

This Master Agreement (the “Agreement”) is effective as of October 01, 2024 by and between Airgas USA, LLC, a corporation with offices located at 259 Radnor-Chester Road, Suite 100, Radnor, PA 19087 (“Supplier”), and Educational and Institutional Cooperative Services, Inc., a New York non-profit corporation with offices located at 2 Jericho Plaza, Suite 309, Jericho, NY 11753 (“E&I”), hereinafter collectively referred to as the “Parties” or individually to as the “Party.”

This Agreement has been established based on RFP # EI00234~2023RFP for Industrial, Laboratory Gases and Welding Products & Services, all addenda, Supplier response, best and final offer, and negotiations.

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

I. Scope

- a. Description of Products and/or Services. This Agreement relates to Supplier’s provision medical, specialty, and industrial gases, in gaseous and/or liquid form, as well as other products offered by Supplier, to include without limitation: bulk gases, packaged gases, gas equipment, etc. (“Product(s)”).
- b. Applicability to Members. This national Agreement shall apply to all E&I Member institutions (“Member” or “Members”) (as listed in E&I’s Official Member List, as updated from time to time, to be provided to the Supplier), its divisions, subsidiaries and affiliates. In addition, if E&I elects to participate in the Agreement, they shall be considered a Member.
- c. This Agreement does not constitute a purchase order or a commitment to purchase Products and/or to utilize Services by E&I or its Members. Any purchases made and/or Services utilized pursuant to this Agreement shall be made by the individual participating Member and any resulting contract, service authorization form, local service agreement, Member-Specific Addendum, purchase order, or similar agreement, shall be between the Member and the Supplier.
- d. As a prioritized strategic customer, E&I Members shall have the ability to work with the national Airgas Single Point of Contact (“SPOC”) and local contacts to avoid Product(s) supply disruptions.

II. Term of Agreement and Termination

- a. Initial and Renewal Term. The Agreement’s initial term shall be for five (5) years (“Initial Term”), effective 10/01/2024 through 09/30/2029, and may be renewed for a renewal term not to exceed five (5) years (“Renewal Term”), which may be structured in one or multi-year terms not to exceed the overall Renewal Term. Prior to the end of the Initial Term, and for each successive Renewal Term, the Agreement will be evaluated in overall context and performance. Exercise of any Renewal Term will require formal written agreement between E&I and Supplier at least six (6) months prior to Agreement expiration. Supplier acknowledges that notification and/or agreement to exercise a Renewal Term may be required further in advance based on Member state regulations and/or other state-specific requirements.
- b. Termination for Convenience. Either Party may terminate this Agreement for any reason by delivering not less than one hundred eighty (180) calendar days’ prior written notice thereof to the other Party.
- c. Termination for Breach. Upon discovery of a breach of this Agreement, the non-breaching party shall notify the breaching party. The non-breaching party may terminate this Agreement immediately upon the material breach of this Agreement by the breaching party by delivering written notice to the breaching party, or if such breach is capable of being cured, the non-breaching party shall notify the breaching party in writing of such breach and demand that the same be cured within thirty (30) calendar days, or as otherwise agreed upon between the Parties (“Cure Period”). Should the breaching party fail to cure the breach within the Cure Period, the non-breaching party shall then have the right to terminate this Agreement at the end of the Cure Period. A notice shall be sent to the breaching party to confirm the termination. In addition, E&I may terminate this Agreement upon discovery of any misrepresentation or other material defect in any certification or other response submitted by Supplier as part of the RFP process related to this Agreement.
- d. Continued Performance. In the event of termination, both Parties shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination.
- e. Holdover [Negotiated]. Supplier shall continue to provide Products and Services pursuant to any service authorization form, local service agreement, Member-Specific Addendum, purchase order, or similar agreement executed prior to the expiration or termination of this Agreement. The term of this Agreement shall then automatically extend through the final invoice date or expiration of the service authorization form, local service agreement, Member-Specific Agreement, purchase order, or similar agreement (“Holdover Period”). The terms and conditions of this Agreement shall remain in effect for the duration of the Holdover Period.

