

This Agreement entered into as of the first of March in the year of 2021.

MASTER AGREEMENT

between

Cooperative Council of Governments

6001 Cochran Road, Suite 333
Cleveland, Ohio 44139

and

W.W. Grainger, Inc.

100 Grainger Parkway
Lake Forest, Illinois 60045

and

Equalis Group LLC

5550 Granite Parkway, Suite 298
Plano, Texas 75024

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THIS MASTER COOPERATIVE PURCHASING AGREEMENT (this "**Master Agreement**"), effective as of March 1, 2021 (the "**Effective Date**"), is entered into by and between The Cooperative Council of Governments, Inc., an Ohio non-profit corporation organized as a regional council of governments under Chapter 167 of the Ohio Revised Code, with its principal place of business at 6001 Cochran Road, Suite 333, Cleveland, Ohio 44139 ("**CCOG**"), W.W. Grainger, Inc., an Illinois corporation with its principal place of business at 100 Grainger Parkway, Lake Forest, IL 60045 ("**Grainger**"), and Equalis Group LLC, a Delaware limited liability company with its principal place of business at 5550 Granite Parkway, Suite 298, Plano, Texas 75024 ("**Equalis**"). Throughout this Master Agreement, CCOG, Grainger, and Equalis are referred to interchangeably as in the singular "**Party**" or in the plural "**Parties**."

SECTION 1. RECITALS

- A.** CCOG is a Council of Governments formed under Chapter 167 of the Ohio Revised Code and established for the purpose of (a) developing and implementing certain sound business practices and processes as shared services to be made available to its members, and (b) serving as a lead public agency (a "**Lead Public Agency**") for Equalis Group ("**Equalis Group**"), a national cooperative purchasing organization, by publicly procuring Master Agreements for products and services to be made available to current and prospective Equalis Group members ("**Equalis Group Member**" or "**Member**").
- B.** Equalis is the third-party procurement administrator for and duly authorized agent of CCOG, and in that role manages the procurement, marketing, sales, reporting, and financial activities of, for, and on behalf of CCOG at the direction and with the authorization of the CCOG Board of Directors.
- C.** To the extent that the laws of a state, region, territory, and/or country permit, any public sector entity may join Equalis Group as a Member. The term "**Public Sector Entities**" includes, but is not limited to, political subdivisions, municipal corporations, counties, townships, villages, school districts, special districts, public institutions of higher education or training, units of government, state/regional/territorial agencies, state/regional/territorial governments, federal/national agencies, federal/national governments, and other entities receiving financial support from tax monies and/or public funds.
- D.** Any organization that is exempt from federal income tax under Section 501(c)(3) of the IRS Code, and any other entity if permitted under the IRS Code and other applicable law, including for-profit companies, may also join Equalis Group as a Member.
- E.** Equalis Group makes its Master Agreements available through groups and associations ("**Association Partners**") that contract with Equalis for the purpose of providing additional benefits to the members of such Association Partners.
- F.** Members, Association Partners, and Association Partners' members are referred to throughout this Master Agreement as Equalis Group participants ("**Equalis Group Participants**").
- G.** CCOG issued request for proposal ("**RFP**") #COG-2108 dated October 2, 2020 for contracting on behalf of Equalis Group Participants for maintenance, repair, and operations supplies with related services & solutions ("**Products & Services**") and awarded a contract to Grainger as the lowest responsive and responsible bidder.
- H.** Grainger desires to promote and expand its operations and increase the sales of its Products & Services to public sector and non-profit organizations through Equalis Group.
- I.** CCOG and Equalis agree to make the Products & Services from Grainger available to Equalis Group Participants and Grainger agrees to provide the same to Equalis Group Participants who purchase Products & Services ("**Program Participants**") subject to the terms of this Master Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following terms and conditions:

SECTION 2. BUSINESS TERMS

2.1. Appendices. Grainger agrees to provide Products & Services to Program Participants as may be agreed to by the Parties in accordance with the specific terms and conditions set forth in this Master Agreement and the appendices attached hereto and made a part of this Master Agreement (if one, an “**Appendix**” or more, “**Appendices**”).

