

Electronic Auction Services, INC (“EASI”).
SUPPLIER AGREEMENT TERMS AND CONDITIONS
19PSX0088 Exhibit D

Electronic Auction Services, Inc (“EASI”) does not verify or validate any buyer information provided or representations made by users on the Solution, and makes no warranty of any kind to you concerning any buyer offerings using the Solution. You acknowledge EASI, its employees, agents and partners make no warranty of any kind, either express or implied, regarding the quality, accuracy or validity of any data and information available on the Solution, or residing or passing through its network, other than information and data that is provided directly to you from EASI. You further acknowledge any agreement entered into by you as the supplier of goods or services from a participating buyer is an agreement solely with such buyer, and EASI is in no way a party to or responsible for the performance of such agreement. Therefore: 1) EASI DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY TRANSACTION ENTERED INTO BETWEEN A PARTICIPATING PERSON OR ENTITY AND A SUPPLIER, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; AND 2) EASI FURTHER DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING INFORMATION SUPPLIED, OR REPRESENTATIONS MADE, BY ANY BUYER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION RELATING TO PRODUCT SUITABILITY, SPECIFICATIONS, OR REQUESTED AVAILABILITY, OR THE TRUTHFULNESS OR ACCURACY OF ANY OTHER INFORMATION OR REPRESENTATION MADE OR SUPPLIED BY A BUYER OR ANY OTHER SUPPLIER INVOLVED IN THIS AGREEMENT.

BY YOUR SIGNATURE BELOW, AND BY SUBSEQUENTLY USING THE SOLUTION, YOU AGREE TO COMPLY WITH ALL TERMS AND CONDITIONS SET FORTH BELOW AND WITH ALL INSTRUCTIONS FOR USE POSTED ON THE SOLUTION.

READ THIS AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE SIGNING. BY SIGNING, YOU WILL BE PERMITTED TO UTILIZE THE ELECTRONIC AUCTION SERVICES, INC. (“EASI”) INTERNET-BASED STRATEGIC SOURCING SOLUTION (“SOLUTION”) FOR THE PURPOSE OF PARTICIPATING IN THIS ONE-TIME, ON-LINE BIDDING EVENT. YOU WILL BE ALLOWED TO RECEIVE REQUESTS FOR INFORMATION AND QUOTATIONS AND TO SUBMIT BIDS AND PROPOSALS NECESSARY IN PARTICIPATING IN THE ONLINE BIDDING EVENT. SHOULD YOU CHOOSE NOT TO SIGN AND RETURN THIS AGREEMENT PRIOR TO THE ON-LINE BIDDING EVENT, YOU WILL BE DENIED ACCESS TO THE SOLUTION AND THE BIDDING EVENT.

1. Utilization. You are granted a one-time, non-transferable, non-exclusive right to access the Solution through EProcureLive website by the use of a password(s)

and/or access code(s) for the purpose of participating in a specific electronic online bid auction event. Any subsequent rights to access the Solution will require you to accept a new “Supplier Agreement Terms and Conditions”. EASI reserves the right to terminate your access to the Solution or any of its services at any time, if EASI shall determine, in its sole discretion, that you have violated any term(s) of this Agreement with respect to your access to and use of the Solution. In the event of such termination, EASI shall notify you immediately.

2. Responsibilities of the Parties. Subject to the terms and conditions of this Agreement, EASI will make available to you electronic access and use of the Solution for you to participate in a one-time, online bidding event. EASI will also provide such other assistance in the way of customer support and service as are set forth below. It is solely your responsibility when using the Solution to comply with all applicable local, state and federal statutes, ordinances, regulations, and policies governing the sales of goods or services by your company. EASI shall have no responsibility for ensuring sales of goods or services using the Solution will comply with such laws, ordinances, regulations, or policies. The Supplier, in using the system, has the responsibility for the sale including, but not limited to, the following:

- Accepting the terms and conditions of this agreement as contained in the Bid Package not less than 3 business days in advance of a scheduled event
- Selecting appropriate procurement opportunities to participate
- Preparing and assuring the completeness of any bids, quotes or proposals
- Submitting any bids, quotes or proposals electronically within the buyer established deadlines
- Maintaining with the Buyer, the security and the integrity of the bid procurement process
- Participating in any Pre-bid Conference(s) and telephonic tutorial for suppliers prior to an electronic event
- Compliance with all applicable legal requirements
- Establishing and adhering to the terms and conditions of buyer contracts
- Assuring proper authorization to enter into a contract and the proper administration of any resulting contract

As a supplier, you also acknowledge that EASI’s responsibilities are, but not limited to, the following:

- Clarifying bidding processes and timelines
- Hosting telephone tutorials with all suppliers on utilization of the electronic bid process
- Participating in any Pre-bid Conference(s)
- Conducting the electronic bid event and providing help desk support during the event

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➤ Publishing appropriate results to the users and obtaining feedback from participants

3. Conduit Services Only. The Solution provides only an Internet conduit through which the following may take place: (a) you may communicate the availability of your goods and services to potential buyers, (b) potential buyers may communicate their procurement needs to you and (c) you may respond to requests for quotations, bids or proposals in online bidding events. You will be entitled only to respond to requests of potential buyers for quotations, bids or proposals if you have accepted the terms and conditions of the Supplier Agreement. EASI makes no representation of any kind concerning the reputation, reliability or any other matter concerning participating buyers. EASI recommends you conduct your own inquiries concerning the qualifications and reputation of buyers, and you must look only to the buyers with whom you choose to transact business for performance of any agreements with them.

4. Buyer Representations and Warranties. EASI does not verify the information supplied or representations made by buyers on the Solution and makes no warranty of any kind to you concerning any buyer using the Solution. EASI recommends you look solely to the buyer with respect to any buyer-related information, representations and warranties.

5. Coded Access. Participation in the online bid event is available only to persons and entities who have read and agreed to the terms of this Agreement and who have been assigned access code(s) and/or password(s). You agree not to divulge your access codes or passwords to any other person or entity. EASI is not responsible for such unauthorized use of the Solution.

6. Availability and Operation of the Solution. While every effort will be made to keep the Solution operating during all scheduled hours of operation, no guarantee of uninterrupted operation can be given. You agree the services provided on the Solution are provided as is and that neither you nor your business will have any claim against EASI as a result of any non-availability of the Solution at a particular time or times or any failure of the Solution to operate as intended.

7. Sole Remedy. If you are dissatisfied with the functionality of this Solution or the services EASI provides, your sole remedy is to cease using the Solution. YOU AGREE THAT YOU HAVE, AND WILL HAVE, NO CLAIM OR RIGHT OF ACTION OF ANY KIND AGAINST EASI RELATED TO YOUR USE OF THE SOLUTION.

8. Virus. You hereby agree EASI will not be liable for any harm that may be caused by the inadvertent or deliberate transmission of any malicious computer software, or such other computer program transmitted through its website from a third party.

9. Information You Provide. You agree any information you provide about yourself or your agents when registering to use the Solution is accurate, current

and complete and you will maintain and update that information to ensure that it remains as such. If EASI suffers any claim or incurs any liability as a result of information entered into the Solution by users of your account, you and your business will indemnify EASI against such claim or liability including costs and attorneys fees incurred in defending against it.

10. Security. EASI uses industry-standard security measures to safeguard any information you may provide to us on our website. You, your organization and/or your agents have the responsibility to manage your internal security by safeguarding passwords and establishing your own internal security procedures, to assure the proper use of the Solution. In the event of any compromise in the security of the Solution, you agree to immediately report the same to EASI and a new password will be assigned for your use. EASI does not and cannot guarantee that information will remain secure.

11. Fees. The design, maintenance and operation of the Solution requires substantial costs and investment by EASI. Thus, a transaction fee (Transaction Fee) based on the total final purchase price stated upon award will be charged to the awarded supplier. The Transaction Fee for specific products and services for each event shall be owed by you and your company upon the execution of each awarded sale resulting from your submission of any request for quotations through this Solution. You hereby acknowledge that once you have viewed or received a request for quotation through or as a result of the Solution, and submitted an initial quotation of which a sale has ultimately been consummated as a result thereof, whether or not consummated through the Solution or other forms of bids or negotiations, you are obligated to pay the Transaction Fee to EASI if you are the awarded supplier. Said Fee will be assessed to the awarded supplier as follows.

Awarded Supplier Reporting and Payment Terms and Conditions: The Awarded Supplier will be responsible to pay the Transaction Fee of one percent (1.0%) to EASI for all payments received from the Buyer, any of its political subdivisions or any other entity (the “Buying Agent”) resulting from this bidding event or subsequent contract.

Upon notification of award from the Buyer, the Awarded Supplier is required to provide ACH, credit card account payment information, or invoice billing details (“Preferred Transaction Fee Payment Method”) to EASI. Awarded Suppliers paying via credit card will be charged an additional credit card processing fee of 3% of the Transaction Fee. EASI will charge the Awarded Supplier via the Preferred Transaction Fee Payment Method based on the terms below:

Term Purchases: For Term or ongoing purchases, Awarded Supplier is required to enter into the Solution all Buying Agent payments received (the “Payment” or “Payments”) and details of the items, quantities and prices associated with those Payment(s) received within ten (10) days of the end of each month. If Awarded Supplier fails to enter Buying Agent payment information by the 10th of the

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month EASI will charge to Supplier’s Preferred Transaction Fee Payment Method an amount equal to one month of the overall contract value estimated by the Buying Agent times the Transaction Fee percentage. The Transaction Fee will be charged to your Preferred Transaction Fee Payment Method on the fifteenth of each month.

Audit Right: the Buying Agent and EASI reserve the right to audit the accuracy of the Transaction Fees. Audits shall be conducted during regular business hours, upon not less than fifteen (15) business day’s prior written notice, and in such a manner as not to unreasonably interfere with the Awarded Supplier’s normal business activities. Transaction Fees will be due immediately for any errors or omissions disclosed by any such audit. If, as a result of any such audit, Transaction Fees are determined to have been underpaid by more than five percent (5%) for the period audited, Awarded Supplier shall pay for the costs of such audit.

12. Disclosures. You acknowledge by using the Solution, you agree to provide EASI accurate and complete information regarding (a) any agreement entered into by you with a participating buyer through or as a result of any online bidding event conducted through the Solution; (b) the final price agreed upon between you and the participating buyer with respect to the product or service sold to such buyer, and (c) the date payment (whether a payment in full or a partial or installment payment) is delivered to you by any buyer pursuant to any agreement entered into by you with a participating buyer through or as a result of any online bidding event conducted through the Solution. You understand and acknowledge you are to provide this information to EASI immediately upon becoming aware of such information and EASI relies upon your delivery of such information for the calculation and payment of its fees as set forth in Section 11.

You acknowledge and agree the buyers conducting online bidding events through the Solution may be governmental or quasi-governmental entities, and that, prior to entering into any binding agreement with you for the purchase of any product or service, such buyers may be required to comply with numerous state and local laws, regulations and ordinances with respect to the procurement of goods and services by governmental entities. You acknowledge and agree such compliance by participating buyers may involve public notice, public hearings, counsel meetings, and other lengthy processes.

13. Privacy Policy. You hereby acknowledge EASI has the right to monitor the Solution electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other government request, to operate its service properly, or to protect itself or its users. EASI reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable or in violation of this Agreement.

The information we receive depends on what you do when visiting the Solution. If you visit the Solution to read or download information, we collect and store only the following information about you: the name of the domain and host through which you access the Internet (for example, aol.com if you are connecting from an America Online account), and the date and time you access the Solution. We use this information to measure the number of visitors to different sections of the Solution, so that we can make the Solution more useful to our visitors. If you actively participate in using or providing any of the services offered through the Solution, we collect and store the personally identifiable information needed to facilitate this participation (typically your name, company name, mailing address, email address).

If you wish to use a link to another website or to do business with another user of the Solution, you may be asked by the other user to provide certain confidential information. You agree not to hold EASI responsible for any loss or damage of any sort incurred as a result of any such disclosure to another user through the Solution. We do not control the collection or use of this information, and make no representations about the privacy policies of other sites.

14. Reselling or Transfer. You agree not to resell or transfer your right to use the Solution to anyone, and you will not allow your access code or password to be used by any other company or unauthorized person.

15. Access to Internet. You agree that in order to use the Solution you must: (a) provide your own access to the Internet, and (b) provide all equipment necessary for you to make the connection to the Internet. EASI is not responsible for the speed, reliability and/or quality of your connectivity to the Internet.

16. Interference with Others. You agree not to use the Solution in a manner that would restrict or inhibit any other party’s use of such services.

17. Links to Other Sites. This Solution may link you to other sites on the Internet. These links are provided for your convenience but the sites to which the links connect are not under EASI’s control. You understand and agree that the linking of the system to other sites does not mean that these sites are endorsed by EASI, and EASI is not responsible for the legality, accuracy or any other aspect of the operation or content of any sites to which links are provided.

18. Copyright – How you May Use the Content of the Solution. The content of this Solution (the “Content”) is protected by intellectual property laws of both the United States and foreign jurisdictions. You may download, use, and copy the materials found on the Solution for your internal business use only, provided that all copies that you make of the material must bear any copyright, trademark, or other proprietary notice located on the Solution which pertains to the material being copied. This material is not for republication, except as authorized in this paragraph. You are not being granted a license under any copyright, trademark, patent, or other intellectual property right in the material or the services,

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processes, or technology described therein. All such rights are retained by EASI and/or any third party owner of such rights. You may not sell or modify the Content or reproduce, display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use of the Content on any other website or in a networked computer environment for any purpose is prohibited. None of the Content, including any software, may be reverse engineered, disassembled, decompiled, reproduced, transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means, resold, or redistributed without the prior written consent of EASI, except as described herein. Nothing in this paragraph prohibits you from printing, using or reproducing any records or reports of your transactions using the Solution.

19. Framed Links. You may not create framed links to the Solution without express written permission from EASI.

20. Modification. EASI, in its sole discretion, has the right to modify this Agreement at any time. Any modification is effective upon either posting notice of such modification on EASI’s website or upon notice by certified mail. Your continued use of the Solution following notice of any modification to this Agreement shall be conclusively deemed an acceptance of all such modifications.

21. Non-Circumvention. You agree you will not, directly or indirectly, take any action with the Buyer or any other Suppliers involved in this specific event which circumvents or attempts to circumvent the intent or purpose of this Agreement. Further, you agree that once (1) you have agreed to the terms and conditions contained herein and 2) electronically viewed or received a specific request for quotations from a buyer through the Solution, you will not, directly or indirectly, enter into any agreement related to such specific request for quotations with such buyer outside the Solution or in any manner such as paper or verbal bids which would result in your failure to pay to EASI the fee set out in Section 11 hereof. You agree to maintain confidentiality between the Buyer, your company and its representatives and EASI regarding the submission of quotations and subsequent pricing before and during the auction event.

22. Governing Law. This Agreement and the rights of the parties to this Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to or application of its conflict of laws principles.

23. Partial Enforceability. If any provision of this Agreement, or the application of any provision to any person, entity or circumstance shall be held

invalid, illegal or unenforceable, then the remainder of this Agreement, or the application of that provision to persons, entities or circumstances other than those with respect to which it is held invalid, illegal or unenforceable, shall not be affected thereby.

24. Entire Agreement. This Agreement represents the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements, negotiations, correspondence, undertakings and communications between such parties representing such subject matter.

25. No Consequential Damages. Except as prohibited by law, each party hereto waives any right it may have to claim or recover any special, exemplary, punitive or consequential (including business interruption), or any damages other than, or in addition to, actual damages.

26. Headings. The headings in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement.

YOUR SIGNATURE BELOW IS YOUR ACKNOWLEDGEMENT THAT YOU HAVE READ AND FULLY UNDERSTAND THE FOREGOING AND AGREE TO ABIDE BY ITS TERMS AND CONDITIONS IN THEIR ENTIRETY.

❖ I understand that if “I Do Not Accept” the terms listed in this Agreement or if I do not respond to this Agreement, EASI cannot allow me or my company to participate in the online bid.

I accept the terms listed in this agreement as well as Appendix A

Company Name _____

Name _____

Title _____

Signature _____

Date _____

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Appendix A

Please Review the following rules for participating in an Online Electronic Bid Event:

- I acknowledge that I have received and fully understand the training and I am capable of bidding in the online event. If someone else is designated by me to bid in this event, I take responsibility for that bidder’s capabilities, will notify EASI, and I acknowledge that this Agreement will apply to the designated bidder.
- I understand that I should not attempt to troubleshoot any [technical problems](#) on my own, especially problems I am experiencing in the bid event and that I should call EASI IMMEDIATELY at 855-405-2253.
- I understand that if I encounter any [difficulties in placing a bid](#) that I am to contact EASI via phone immediately and that, if necessary, EASI will assist me in placing a bid. I understand that adequate time must be provided to EASI to assist me and agree that EASI is not liable if I am unable to place a bid for any reason before the online bid closes.
- I understand that the [official bid clock](#) is maintained by EASI’s server and due to Internet connection speeds the bid clock on my computer may vary. For this reason, it is important that I submit my bid with ample time remaining in the bid event to prevent late bids from being rejected due to the lag in connection speeds and clock times. Ultimately, EASI’s server is the bid clock and by following instructions in this document, I will minimize the possibility that my intended bid will not be accepted.
- I understand that in some cases, an electronic bid [might be re-opened](#) if technical issues prevented a bidder or bidders from placing bids and those issues were brought to EASI’s attention immediately. I acknowledge that a re-opening decision will be at the discretion of EASI and the Buyer. Due to the possibility of a re-opening, I understand that I should remain logged on and attentive to the EASI Auctions site until a broadcast message announces the bid has officially closed.
- I understand that EASI is under [no obligation to re-open](#) a bid for a bidder to place a bid for any reason, particularly if a bidder does not contact EASI immediately after attempting to place a rejected bid.
- I understand that the Buyer has the [right to reject any and all bids](#) and that possessing the low bid does not necessarily guarantee that the low bidder will be awarded.
- I understand that I should review all [Bid Package](#) files/documents uploaded to the Bid Manager Event or provided by the Bid Manager
- I understand that if I do not place a [test bid](#) in the training electronic bid (using the same machine I will use for the live auction), EASI will not provide assistance, including placing bids on my behalf (proxy bidding) should I experience technical problems before or during the auction.
- I understand that EASI recommends I make the following [precautions](#) to avoid any technical issues during the Electronic Bid Event:
 - I should arrange for another computer to act as a [backup](#) in case something happens to my computer during the auction. I should log into <http://ra.eauctionservices.com> prior to the live auction and place test bids in the training auction using this backup computer to make sure it will function properly in case it needs to be used as a back up during the bid event.
 - I should make sure no [other programs](#) are running during the auction to prevent my computer from running slowly and not getting my bid submitted in time.
- I understand that [important changes](#) to the configuration of the Electronic Bid Event or terms of the bid may be made after this communication is sent and that I must review all Bid Manager messages, emails, calls, and bid notices on site broadcast messages sent from EASI and the Buyer carefully and diligently.