III. Pricing

- a. Pricing List [Negotiated]. The pricing for the Products and Services as listed on Exhibit A (the “Prices”) shall be not-to-exceed Prices for all Members under this Agreement for the Initial Term of the Agreement and any Renewal Terms thereafter, unless amended by the Parties. Supplier is authorized to offer Members enhanced pricing on a case-by-case basis or under a Member Specific Addendum and both shall be considered part of this Agreement. In addition, Airgas will use the fuel surcharge table in Attachment A(c) with respect to the fuel surcharge to be paid by Members for deliveries.
- b. Taxes. All prices listed and discounts offered pursuant to this Agreement are exclusive of all taxes. E&I is a non-profit corporation. Members may have varying requirements to pay taxes or may be exempt from state sales tax. As applicable, Supplier shall collect all taxes in connection with the sale, delivery, or use of any items, Products, or the Services included herein from Member or from E&I (if for the purpose of resale), at the taxable rate in effect at the time of invoicing. Supplier shall comply with the state sales tax requirements of each Member. If sales to Member are exempt from such taxes, Member shall furnish to Supplier a certificate of exemption in form and timeliness acceptable to the applicable taxing authority.
- c. Variations [Negotiated]. Any variations in pricing for Members shall be reported to E&I’s applicable Sourcing Manager, and Supplier agrees to provide to E&I a copy of the Member-Specific Addendum upon its execution, or otherwise upon E&I’s request, subject to Member’s consent. If disclosure of the Member-Specific Addendum is prohibited by Member, Supplier shall still provide to E&I the relevant information related to the pricing variance(s).
- d. Price Increases [Negotiated]. Supplier may increase Prices up to 5.0% annually from the Effective Date, so long as sufficient supporting documentation and justification for the increase is provided to E&I. For any requested increase above 5%, sufficient supporting documentation and justification must be provided to E&I. With any price increase, Supplier will be consistent with, and upon request by E&I shall confirm such increase is in accordance with, the Pricing Parity commitments in Section III(f). E&I and Supplier may revisit this cap amount each year to discuss and formalize any justified cap increase. Supplier shall provide E&I forty-five (45) days’ prior written notice and Members’ thirty (30) days’ prior notice of the Price increases. Notwithstanding the foregoing, Prices for volatile Products, such as helium, carbon dioxide, acetylene, nitrous oxide and refrigerants will not be fixed for any period of time.
- e. Extraordinary Cost Increases [Negotiated]. Should Supplier have (a) any itemized charges set forth in this Agreement, including, without limitation, any attachment, rider, exhibit or amendment to this Agreement and (b) any surcharges that Supplier may assess due to (i) extraordinary, emergency or other unanticipated increases in the cost of manufacturing, purchasing, supplying or distributing Product(s) and/or (ii) Product shortages, (collectively, the “Charges”), Supplier may impose the additional costs, so long as based on the actual increased costs to Supplier, on the Members. None of the Charges are intended to represent a tax or fee paid to or imposed by any governmental authority. A price change for all Airgas-E&I customers utilizing this Agreement related to an extraordinary cost increase or any surcharge, as described in this section, is not otherwise subject to the Price Increases Section herein, and Supplier agrees to provide justification and supporting documentation for any such increases and/or charges.
- f. Education/Pricing Parity [Negotiated]. Supplier acknowledges and agrees that Supplier’s pricing under this Agreement will be better than or equal to the pricing that Supplier offers to similarly situated customers purchasing Products in the same or substantially similar quantities with substantially similar service requirements in similar geographic markets. This provision will be applicable to Member-specific pricing agreed upon between Supplier and Member, including as may be established pursuant to a Member-Specific Addendum. In addition, Supplier shall provide pricing for the Products and Services to a Member at no less favorable prices than those extended to similarly situated customers of Supplier for the same or similar articles in similar quantities and locations, and Supplier shall provide pricing for the Products and Services that is equal to or less than those offered by Supplier to comparable cooperatives, consortiums, or group purchasing organizations serving education. Supplier shall take the necessary steps to ensure its obligations under this Section are met in their entirety, which may include executing an amendment to this Agreement to reflect the more favorable pricing
- g. Price Gouging Prohibited. [Intentionally Omitted]

IV. Member-Specific Addendum [Negotiated]

- a. Agreement with Supplier. Member and Supplier shall enter into a separate Member-Specific Addendum (“Member-Specific Addendum” or “MSA”) as well as execute any other additional paperwork that may be needed in order to purchase Products and/or Services, an example of which is included as Exhibit E, which may be updated by Supplier from time to time, and may be negotiated between Member and Supplier. Any MSA developed is exclusively between the Member and Supplier.

- b. Sharing of MSA Information with E&I. Subject to consent from each Member, Supplier shall report as reasonably requested by E&I any applicable MSA information, which information shall include without limitation: pricing variation, start/end dates, etc. E&I's efforts to assist Member with any pricing variance issues may be limited if such full and complete information is not shared. All MSA pricing is confidential.

V. Services or Product Specific Terms

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

VI. Terms and Conditions of Agreement

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

VII. Compliance with Laws and Regulations; Open Records

- a. Compliance with Applicable Laws. Supplier warrants and represents that in the performance of this Agreement, it has complied with, and will continue to comply with, all applicable federal, state, and local laws, statutes, rules, regulations, ordinances, and orders (collectively, "Laws and Regulations"). This includes, but is not limited to, the Immigration Reform and Control Act of 1986 in both its present form and any future requirements passed under the Act; all applicable Laws and Regulations related to labor, hours, and wages; and any industry-specific Laws and Regulations related to Supplier's provision of the Products and Services provided pursuant to this Agreement.
- b. FAR and EDGAR. Where federal contracts or grants provide funding to Members used for orders or purchases made under this Agreement, it is the responsibility of the Supplier and the Member to comply with all Federal Acquisition Regulations (FAR) and Educational Department General Administrative Regulations (EDGAR) and other applicable laws and regulations by completing any certifications, disclosures, and any other requirements. E&I shall not be responsible for ensuring compliance with such standards, rules, and/or regulations. Supplier certifies compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances as acknowledged in Attachment C, Supplier's response to RFP # EI00234-2023RFP EDGAR Certifications requirements.
- c. ADA. Supplier shall comply with all applicable provisions of the Americans with Disabilities Act ("ADA"), the Americans with Disabilities Act Amendments Act ("ADAAA"), and the Rehabilitation Act of 1973 (if applicable). All electronic and information technology, Products, and Services to be used by Member, including Member's faculty, staff, students, program participants, or other constituencies, must be accessible and compliant with the ADA, the ADAAA, and Section 508 of the Rehabilitation Act of 1973 (if applicable), including as such Acts may be amended.
- d. Open Records. All information, documentation, and other materials submitted by Supplier to E&I in response to the solicitation or under this Agreement, including the Agreement itself, and any information, documentation, and other materials shared by Supplier with Member, may be subject to public disclosure under the Freedom of Information Act and/or state open records/access to public records laws of the Members.

VIII. Equal Opportunity and Non-Discrimination; Sexual Harassment

- a. Equal Opportunity and Non-Discrimination. In connection with the performance of Services and provision of Products, and in satisfying all obligations under this Agreement, Supplier agrees that it will comply with all applicable federal and state laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and non-discrimination, and will not discriminate against any Member, including its employees, or applicant for employment because of age, race, religion, color, disability, sex, sexual orientation, or national origin.
- b. Government Contracts. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3

CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The provisions of Section 202 of Executive Order 11246.41 CFR 60-1.1 CFR 60-250.4 and 41 CFR 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations, or orders of the U.S. Secretary of Labor. If applicable, the Parties will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

- c. **No Sexual Harassment.** Federal law prohibits and protects individuals from discrimination based on sex, including sexual harassment. E&I prohibits sexual harassment and works to foster an environment that is built on respect and free of sexual harassment. Supplier is required to abide by all federal, state, and local policies, regulations, and laws that pertain to sexual harassment and non-discrimination and to exercise control over its employees, agents, and subcontractors so as to prohibit acts of sexual harassment. If Supplier becomes aware, whether through Member or otherwise, that any employee, agent, or subcontractor of Supplier is alleged to have engaged in sexual harassment, in addition to any action that Member may take pursuant to its policies and/or procedures, Supplier agrees to cause such person to be removed from Member's facility or from otherwise engaging with Member, including those who may be associated with Member (e.g. staff, students); to follow its own policies and procedures for investigating and resolving such allegations; and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

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

- a. **Supplier's Use of Member's Material.** Supplier agrees not to use the name or logo of any Member, including in any advertising, publicity, promotional, and/or marketing materials of any kind, related to this Agreement without the express written permission of the Member and in accordance with Member's policies and/or procedures relating to the use of any licensed or trademarked material, including names and logos.
- b. **Parties' Use of Material.** E&I and the Supplier agree not to use the name or logo of the other Party, including in any advertising, publicity, promotional, and/or marketing materials of any kind, without the express written permission of the other Party. The use of the other Party's name and/or logo must be in the exact form and format provided and approved by that Party. The Parties agree that they shall not alter or otherwise modify the name or logo of the other Party. A request for any new or different use of the other Party's logo, or other licensed or trademarked material of the other Party, must be submitted in advance to that Party for approval. Supplier further agrees that it shall not express or imply any endorsement of its products or services, including the Products and Services covered under this Agreement, by E&I or any Member without express written consent from the relevant Party, and that it shall not seek endorsement in contravention of any applicable law, rule, or regulation.
- c. **[Intentionally Omitted]**

X. Transactions and Engagements Between Supplier and Member

- a. **Transactions/Engagements.** The purchase of Products and/or Services by a Member from Supplier is a transaction or engagement solely between Member and Supplier. Supplier acknowledges and agrees that E&I makes no representation or commitment that any Member will make a purchase, that any quantities will be purchased, or that Services will be utilized, whether by an individual Member or by Members collectively, and agrees that E&I shall have no liability relating to Member decisions to purchase or not purchase Supplier Products or Services.
- b. **[Intentionally Omitted]**

XI. Governing Law

- a. **Between Member and Supplier [Negotiated].** For disputes between the Member and Supplier, this Agreement and any Member-Specific Addendum shall be governed by, construed, interpreted, and enforced solely in accordance with and pursuant to the internal laws of the state in which the Member resides, without regard to choice of law rules.
- b. **Between E&I and Supplier.** This Agreement and all claims or defenses based on, arising out of, or related to this Agreement, including without limitation those arising from or related to the negotiation, execution, performance, or breach of this Agreement, whether in contract, tort, law, equity, or otherwise, shall be governed by, construed, interpreted, and

enforced solely in accordance with and pursuant to the internal laws of the State of New York, without regard to choice of law rules. Further, the Parties: i) Agree that litigation initiated by either party concerning the interpretation or implementation of this Agreement shall exclusively be brought and litigated in a state or federal court of competent jurisdiction in New York; ii) Consent to the personal jurisdiction of such courts; and iii) Waive any defense of forum non conveniens.

XII. Indemnification of E&I and Member [Negotiated]

- a. Except for any third party claims that relate to, arise from, or are in connection with any human and/or animal material, including but not limited to human tissue, embryos, human organs, or cells, if there is any injury (including death) or loss or damage to personal property of any third party, Supplier agrees to indemnify and defend Member and E&I from and against all third party claims (including costs of defense, settlement, and reasonable attorney's fees) to the extent of Supplier's negligence. Supplier shall not have the authority to enter into any settlement agreement on behalf of Member or E&I, or to otherwise bind Member or E&I in any way, without the express written authorization of the appropriate officer or designated official of Member or E&I, as applicable. This indemnity shall survive termination of this Agreement.

XIII. Compliance with Member Policies and Requests [Negotiated]

- a. Supplier, including its employees, shall conduct themselves in a businesslike and professional manner and comply with the prohibition, use, or possession of alcohol, tobacco, controlled substances, and other drugs; the possession, display, use, or storage of any weapon, explosive device, fireworks, or other item or substance prohibited pursuant to applicable law; and other applicable policies related to campus safety, including the wearing of an identification badge and other security practices or procedures; provided that the Member provides the policies and procedures to the Supplier with adequate time to determine if Supplier can comply. The Member reserves the right to immediately remove from their premises, and to request the removal or replacement of, any of Supplier's employees and/or subcontractors who violate its policies, rules, or other instructions at any time. In addition, E&I and the Member may access Supplier's Code of Conduct policy at any time at: <https://www.airliquide.com/sites/airliquide.com/files/2022-06/anglais-fj-code-of-conduct-web.pdf>.
- b. [Intentionally Omitted]
- c. [Intentionally Omitted]

XIV. Protection of Member's Property [Negotiated]

- a. Terms and conditions related to the protection of Member's property may be addressed in the MSA.

XV. Member Alignment Process [Negotiated]

- a. When an E&I Member chooses to purchase Products and /or Services under the Agreement, the Member will complete E&I's online form indicating their desire to purchase Products and/or Services offered under this Agreement ("Alignment Authorization Form"; this form may be referred to as a "Statement of Intent" when a Member-Specific Addendum ("MSA"), Airgas Letter of Participation ("LOP"), or Equipment Sales Agreement ("ESA") is required to be signed by an E&I Member. Please see Exhibit E for all the forms). The content and format of the Alignment Authorization Form/Statement of Intent is at the sole discretion of E&I in collaboration with the Supplier. At a minimum, the Alignment Authorization Form/Statement of Intent will contain the following fields: First Name, Last Name, Title, Institution Name, Department, Primary Role, Phone, E-mail, and Supplier.
- b. Supplier shall provide to E&I, and maintain, an email address and point of contact for the receipt of the Alignment Authorization Forms/Statements of Intent With respect to a Statement of Intent, Supplier shall contact the Member within three (3) business days of receipt to determine the Member's needs in order to complete alignment to the Agreement and initiate the SOW and/or sign the MSA.
- c. With respect to a Statement of Intent, Supplier shall contact the Member within three (3) business days of receipt to determine the Member's needs in order to complete alignment to the Agreement and initiate the MSA process.
- d. Upon receipt of the Alignment Authorization Form/Statement of Intent, and upon execution of the MSA, Supplier shall:
 - i. Ensure Member receives pricing under this Agreement and, as applicable, as established pursuant to the MSA;
 - ii. Ensure that all Member purchases are attributed to Member and to E&I ((i) and (ii) together shall be considered "Alignment");
 - iii. Provide Member a confirmation email message within 1 week of completed Alignment; and
 - iv. Submit confirmation of completed Alignment to E&I using E&I's Supplier Portal or as otherwise directed by E&I For the avoidance of doubt, MSA, LOP, or ESA execution is required for Alignment to be complete.

- e. Notwithstanding the forgoing, any Members who are existing, previously aligned E&I Members who have an executed Member Specific Addendum signed with the Supplier will be transitioned from the expiring E&I agreement to which they were aligned to this Agreement. Supplier will work with Members to determine if a new MSA must be executed. Supplier shall also notify the applicable E&I Sourcing Manager upon notification by the Member that the Member does not want to align to the Agreement. Supplier will work with E&I Members to help ensure there is continuation of services should a new MSA be required.
- f. In the event the Supplier has a direct agreement (“direct agreement” is defined as an agreement with the Member that is not an E&I agreement) with a Member, the Supplier shall encourage the Member to align to this Agreement at the next renewal or termination of the direct agreement.
- g. Supplier is responsible for working with Member to ensure all accounts, as specified by Member, are linked and aligned to this Agreement upon Member’s execution of the MSA, LOP, and/or ESA. In the event that Supplier does not align a Member with this Agreement, as requested from a Member, Supplier shall be solely responsible for remedying any Member’s pricing discrepancy. E&I and Supplier will conduct quarterly reviews to confirm aligned Members.

XVI. Data Privacy and Security [Negotiated]

- a. Data Protection. In the event that the Supplier serves in the capacity of a “business associate” as defined by HIPAA, in its interactions with the Members, Supplier shall comply with the terms and conditions set forth in the sample business associate agreement located at the website of the Department of Health and Human Services for the Office of Civil Rights (“OCR”), unless the Member and Supplier enter into a business associate agreement on mutually agreeable terms.
- b. E&I and Supplier agree and acknowledge that by entering into this Agreement, they have not established and do not intend to establish a “business associate” relationship, as defined by HIPAA. Under no circumstances will either Party request from the other Party, nor will the Party provide to the other Party, any protected health information
- c. Compliance with Applicable Law [Intentionally Omitted]
- d. FERPA. Student education records are protected by the federal Family Educational Rights and Privacy Act and its implementing regulations, 20 U.S.C. § 1232g, 34 C.F.R. § 99.1 et seq. (“FERPA”). Supplier should not receive or have access to any student education records in the provision of Products or performance of its Services or other obligations under this Agreement.

XVII. Confidentiality [Negotiated]

- a. Confidential Information. In the course of performing their respective obligations under this Agreement, the Parties acknowledge that each Party and their employees may come into the possession of proprietary or confidential information owned by or in the possession of the other Party (in such a case, the “Receiving Party”). Neither Party will share, disclose, or use any such information for its own benefit or make such information available to any third party, firm, corporation, or other organizations, whether or not directly or indirectly affiliated with either Party, without the written consent of the Party who owns or possesses the proprietary or confidential information (“Disclosing Party”) or unless required by law, regulation, or accounting oversight body in accordance with the process identified in (b) below.
 - i. Definition [Negotiated]. “Confidential Information” means information and data, including hard copy or electronic form, written or oral, which information is designated at the time of disclosure as confidential by the Disclosing Party. Notwithstanding the foregoing, the Parties agree that E&I’s membership list, provided pursuant to this Agreement, shall be considered Confidential Information even if such list is not identified as such in any or each instance. For clarity, the Parties further agree that E&I and Supplier may share information and/or documentation related to the not-to-exceed pricing under Exhibit A for Products and Services established in conjunction with this Agreement with Members.
 - ii. Exceptions [Negotiated]. Confidential Information does not include information that (1) becomes public through no breach of this Agreement by Receiving Party; (2) Receiving Party lawfully receives from a third party without restriction; or (3) Receiving Party develops independently without use of or reference to Disclosing Party’s Confidential Information, as shown by then-contemporaneous records kept in the ordinary course of business, or already had knowledge of prior to disclosure by Disclosing Party. The Parties’ obligations under this section will survive the termination of this Agreement for a period of three (3) years, except as related to trade secrets, which protection shall continue in perpetuity or for so long as such Confidential Information remains a trade secret.
 - iii. Obligations. The Parties agree that Disclosing Party’s Confidential Information shall not be shared or disclosed, except to those employees of Receiving Party who have a need to know based on the course and scope of their employment

with Receiving Party and as related to the performance of this Agreement. The Parties further agree that any Confidential Information provided pursuant to this Agreement shall only be used for the purpose of performing their obligations and responsibilities hereunder, and shall be held in confidence and protected with no less than the same degree of care in which each Party protects their own Confidential Information.

- b. Response to Legal Process. In the event the Receiving Party or any of Receiving Party's representatives is requested, pursuant to subpoena or other lawful demand, to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party prompt written notice so that the Disclosing Party may seek a protective order or other legal remedy and/or waive compliance with the provisions of this Agreement. In the event such protective order or other remedy is not obtained, or in the event the Disclosing Party waives compliance with the provisions of this Agreement, the Receiving Party or the Receiving Party's representative(s) shall furnish only that portion of the Confidential Information that is legally compelled to be disclosed.

XVIII. Warranties and Compliance with Specifications [Negotiated]

Any Supplier warranties, disclaimer of warranties, or other terms and conditions regarding the same are included, or can be addressed, in the Member-Specific Addendum. SUPPLIER MAKES NO WARRANTY OF ANY KIND OR NATURE WHATSOEVER, EITHER EXPRESS OR IMPLIED, IN FACT OR BY LAW, UNDER THIS AGREEMENT. SUPPLIER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT

XIX. Limitation of Liability [Negotiated]

FOR CLARITY, THE LIMITATION OF LIABILITY IN THIS SECTION IS APPLICABLE ONLY TO DAMAGES RESULTING FROM CLAIMS BETWEEN E&I AND THE SUPPLIER ANY LIMITATION OF LIABILITY FOR DAMAGES BETWEEN THE MEMBER AND THE SUPPLIER ARE TO BE SET FORTH IN THE MEMBER SPECIFIC ADDENDUM.

Except for the payment of any amounts owed to E&I under this Agreement, the Parties agree that the Parties shall have no liability for any direct damages, 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. ALL LIMITATIONS CONTAINED IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LIMITATIONS CONTAINED IN ANY RIDERS TO THIS AGREEMENT, SHALL APPLY REGARDLESS OF WHETHER THE CLAIM FOR DAMAGES IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT OR OTHERWISE, AND SHALL APPLY EVEN WHERE SUCH DAMAGES ARE CAUSED IN WHOLE OR IN PART, BY THE NEGLIGENCE, GROSS NEGLIGENCE OR ACTS AND OMISSIONS OF THE PARTY CLAIMING DAMAGES OR THE PARTY FROM WHOM DAMAGES ARE SOUGHT, REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ALL CLAIMS BY EITHER PARTY HAVING ANYTHING TO DO WITH THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE MADE IN WRITING WITHIN ONE HUNDRED EIGHTY (180) DAYS AFTER THE EVENT GIVING RISE TO SUCH CLAIM AND FAILURE OF THE PARTY MAKING THE CLAIM TO GIVE SUCH NOTICE SHALL CONSTITUTE A COMPLETE WAIVER BY THAT PARTY, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, OF ANY SUCH CLAIMS AND DEFENSE FOR THE OTHER PARTY AGAINST ANY SUCH CLAIMS. AS USED IN THIS SECTION, THE TERM "BUYER" AND "SELLER" SHALL INCLUDE NOT ONLY THE PARTY TO THIS AGREEMENT BUT ALSO ALL OF ITS AFFILIATES. THE PROVISIONS GOVERNING REMEDIES, LIMITATIONS OF LIABILITY AND INDEMNITY SET FORTH IN THIS AGREEMENT SHALL SURVIVE EXPIRATION, TERMINATION, OR CANCELLATION OF THIS AGREEMENT.

XX. Insurance, Licenses, and Permits

- a. Requirements if on Member's Premises. If fabrication, construction, installation, Services, or other work is specified to be conducted or performed on Member's premises, Supplier shall maintain in force during the period of such work the following coverages: (i) worker's compensation, as required by the laws of the state of Member; (ii) commercial general liability for bodily injury and/or property damage in an amount of \$1,000,000 single limit, per occurrence; (iii) automobile liability for bodily injury and/or property damage in an amount of \$1,000,000 single limit, per occurrence.
- b. General Requirements [Intentionally Omitted].
- c. Certificate of Insurance [Negotiated]. Supplier shall provide a certificate of insurance evidencing the insurance limits listed in Part (a) of this Section. E&I will be included as an additional insured up to the policy limits stated in Section XX. (a) but only with respect to those matters for which the Supplier is obligated to indemnify E&I for under the terms of this Agreement and only to the extent of the Supplier's indemnification obligations. Upon request, Supplier shall furnish to E&I satisfactory proof of such insurance coverage.
- d. Additional Coverage. Individual Members may require coverage in addition to the above limits. If the need for additional coverage develops, it will be the responsibility of the Member to arrange for such coverage with the Supplier. Supplier

shall furnish to Member satisfactory proof of such insurance coverage prior to commencement of the work, upon the Member's request.

XXI. Suspension or Debarment

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

XXII. Ability to Perform [Negotiated]

- a. Expropriation. Suppliers must notify E&I and Member if, by any existing agreement with any party, its operations, delivery vehicles, and/or personnel can be in any way expropriated or annexed. If such an agreement exists, Supplier must indicate when that agreement or those terms will expire.
- b. Ability to Perform [Negotiated]. Supplier agrees and acknowledges that it is able to perform its obligations under this Agreement and there is no existing agreement or other obligation that may impact its ability to perform under this Agreement.

XXIII. Non-Appropriation of Funds

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

XXIV. Conflicts of Interest and Non-Solicitation

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

XXV. General Terms and Conditions [Negotiated]

- a. Insolvency. In the event of any proceedings in bankruptcy or insolvency by or against Supplier, or in the event of the appointment (with or without its consent) of an assignee for the benefit of creditors or a receiver, E&I may terminate this Agreement without prior notice to Supplier without penalty, and without incurring any liability whatsoever to Supplier.
- b. Assignments. Neither Party shall assign or delegate this Agreement or any of their rights or obligations hereunder, in whole or in part, including by transfer of stock or ownership, without the other Party's prior written consent and an

executed agreement between the Parties regarding the same. Any purported assignment or delegation made without the other Party's prior written consent shall be void and of no effect.

- c. Strikes or Lockouts [Negotiated]. In the event Supplier should become involved in a labor dispute, strike or lockout, Supplier will be required to make whatever arrangements may be necessary to ensure that the conditions of this Agreement are met in their entirety. Should the Supplier be unable to fulfill its obligations under this Agreement, E&I and/or Member shall have the right to make alternative arrangements to ensure the satisfactory performance of the Agreement during the time Supplier is unable to perform. Any reasonable costs incurred by E&I and/or any Member as a result of such labor dispute, strike, or lockout shall be reimbursed by the Supplier, so long as such costs are communicated to Supplier by E&I and/or Member within thirty (30) days of when such costs were incurred.
- d. Force Majeure [Negotiated]. Neither Party shall be held responsible for delays, failures, or any losses related to the performance of the terms of this Agreement where such performance is outside of the performing party's control and the performing party exercised reasonable diligence to prevent such delay, failure, and/or loss. Such delays, failures, or loss may include, but shall not be limited to, acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, riot, war, act of terrorism, freight embargo, pandemic/epidemic, failure of public regulated utility or governmental statutes or regulations superimposed after the fact, or generalized lack of availability of raw materials or energy; provided that the Parties stipulate that Force Majeure shall not include the novel coronavirus Covid-19 pandemic, unless Covid-19 is again declared a public health emergency pursuant to an order by a public health official with the requisite authority to make such a declaration. The performing party shall be released without any liability on its part from the performance of its obligations under this Agreement, but only to the extent and only for the period of time that its performance of such obligations is prevented by circumstances of Force Majeure, and that the Party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and provided that such Party shall have given notice to the other Party within forty-eight (48) hours of the commencement of the event of Force Majeure. Such notice shall include a description of the nature of the event of Force Majeure, its cause, and its possible consequences, as well as the length of time the force majeure event is anticipated to last, if such time can be reasonably determined. The Party claiming circumstances of Force Majeure shall promptly notify the other Party of the conclusion of the event and immediately resume performance of its obligations under this Agreement.
- e. Independent Audit [Negotiated]. Members may audit the Supplier's records, that are between the particular Member that is requesting the records and the Supplier, pertaining to its compliance with the terms of this Agreement for up to two years after the conclusion of the Member's Member-Specific Addendum. The audit will be conducted by Member and/or its designee, provided that the Member and/or its designee have entered into a non-disclosure agreement with Supplier before the commencement of the audit, so long as such agreement does not limit Member's ability to use the results and/or report for business or legal purposes. Member will provide at least thirty days' prior notice to Supplier of its intent to audit Member records and will work with Supplier to find a mutually agreeable time and place for the audit. Supplier shall provide Member with reasonable access to records related to Supplier's performance under and compliance with the terms of this Agreement. The audit may address any or all of the following areas, as applicable, but may not be limited to: product compliance, pricing, order processing, order fulfillment, delivery records, invoicing, and receipt of payment. For clarity, the Member that is requesting to audit its respective records is not permitted to remove, copy, or photograph any of the records from the Supplier premises. In addition, the Member is not permitted to audit, see or view records that are not between the respective Member and the Supplier.
- f. Utilization of Diverse Suppliers. As used in this Agreement, "Diverse Supplier" means a supplier who maintains a valid certification as a minority, women, veteran (including disabled- veteran, service-disabled) or small business enterprise from any of the following organizations: (a) the National Minority Supplier Development Council (NMSDC), (b) the Women's Business Enterprise National Council (WBENC), (c) the US Department of Veteran Affairs, (d) US Small Business Administration, or (e) any third party certification organization approved in advance by E&I members. Supplier agrees to provide Diverse Suppliers with the maximum practicable opportunity to participate in any subcontracts or orders it may award in connection with this Agreement. Supplier, upon request and as agreed by the Parties, will report to E&I the amount of such purchases on a quarterly basis, or as otherwise reasonably requested by E&I, the level of diverse Supplier participation in support of this Agreement (Tier 2 Reporting) if applicable.
- g. No Waiver and Strict Compliance. The failure of either Party to exercise its right to terminate for cause due to the other Party's failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance. In addition, the failure of either Party to insist in any one or more instances upon the performance of any one or more provisions of the Agreement or to pursue any rights hereunder shall not be construed as a waiver of any such provisions

or the relinquishment of any such rights. The Parties may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

- h.** Agreement Modification. This Agreement may not be modified unless in writing and signed by E&I and Supplier.
- i.** Entire Agreement. This Agreement, together with any documents incorporated by reference and the attachments included hereto, constitutes the entire agreement between the Parties and supersedes all prior agreements or negotiations, whether written or oral, between the Parties.
- j.** Survival of Terms. The respective obligations of Supplier and E&I that by their nature would continue beyond the termination or expiration of this Agreement shall survive such termination or expiration.
- k.** Severability. If any provision of this Agreement is declared to be invalid, illegal or unenforceable, such declaration shall not in any way affect the validity or enforceability of any other provision.
- l.** Official Member List and Members Utilizing the Agreement. The E&I Official Member List, which may be updated from time to time, will be sent to the Supplier via an electronic file from E&I's Member Success Team upon execution of this Agreement. In addition, Supplier shall also provide to E&I, upon request, a complete list of all Members currently utilizing, or Members that at any point during the term of the Agreement utilized, this Agreement.
- m.** Relationship of the Parties. The relationship of the Parties is one of independent contractors, and this Agreement does not create a partnership, joint venture, or other relationship (e.g. principal-agent).
- n.** Notices. Any notice to be given by any party hereunder shall be in writing, mailed by certified mail, return receipt requested, or by delivery to a reputable overnight courier with a copy thereof furnished by email to the recipient's email address set forth below and shall be effective the earlier of (a) actual receipt or (b) five days after mailing or one day after delivery to overnight courier and shall be addressed as follows:

If to E&I: Andrew Brennan
Senior Vice President, Sourcing
E&I Cooperative Services, Inc.
2 Jericho Plaza, Suite 309
Jericho, NY 11753
abrennan@eandi.org

If to Supplier: Melissa Westphal
VP, Strategic Accounts Business
Airgas USA, LLC
259 Radnor-Chester Road, Suite 100
Radnor, PA 19087
262-255-7300 x1329
melissa.westphal@airgas.com

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

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

[signature page to follow]



Master Agreement
 Airgas USA, LLC
 Industrial, Laboratory Gases and Welding Products
 Master Agreement Number CR001268
 October 01, 2024

Airgas USA, LLC

Company



Signature

Melissa Westphal

Name

VP SABM

Title

9/6/2024

Date

E&I Cooperative Services, Inc.

Company



Signature

Sanjay Patel

Name

Vice President, Category Management

Title

9/6/2024

Date



Signature

Andrew Brennan

Name

Senior Vice President, Sourcing

Title

9/6/2024

Date

ATTACHMENT A - PRICING

a) **See Exhibit A-1: NOT-TO-EXCEED PRICING** – Cylinder Gases, Cylinder Rent, Bulk Facility Fees, Specialty Gas Equipment, and Welding Equipment & Consumables.
****Based on an E&I member's specific needs and requirements, Airgas may customize any of these prices for a custom campus-wide gas supply program****

b) **Rebates:**
 For all E&I Member customers, based on each Member’s YOY growth only on eligible commodities (all sales less ancillary charges and one-time equipment projects).

Above 5% growth YOY = 2.5% rebate
 Above 10% growth YOY = 5.0% rebate
 Above 20% growth YOY = 7.5% rebate

For all one-time equipment project sales over \$5K:
 \$5,000 to \$25,000 = 1.0% rebate
 Above \$25K = 2.0% rebate

c) **Fuel Surcharge Table:**

Average of Trailing 4 Week Diesel Prices Per Gallon		Fuel Charge Per Delivery
At Least	Up To	
	2.999	\$0.00
3.000	3.099	\$15.00
3.100	3.199	\$18.50
3.200	3.299	\$22.00
3.300	3.399	\$25.50
3.400	3.499	\$29.00
3.500	3.599	\$32.50
3.600	3.699	\$36.00
3.700	3.799	\$39.50
3.800	3.899	\$43.00
3.900	3.999	\$46.50
4.000	4.099	\$50.00
4.100	4.199	\$53.50
4.200	4.299	\$57.00
4.300	4.399	\$60.50
4.400	4.499	\$64.00
4.500	4.599	\$67.50
4.600	4.699	\$71.00
4.700	4.799	\$74.50
4.800	4.899	\$78.00
4.900	4.999	\$81.50

ATTACHMENT B - Services and Products Specific Terms

B1. Supplier Point of Contact for Member

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

B2. Orders/Purchases

Supplier understands that Members may have standard terms and conditions for ordering and agrees to work with Members related to any such terms and conditions.

B3. Invoices and Payment

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

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

B4. Order Fulfillment, Distribution, and Installation Agreements

Members will work with Supplier to define their own order fulfillment/distribution/installation requirements in the MSA. The terms and pricing of this Agreement are passed through to the Member and separate from any additional distributor terms and conditions, fees or markups resulting from Members' separate fulfillment/distribution/installation agreements.

B5. Delivery [Negotiated]

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

On time delivery varies by location and Product. Typically, any Product stocked locally can be delivered on the next scheduled delivery day. Some Product mixtures may take 4-6 weeks to be manufactured and delivered and Supplier will communicate this to Member at the time the order is placed. Other delivery terms may be agreed on a case-by-case basis between Supplier and Member. Delivery days and service expectations will be defined with each Member.

B6. Third Party Distributors/Subcontractors [Intentionally Omitted]

B7. Substitutions [Intentionally Omitted]

B8. Minimum Orders

Not Applicable

B9. Supplemental Charges [Negotiated]

The total amount due from Member may include various itemized charges, including but not limited to: charges for the handling of hazardous materials and for compliance with laws and regulations concerning hazardous materials; charges for handling, delivery, and shipping; and/or charges for energy or fuel (for fuel charges, see Supplier's Attachment A(c)). These charges will be specified and transparent to Member in the MSA and any other ordering documents.

B10. Emergency Purchases [Negotiated]

Emergency purchases, including any emergency delivery fees, will be defined and addressed in the MSA.

B11. Storage

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

B12. Tracking Lost and Damaged Shipments

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

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

B13. Returns [Negotiated]

Any terms and conditions related to a Member's request to return a product will be included as part of the MSA.

B14. Reasons for Return or Credit [Intentionally Omitted]**B15. Restocking Policy [Intentionally Omitted]****B16. General Warranty and Product Condition of Sale; Extended Warranty [Negotiated]**

Terms and conditions related to Supplier's warranties are included, or can be addressed, in the Member-Specific Addendum.

B17. Hazardous Materials and OSHA Communication Standards [Negotiated]

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

B18. User Manuals [Intentionally Omitted]**B19. New and Discontinued Products**

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

B20. Replacement Parts [Intentionally Omitted]**B21. Business Review Meetings**

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

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

B22. Reporting

Reporting requests are addressed in the MSA.



Master Agreement
Airgas USA, LLC
Industrial, Laboratory Gases and Welding Products
Master Agreement Number CR001268
October 01, 2024

B23. Employee Purchase Program [Intentionally Omitted]

B24. Resale [Intentionally Omitted]

B25. Samples [Intentionally Omitted]



Master Agreement
Airgas USA, LLC
Industrial, Laboratory Gases and Welding Products
Master Agreement Number CR001268
October 01, 2024

Attachment C – See EDGAR Certifications

Attachment D

Airgas Required Documents – 1 of these 3 documents must be executed by Member and Airgas to complete alignment process

The Airgas regional team will verify which document to be used

- (1) Member Specific Addendum (2 versions - with & without cryo storage language)**
- (2) Equipment Sales Agreement – for customer engineered or large equipment projects**
- (3) Airgas Letter of Participation – for one-time equipment projects for which an MSA or ESA is not required.**