- (i) **Appendix A** defines the Term of this Master Agreement and Addresses for Notices.
- (ii) **Appendix B** sets forth the Products & Services and pricing available to Program Participants under this Master Agreement.

2.2. Terms in Appendices. In all cases where the terms of this Master Agreement and any Appendices disagree, the terms in the Appendix shall control.

2.3. Utilization of Products & Services. Purchases of the Products & Services from Grainger may only be made by any Equalis Group Participant upon execution of such credit applications, forms, agreements, appendices, or other documentation (“**Customer Agreements**”) as mutually agreed upon by Grainger and Equalis.

2.4. Personnel & Equipment. The Parties agree that the number and types of any subcontractors, personnel, or specialized equipment which may be required to furnish Products & Services to Program Participants will be determined by Grainger. Grainger agrees to engage the number and types of subcontractors, personnel, and/or specialized equipment necessary to furnish the types of Products & Services as specified in **Appendix B** to all Program Participants throughout the Term, as defined in **Appendix A**, of this Master Agreement and any Customer Agreement.

2.5. Rates & Charges. The rates, fees, and charges to be charged to and paid by Program Participants for Products & Services are set forth in **Appendix B**. Grainger agrees that there are no other applicable rates, fees, charges, or other monetary incentives for Products & Services except those set forth in **Appendix B**.

SECTION 3. TERMS & CONDITIONS

3.1. Independent Contractors. In the performance of this Master Agreement, Grainger shall be an independent contractor to CCOG and Equalis, and shall not be or act as, or be deemed to otherwise be an agent, employee, or representative of CCOG, Equalis, or any Equalis Group Participant. CCOG and Equalis shall be independent contractors to Grainger, and shall not be or act as, or be deemed to be agents, employees, or representatives of Grainger. Grainger’s employees will not be deemed to be CCOG’s and/or Equalis’ employees or employees of any Equalis Group Participant, and CCOG’s and Equalis’ employees will not be deemed to be Grainger’s employees. Nothing contained in an Appendix or this Master Agreement may be construed to be inconsistent with that relationship or status. No Party exercises direct control or supervision over the employees of the other Parties and, in fact, each Party disavows any right to do so, and no Party in any way directs the operations of the other Parties or the manner of the other Parties’ performance. No partnership, joint venture, or other relationship between the Parties or any Equalis Group Participant is created hereby.

3.2. Operational Control.

- (a) **Grainger Control.** As between the Parties, Grainger shall have sole and exclusive control over the manner in which Grainger and its employees, agents, subcontractors, and suppliers perform its responsibilities under this Agreement. Grainger shall engage, employ, or subcontract with such individuals or other entities as it may deem necessary in connection therewith, provided, however, that Grainger furnishes the types and quantities of Products & Services specified in **Appendix B** to all Program Participants purchasing Products & Services throughout the Term of this Master Agreement and Grainger executes its

roles and responsibilities in accordance with any Customer Agreements. Such individuals shall not be considered employees or subcontractors of CCOG, Equalis, or any Equalis Group Participant, and shall be subject to employment or engagement, and discharge, discipline, and control solely and exclusively by Grainger.

(b) **Equalis Control.** As between the Parties, Equalis shall have sole and exclusive control over the manner in which Equalis and its parent company, employees, agents, subcontractors, and suppliers perform its responsibilities under this Master Agreement. Equalis shall engage, employ, or subcontract with such individuals or other entities as it may deem necessary in connection therewith. Such individuals shall not be considered employees or subcontractors of CCOG, Grainger, or any Equalis Group Participant, and shall be subject to employment or engagement, and discharge, discipline, and control solely and exclusively by Equalis.

(c) **Taxes.** Except as otherwise specified herein, each Party shall be solely responsible for the payment of any and all wages and fringe benefits, local, state, and federal payroll taxes or contribution of taxes for unemployment insurance, pensions, workers' compensation, and other Social Security and related protection with respect to those employees engaged by that Party pursuant to the performance of this Master Agreement. Each Party will make and submit, in its name, all reports and payments required by federal, state, or local laws related to its employees, agents, subcontractors, and suppliers.

3.3. Technical Systems; Intellectual Property. Grainger shall retain title to its proprietary systems and methodologies used in connection with the delivery of Products & Services during the course of this Master Agreement, including, but not limited to, descriptions of the systems or methodologies, document templates, and/or project tools and software, whether owned by Grainger or licensed to Grainger by a third Party and incorporated into any sale of Products & Services ("**Grainger Systems and Methods**"). As needed, Grainger shall grant a limited license to all Program Participants subject to this Master Agreement to use Grainger's Systems & Methods during the Term of this Master Agreement and for the duration of any Customer Agreements established between Grainger and a Participant to purchase Products & Services subject to the terms of this Master Agreement until such Customer Agreements expire or are terminated.

3.4. Confidentiality.

(a) **Obligation.** The nature and details of the business relationship established by this Master Agreement, and the business information regarding the other Party(s) (the "**Disclosing Party**") to which a Party(s) (the "**Receiving Party**") may become privy during the Term of this Master Agreement (collectively, the "**Information**") constitute confidential and proprietary information, the disclosure, copying, or distribution of which could result in competitive harm to the Disclosing Party. Each Party agrees to maintain the other Parties' Information in the strictest confidence and agrees not to disclose, copy, or distribute the other Parties' Information, whether orally or in writing, directly or indirectly, in whole or in part, except to those of the Receiving Party's employees, agents, subcontractors, and suppliers with a need to know the Information. The foregoing will not limit a Receiving Party, for purposes of marketing, from informing actual or potential Equalis Group Participants of the existence of a contractual relationship between the Parties. The Parties further agree that they will require that all of their employees, agents, subcontractors, and suppliers abide by the terms of these confidentiality obligations. The confidentiality obligations set forth in this section will continue in effect for the Term of this Master Agreement and for a period of two (2) years after the date this Master Agreement is terminated or expires.

(b) **Exceptions.** Nothing herein will apply to any information (a) which is or becomes generally available to the public other than as a result of a disclosure by a Receiving Party or its representatives, (b) which was available on a non-confidential basis prior to its disclosure by the Disclosing Party or its representatives, (c) which becomes available to a Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its representatives, provided that such source is not known to be subject to any prohibition against transmitting the information, (d) which is disclosed pursuant to an order of court;

provided that in the event that proprietary information is disclosed or threatened to be disclosed pursuant to this clause (d), the Receiving Party will give the original Disclosing Party prompt, written Notice, as hereinafter defined, of such threatened disclosure and the right to defend against such disclosure, at Disclosing Party's expense, and provided further that the original Receiving Party will cooperate reasonably in such defense, or (e) which is subject to a Freedom of Information Act Request or other public records request to which a Party is, or may be, required to respond by applicable law.

3.5. Indemnification.

(a) **Grainger Indemnification.** Except as otherwise provided herein and to the extent permitted by law, Grainger shall indemnify, defend, and hold harmless ("**Indemnifying Party**") CCOG and Equalis, and their respective officers, directors, employees, agents, subcontractors, suppliers, and all Equalis Group Participants subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement, and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, or noncompliance with applicable laws of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to a claim under this Master Agreement, the liability of the Indemnifying Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, or noncompliance with applicable laws.

(b) **CCOG Indemnification.** Except as otherwise provided herein and to the extent permitted by law, CCOG shall indemnify, defend, and hold harmless ("**Indemnifying Party**") Grainger, its officers, directors, employees, agents, subcontractors, and suppliers subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement, and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, or noncompliance with applicable laws of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to a claim under this Master Agreement, the liability of the Indemnifying Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, or noncompliance with applicable laws.

(c) **Equalis Indemnification.** Except as otherwise provided herein and to the extent permitted by law, Equalis shall indemnify, defend, and hold harmless ("**Indemnifying Party**") Grainger, its officers, directors, employees, agents, subcontractors, and suppliers subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, or noncompliance with applicable laws of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to a claim under this Master Agreement, the liability of the Indemnifying Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, or noncompliance with applicable laws.

3.6. Notice & Opportunity to Defend; Limitations & Thresholds.

(a) **Notice; Opportunity.** If any Losses are asserted against an Indemnified Party, such Indemnified Party shall notify the Indemnifying Party as promptly as practicable and give it an opportunity to defend the same. The Indemnified Party shall reasonably cooperate with the Indemnifying Party in connection with such defense. In the event that the Indemnifying Party in connection with such claim fails to defend against the claim within thirty (30) days after Notice of such claim, the Indemnified Party shall be entitled to assume the defense thereof, and the Indemnifying Party shall be liable to repay the Indemnified Party entitled to indemnification for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees and settlement payments) until the Indemnifying Party assumes such defense. The attorneys prosecuting such defense on behalf of a Party must be acceptable to the Indemnified Party, which acceptance shall not be unreasonably withheld.

(b) **Liability.** Notwithstanding any other provision of this Master Agreement, indemnity obligations entered into hereunder shall be due only to the extent of the Losses actually suffered by an Indemnified Party (i.e., reduced by any offsetting or related asset or service received and any recovery from any third Party). The Indemnifying Party's insurance shall be subrogated to all rights of the Indemnified Party against any third party with respect to any claim for which indemnity was paid.

3.7. Grainger Insurance. During the Term of this Master Agreement, and for two (2) years following expiration or termination of this Master Agreement, Grainger, at its own expense, shall maintain and shall require that its agents and subcontractors, engaged in Grainger's performance of its duties under this Master Agreement maintain general liability insurance, property insurance, and automobile insurance (at a minimum, in the amount of \$1,000,000 per occurrence/\$5,000,000 annual aggregate) applicable to any claims, liabilities, damages, costs, or expenses arising out of its performance under this Master Agreement, or any Appendix, and with respect to, or arising out of, Grainger's provision of Products & Services to Program Participants. CCOG, Equalis, and their respective officers, directors, employees, and agents will be named as additional insureds on Grainger's related insurance policies. All such insurance policies shall incorporate a provision requiring the giving of written Notice to CCOG and Equalis at least thirty (30) days prior to the cancellation, nonrenewal, and/or material modification of any such policies. Grainger shall submit to Equalis within ten (10) calendar days after the Effective Date of this Master Agreement, and prior to furnishing Products & Services to any Program Participants, valid certificates evidencing the effectiveness of the foregoing insurance policies. Grainger shall provide such valid certificates on an annual basis until the terms of this section are no longer applicable.

3.8. Termination Rights. The Parties shall have the termination rights set forth below.

(a) **Insolvency.** If a petition in bankruptcy is filed by any Party, or if any Party is adjudicated as bankrupt, or if any Party makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the insolvency of any Party, then the other Parties, without prejudice to any other right or remedy, may terminate this Master Agreement upon giving at least five (5) business days prior written Notice of such termination.

(b) **Mutual Consent.** This Master Agreement, or any Appendix, may be terminated at any time by the mutual written consent of the Parties.

(c) **Breach.** In the event that any Party commits a material breach of its obligations under this Master Agreement, except for a payment obligation, the non-breaching Party(ies) may provide written Notice describing the material breach to the breaching Party. The breaching Party will have thirty (30) calendar days to cure such breach or provide acceptable reassurance to the non-breaching Party(ies), or, if the Parties agree that a cure or reassurance is not feasible within thirty calendar (30) days, such period of time for cure or satisfactory reassurance as the Parties may agree in writing. If the breach is not cured within such period or if satisfactory reassurance is not accepted by the non-breaching Party(ies) in such period, then the Party(ies)

not in breach may terminate this Master Agreement upon ten (10) business days written Notice at the Addresses for Notices set forth in **Appendix A**.

3.9. Effects of Termination. Upon termination of this Agreement for any reason, all Customer Agreements entered into with Program Participants shall immediately terminate. Grainger shall immediately cease any sales of Products & Services to any Program Participant under and through the terms of this Master Agreement. Following the date of termination, Grainger shall not be precluded from selling its products and services to individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect either directly or through some other contract vehicle. Following the date of termination, CCOG and Equalis shall not be precluded from transitioning individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect to another agreement or Equalis Group supplier partner.

3.10. Audit of Grainger. CCOG and Equalis, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Grainger's provision of Products & Services to Program Participants, to ensure that pricing, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Grainger and so as not to unreasonably interfere with Grainger's business or operations.

3.11. Force Majeure. This Master Agreement will be temporarily suspended during any period to the extent that any Party during that period is unable to carry out its obligations under this Master Agreement or the Appendices by reason of an Act of God or the public enemy, epidemics, act of terrorism, fire, flood, labor disorder not caused by Grainger, civil commotion, closing of the public highways not caused by Grainger, government interference, government regulations, or any other event or occurrence beyond the reasonable control of the affected Party ("**Event of Force Majeure**"). No Party will have any liability to the other Party(ies) for a delay in performance nor failure to perform to the extent this Master Agreement or any Appendix is so temporarily suspended; provided that nothing contained herein shall apply to payment obligations with respect to obligations which have already been performed under this Master Agreement.

3.12. Notices. All notices, claims, certificates, requests, demands, and other communications required or permitted hereunder ("**Notice**") must be in writing and will be deemed given to the Addresses for Notices (a) when delivered personally to the recipient, (b) upon delivery by reputable overnight courier service (charges prepaid), or (c) upon delivery or refusal of delivery by certified or registered mail, return receipt requested, and addressed to the intended recipient. The Parties agree that the day-to-day business communications, including notification of a change of address, pricing updates, or revisions to any Appendix, may be made via electronic communication.

3.13. Waiver. Other than the rights and obligations with respect to payment provided by this Master Agreement, waiver by any Party(ies) of or the failure of any Party(ies) hereto to enforce at any time its rights with regard to any breach or failure to comply with any provision of this Master Agreement by the other Party(ies) may not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other future breach of or failure to comply with the same provision or any other provision of this Master Agreement.

3.14. Governing Law; Invalidity. This Master Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Ohio without regard to rules of conflict of laws. If any provision of this Master Agreement is declared unlawful or unenforceable by judicial determination or performance, then the remainder of this Master Agreement shall continue in force as if the invalidated provision did not exist. Any suits filed by any Party pursuant to this Master Agreement shall be brought in a court of competent jurisdiction located in Cuyahoga County, Ohio. In the event any Party initiates a suit and that suit is adjudicated by a court of competent jurisdiction, the prevailing Party shall be entitled to reasonable attorney's fees and costs from the non-prevailing Party in addition to any other relief to which the court determines the prevailing Party is entitled or awarded.

3.15. Modification. No release, discharge, abandonment, waiver, alteration, or modification of any of the provisions of this Master Agreement, or any of the Appendices incorporated herein, shall be binding upon any Party unless set forth in a writing signed by authorized representatives of the Parties.

3.16. Assignment. This Master Agreement and the rights and obligations hereunder may not be assignable by any Party hereto without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. This Master Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Any instrument purporting to make an assignment in violation of this section shall be null and void. This Master Agreement may be extended to additional entities affiliated with the Parties upon the mutual agreement of the Parties. No such extension will relieve the extending Party of its rights and obligations under this Master Agreement.

3.17. No Third-Party Beneficiaries; Survival of Representations. This Master Agreement is made solely for the benefit of the Parties to it, and no other persons will acquire or have any right under or by virtue of this Master Agreement. Except as otherwise provided herein, all representations, warranties, covenants, and agreements of the Parties shall remain in full force and effect regardless of any termination of this Master Agreement, in whole or in part.

3.18. Entire Agreement. This Master Agreement, together with all attachments, appendices, and exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations and agreements with regard to the same subject matter. The Parties acknowledge that this Master Agreement has been negotiated and incorporates their collective agreement as to the provisions to be contained herein. Therefore, no presumption will arise giving benefit of interpretation by virtue of authorship of any provision of this Master Agreement, and any ambiguity may not be construed for or against any Party. Grainger's complete and final RFP response is hereby incorporated into and made part of this Master Agreement.

3.19. Execution in Counterparts. This Master Agreement may be executed in one or more counterparts, each of which will be deemed an original. For purposes of this Master Agreement, a facsimile, scanned, or electronic signature will be deemed an original signature.

3.20. Titles, Headings & Recitals. The Preamble to this Master Agreement is hereby incorporated herein and made part of this Master Agreement. The Recitals stated within this Master Agreement are deemed to be a part of this Master Agreement. The titles and headings of the sections and paragraphs of this Master Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Master Agreement.

3.21. Nondiscrimination & Intimidation.

(a) Grainger expressly agrees that in the hiring of employees for the performance of work or services under this Master Agreement or any subcontract that are within the State of Ohio, Grainger, its subcontractors, or any person acting on a Grainger's or its subcontractor's behalf shall not discriminate in the hiring of employees by reason of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code nor shall it discriminate against any citizen of the State of Ohio in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.

(b) Grainger expressly agrees that Grainger for performance with in the State of Ohio, any of its subcontractors, or any person on behalf of Grainger or its subcontractors in any manner shall not discriminate against or intimidate any employee hired for the performance of work or services under this Master Agreement on account of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code, or color.

(c) Grainger expressly agrees to include the provisions of this section in each of its written subcontractor agreements within the State of Ohio for the Products & Services subject to this Master Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Master Agreement to be executed by their duly authorized representatives as of the Effective Date.

**THE COOPERATIVE COUNCIL OF
GOVERNMENTS, INC.**

By: *Scott A. Morgan*
Scott A. Morgan (Mar 3, 2021 11:17 EST)

Name: Scott A. Morgan

As: CCOG Board President
Mar 3, 2021

Date: _____

W.W. GRAINGER, INC.

By: 
Raymond R. Douglas (Mar 3, 2021 10:16 CST)

Name: Ray Douglas

As: Senior Director
Mar 3, 2021

Date: _____

EQUALIS GROUP, LLC.

By: *Eric Merkle*

Name: Eric Merkle

As: SVP
Feb 23, 2021

Date: _____

APPENDIX A: TERM OF AGREEMENT; NOTICES

This Appendix may be modified at any time with the mutual written consent of the Parties.

1. The Term.

This Master Agreement and the Appendices attached hereto will become effective as of the Effective Date. This Master Agreement will remain in effect for approximately three (3) years and expire on February 29, 2024 (the "**Termination Date**") unless extended or unless otherwise terminated or cancelled as set forth in the Master Agreement (the "**Initial Term**"). This Master Agreement may be renewed at any time by the mutual written consent of the Parties (each a "**Renewal Term**") unless this Master Agreement is terminated as set forth herein. The Initial Term together with all Renewal Terms exercised are hereinafter collectively referred to as the "**Term.**"

2. Addresses for Notices.

a. If to CCOG:

The Cooperative Council of Governments, Inc.
Attn: Board President
6001 Cochran Road, Suite 333
Cleveland, Ohio 44139
Facsimile: 440.337.0002

b. If to GRAINGER:

and with copy to:

W.W. Grainger, Inc.
Attn: Mike Klotz
Government Program Manager
100 Grainger Parkway
Lake Forest, IL 60045-5201
Cell: 504-382-0355
Mike.Klotz@grainger.com

W.W. Grainger, Inc.
Attn: Legal Department
Government Contracting
100 Grainger Parkway
Lake Forest, IL 60045-5201

c. If to EQUALIS:

Equalis Group, LLC.
Attn: Eric Merkle, SVP
5550 Granite Parkway, Suite 298
Plano, Texas 75024

APPENDIX B: PRODUCTS & SERVICES; PRICING

The following terms and conditions will apply to any purchase or utilization of the Products & Services from Grainger. This Appendix may be modified at any time with the mutual written consent of Grainger and Equalis.

1. MRO Products: Market Basket

Grainger agrees to supply Program Participants those maintenance, repair, and operations supplies products (“**MRO Products**”) in Grainger’s catalog (the “**Grainger General Catalog**”) as set forth in the market basket (the “**Market Basket**”) in the attached **Appendix B-1**, which is hereby incorporated in this **Appendix B** by reference. The initial Market Basket prices will be held firm for the first six (6) months of this Agreement. Every six (6) months from the Effective Date, Grainger will provide Equalis with an updated Market Basket price file no less than thirty (30) days prior to the end of the six-month period. Market Basket prices may be adjusted every six (6) months with the mutual written consent of Grainger and Equalis, including via email.

All proposed pricing and MRO Products changes to the Market Basket must be provided to Equalis using the same format as the initial **Appendix B**.

Should it become necessary or proper during the term of this Agreement to make any change to the terms and conditions of this Agreement that will increase MRO Products pricing outside the contractually allowed changes, Grainger must notify Equalis immediately in writing, including via email. Market Basket price increases must be approved by Equalis or otherwise adjusted in accordance with the terms of this Agreement and no payment for additional MRO Products, beyond the amount stipulated in this Agreement, shall be paid by any Program Participant without prior Equalis approval of such price changes.

2. MRO Products: Category Discounts and Incentive & Growth Program

For MRO Products available through Grainger’s General Catalog that are not included in the Market Basket, Grainger agrees to provide discounts by catalog category (“**Category Discounts**”). The categories and Category Discounts are defined in the attached **Appendix B-2**, which is hereby incorporated in this **Appendix B** by reference. Category Discounts are calculated as a percentage discount from the established Grainger “**Contract Reference Price**”.

Appendix B-2 may be modified at any time with the mutual written consent of Grainger and Equalis, including via email.

Category Discounts offered to Program Participants will be applied to the Grainger’s Contract Reference Price in effect at time of purchase for MRO Products. Discounts will remain firm for the term of this Agreement. Individual MRO Product Contract Reference Prices are subject to change up to three (3) times per year. Contract Reference Prices are available to Program Participants online after login to Program Participants’ customized account at www.grainger.com. Grainger reserves the right to categorize and/or recategorize products in its catalog.

Grainger agrees to provide an additional Category Discount to Equalis Group Members (the “**Incentive & Growth Program**”). Any Program Participant who i) purchases at least \$30,000 of MRO Products from the Grainger General Catalog during a contract year, and ii) increases its year-over-year MRO Products purchases by at least twelve percent (12%) annually will qualify for the Incentive & Growth Program. The Incentive & Growth Program provides qualifying Program Participants with an additional two percent (2%) Category Discount on each MRO Products category for the following contract year.

3. MRO Products: Volatile Commodity Clause

If the price of any MRO Product falls below Grainger’s cost or Grainger experiences a material increase in its MRO Product costs for a particular individual item caused by among other things, changes in laws or regulations, impositions of tariffs, increases in commodity prices, extraordinary events that significantly impact the global supply chain, or other changes in conditions not reasonably foreseeable to Grainger, Grainger reserves the right to, i) revise the price for that MRO Product, ii) withdraw the MRO Product from this Agreement, or iii) work in good faith with Equalis to identify an

alternate MRO Product that is similar to that offered or available in similar quantities. Grainger will provide reasonable notification to Equalis in writing, including via email, of any such changes to MRO Products in the Market Basket.

4. MRO Products: Freight

FOB Destination (standard parcel ground freight) is paid by Grainger on all orders of MRO Products in Grainger's General Catalog, unless otherwise stated, to Program Participant's place of business anywhere in the contiguous United States. All other freight charges imposed by the freight carrier such as charges for HAZMAT, special handling and oversized product, related to the shipment shall be paid by Program Participant, unless otherwise agreed to in writing by Grainger.

5. Sourced Products

Grainger has the ability to obtain products for Program Participants that are not offered in the Grainger General Catalog ("**Sourced Products**"). Sourced Products are obtained from Grainger third-party suppliers and are subject to additional terms and conditions. The following terms and conditions apply to Sourced Products:

(a) Sourced Product Support

Grainger will source Sourced Products not available through the Grainger General Catalog. Grainger does not source the following types of products: weapons, ammunition, explosives, aircraft products (including ground support equipment), products containing asbestos, nuclear-related products, products directly involved in production of final product (end unit), products with restricted distribution, invasive medical equipment and product, or any product judged to be too great a liability risk by Grainger.

(b) Pricing

Grainger Sourced Products are priced based on market conditions at the time a quote is issued by Grainger.

(c) Sourced Product Freight Terms

Sourced Product shall be shipped FOB Origin (standard parcel ground freight). All freight charges imposed by the freight carrier for Sourced Product shipped shall be paid by Program Participant, unless otherwise agreed to in writing by Grainger. Program Participants shall be responsible for all additional freight charges for Sourced Products.

(d) Warranty

GRAINGER'S STANDARD WARRANTY DOES NOT APPLY TO SOURCED PRODUCTS. GRAINGER, TO THE FULLEST EXTENT PERMITTED, PASSES THROUGH TO PROGRAM PARTICIPANTS ANY AND ALL MANUFACTURER AND SUPPLIER PRODUCT WARRANTIES.

(e) Warranty Disclaimer & Limitation of Liability

GRAINGER'S WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY APPLY TO SOURCED PRODUCTS.

WARRANTY DISCLAIMER. GRAINGER SHALL HAVE NO LIABILITY FOR, AND EXPRESSLY DISCLAIMS ANY WARRANTY OR AFFIRMATION OF FACT, EXPRESS OR IMPLIED, OTHER THAN AS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION I) THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; II) ANY WARRANTY OR AFFIRMATION OF FACT RELATED TO MISUSE, IMPROPER SELECTION, RECOMMENDATION, OR MISAPPLICATION OF ANY PRODUCT; AND III) ANY WARRANTY OR AFFIRMATION OF FACT THAT THE CATALOGS, LITERATURE, AND WEBSITES IT PROVIDES ACCURATELY ILLUSTRATE AND DESCRIBE PRODUCTS.

LIMITATION OF LIABILITY. ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES IS EXPRESSLY DISCLAIMED. GRAINGER'S LIABILITY IN ALL EVENTS SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE SOURCED PRODUCT THAT GIVES RISE TO ANY LIABILITY. GRAINGER'S PAYMENT OF SUCH AMOUNT SHALL BE THE FINAL AND EXCLUSIVE REMEDY IN THE EXHAUSTION OR UNAVAILABILITY OF ANY OTHER REMEDY SPECIFIED

HEREIN AND SHALL NOT BE CONSTRUED OR ALLEGED BY PROGRAM PARTICIPANT TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

(f) **Sourced Product Returns**

A returned goods authorization (an “**RGA**”) must be issued by Grainger prior to returning Sourced Products; an RGA is good for thirty (30) days after issuance. Returns will be sent directly to the Sourced Products supplier and not to a Grainger location, unless otherwise instructed in the RGA. Returned Sourced Products may incur a restocking fee of thirty-five percent (35%) of the Sourced Products sell price, freight prepaid and added, unless the Sourced Products return was the result of a Grainger or manufacturer error. Special manufactured and custom engineered products are sold on a “**FINAL SALE**” basis only and no changes, cancellation, returns, or refunds are allowed.

(g) **Stocking Sourced Products**

In the event Grainger agrees to stock an agreed upon quantity of Sourced Products for a Program Participant, upon expiration, cancellation, or termination of the Agreement or the Customer Agreement established between Grainger and that Program Participant, whichever occurs first, Program Participant agrees to purchase all such remaining stocked Sourced Products. Grainger will invoice Program Participant for such Sourced Products within thirty (30) days of expiration, cancellation, or termination of this Agreement or that Program Participant’s Customer Agreement, whichever comes first.

6. Sourced & Catalog Services

Grainger’s complete portfolio of catalog and sourced services and solutions (“**Services**”), as updated and enhanced from time to time, is available to all Program Participants. Grainger will work with Program Participant to identify service needs and facilitate service solutions, subject to restrictions imposed by applicable laws and regulations specific to the jurisdiction in which Program Participant is located.

(a) **Key Grainger Services** include, but are not limited to:

- eCommerce/eProcurement Solutions
- KeepStock® Inventory Management Solutions, including vending
- Consulting Services
- Installation, Repair, Maintenance, and Turnkey Solutions & Services
- Customer Enablement
- Value Reporting
- Technical Support Services
- Customer Support

(b) **KeepStock Solutions**. Eligibility for Grainger’s KeepStock® solutions is subject to qualifying criteria and may require Grainger’s Consulting Services group to conduct an assessment at a Program Participant’s site(s). As a condition of KeepStock® Onsite implementation, