is required to comply with information security standards for the protection of Institutional Information and IT Resources as required by law, regulation and regulatory guidance. Supplier must provide commercially acceptable cybersecurity and cyber risk management to protect Institutional Information and/or IT Resources. This includes implementing commercially acceptable security policies, procedures, and practices.

Supplier must establish, maintain, comply with, and responsibly execute an information security plan designed to, in all material respects,:

- ensure the security (including but not limited to confidentiality, integrity, and availability) of Institutional Information and IT Resources through the use and maintenance of appropriate administrative, technical, and physical controls;
- protect against any reasonably anticipated threats or hazards to Institutional Information and IT Resources;
- address the risks associated with Supplier having access to Institutional Information and IT Resources;
- comply with all applicable legal and regulatory requirements for data protection, security, and privacy;
- clearly document the cybersecurity responsibilities of each party;
- prevent the sharing of passwords or authentication secrets that provide access to Institutional Information and/or IT Resources;
- prevent unauthorized access to Institutional Information and IT Resources;
- prevent unauthorized changes to IT Resources;
- prevent the reduction, removal, or turning off any security control without express written approval from Member;
- prevent the creation of new Supplier accounts to access Institutional Information and IT Resources without express written approval from Member;



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

- prevent the storing, harvesting, or passing through of Member credentials (username, password, authentication secret, or another factor); and
- prevent the use or copying of Institutional Information for any purpose not authorized under the Agreement or any associated Statement of Work (SOW).

On at least an annual basis, Supplier will review its information security plan, update and revise it as needed, and submit it to Member upon request.

If Supplier makes any material modifications to its information security plan that will adversely affect the security of Institutional Information and IT Resources, Supplier must notify Member within seventy-two (72) calendar hours and identify the changes.

C5 Evidence of Compliance and Requests from Member

Supplier must provide Member with evidence that demonstrates Supplier's adherence to its information security plan by providing an attestation signed by an authorized individual, upon reasonable request (including but not limited to: annually, after Major Changes, and/or as a result of a Security Incident) or as required by any applicable regulatory or governmental authority.

Supplier must respond to Member's reasonable questions related to cybersecurity controls, Security Incidents, or Major Changes, newly published vulnerabilities, and/or risk assessments within ten (10) business days.

Member may request that Supplier complete an internal security questionnaire annually or as a result of a Breach.

C6 Notification of Major Changes and Vulnerability Disclosures

Within twenty (20) business days, Supplier must notify Member regarding changes in Supplier's security posture or IT infrastructure. Such notices must occur when:

- Major Changes happen.
- Supplier becomes aware of a vulnerability that warrants a CVE rating of "High" or "Critical," based on the latest CVE version (<http://cve.mitre.org/>), for which a patch is not yet available or for which Supplier will delay application of an available patch.

Supplier must use commercially acceptable efforts to remediate, within twenty (20) business days, any vulnerability rated as CVE High or Critical.

In response to Major Changes, Supplier must update its information security plan no later than fifteen (15) days into the next calendar quarter, as appropriate, and will provide updated evidence of compliance with the information security plan, upon written request.

C7 Return and Disposal of Institutional Information

Upon written request of Member, within thirty (30) calendar days of termination, cancellation, expiration, or other conclusion of the MSA, Supplier must return all Institutional Information to Member and then dispose of the Institutional Information in possession of Supplier as detailed herein, except as set forth below. This provision also applies to all Institutional Information that is in the possession of third-parties or agents of Supplier.

Supplier will certify in writing to Member that such return and/or disposal has been completed. Notwithstanding the foregoing, Institutional Information may be retained consistent with Supplier's data retention policies and practices or if Supplier believes that return and/or disposal of Institutional Information is technically impossible or impractical, and Supplier is not required to destroy any computer records or files containing Institutional Information that have been created pursuant to automatic archiving and back-up procedures. Supplier will continue to protect the Institutional Information in accordance with the terms of this Agreement for as long as the Institutional Information is in Supplier's possession.



Master Agreement

SKC Communication Products LLC
 Audio/Video Technologies, Solutions and Services
 Master Agreement Number EI00049~2021MA
 February 1, 2021

C8 Notification of Correspondence Concerning Institutional Information

Supplier agrees to notify Member promptly, both orally and in writing, but in no event more than seventy-two (72) business hours after Supplier receives correspondence or a complaint that relates to a Breach. For purposes of this provision, a correspondence or complaint may include, but is not limited to, any communication that originates from law enforcement, regulatory or governmental agencies, or government investigators, but excludes normal customer service correspondence or inquiries.

C9 Reporting of Breach or Security Incident

If Supplier reasonably suspects or confirms a Breach and/or a Security Incident impacting Institutional Information and/or IT Resources, Supplier must promptly notify Member both orally and in writing. Supplier must provide such notifications no later than (a) seventy-two (72) business hours (or as otherwise required by Member's statutory requirements) after the initial suspicion of a Security Incident and/or Breach and (b) seventy-two (72) calendar hours (or as otherwise required by Member's statutory requirements) after the initial confirmation of a Security Incident and/or Breach, if Supplier is able to make such a confirmation. Supplier's notification must identify:

- contacts for both technical and management coordination;
- escalation and identifying information, such as ticket numbers, system identifiers, etc.;
- the nature of the Breach and/or Security Incident;
- the Institutional Information and/or IT Resources affected;
- what Supplier has done or will do to mitigate any deleterious effect; and
- what corrective action Supplier has taken or will take to prevent future Security Incidents.

Supplier will provide other information as reasonably requested by Member.

In the event of a suspected Breach and/or Security Incident, Supplier will keep Member informed regularly of the progress of its investigation until the incident is resolved.

C10 Coordination of Breach Response or Security Incident Activities

Supplier will fully cooperate with Member's investigation of any Breach and/or Security Incident involving Supplier and/or products and/or services. Supplier's full cooperation may include Supplier:

- promptly preserving any potential forensic evidence relating to the Breach and/or Security Incident;
- remedying the Breach and/or Security Incident as quickly as circumstances permit;
- promptly, but no more than seventy-two (72) calendar hours after the discovery of Breach and/or Security Incident, designating a contact person to whom Member will direct inquiries and who will communicate Supplier responses to Member inquiries;
- as rapidly as circumstances permit, assigning/using appropriate resources to remedy, investigate, and document the Breach and/or Security Incident, to restore Member service(s) as directed by Member, and undertake appropriate response activities;
- providing status reports to Member regarding Breach and Security Incident response activities, either on a daily basis or a frequency approved by Member;
- coordinating all media, law enforcement, or other Breach and/or Security Incident notifications with Member in advance of such notification(s), unless expressly prohibited by law;
- ensuring that knowledgeable Supplier employees are available on short notice, if needed, to participate in Member and Supplier initiated meetings and/or conference calls regarding the Breach and/or Security Incident; and
- ensuring that knowledgeable Supplier employees and agents participate in after-action analysis, including root cause analysis and preventive action planning.

C11 Breaches and Security Incidents – Corrective and Preventive Action

As a result of a Breach and/or Security Incident impacting Institutional Information and/or IT Resources, and upon Member's request, Supplier must prepare a report detailing corrective and preventive actions. The report must include:

- a mutually agreed upon timeline for the corrective and preventive actions based on the nature of the Breach and/or Security Incident;
- identification and description of the root causes; and



Master Agreement

SKC Communication Products LLC
Audio/Video Technologies, Solutions and Services
Master Agreement Number EI00049~2021MA
February 1, 2021

- precise steps Supplier will take to address the failures in the underlying administrative, technical, and/or physical controls to mitigate damages and future cyber risk.

Supplier must reimburse Member for reasonable costs related to responding to Breaches impacting Institutional Information and IT Resources caused by Supplier. This includes all costs associated with notice and/or remediation of the Breach.

Any Breach may be grounds for termination of the MSA by Member. Obligations to secure, dispose, and report continue through the resolution of the Breach and/or Security Incident.

C12 Illicit Code Warranty

Supplier represents and warrants that, to its knowledge, the products and/or services do not contain Illicit Code. Should Supplier learn of the presence of Illicit Code, Supplier will promptly provide Member with written notice explaining the scope and associated risk. Supplier represents and warrants that it will take commercially reasonable steps to promptly request that the original equipment manufacturer remove Illicit Code.

Supplier agrees, in order to protect Member from damages that may be intentionally or unintentionally caused by the introduction of Illicit Code discovered by Supplier or Member, to promptly isolate or otherwise secure and then return Institutional Information and/or IT Resources to the extent commercially reasonable. Supplier represents and warrants that even if Illicit Code is unintentionally installed via any method, Supplier will never utilize the Illicit Code.

Supplier acknowledges that it does not have any right to electronically hold Institutional Information or assert any claim against Member by withholding the products and/or services using Illicit Code.

This provision does not relate to malware or viruses that attack the running IT Resource.

C13 Background Checks

Before Supplier's employee, third-party, or agent may access Institutional Information and/or IT Resources, Supplier must conduct a thorough and pertinent background check. Supplier must evaluate the results prior to granting access in order to assure that there is no indication that the employee, third-party, or agent presents a risk to Institutional Information and IT Resources.

Supplier must retain each employee's, third-party's, or agent's background check documentation for a period of three (3) years following the termination of the MSA.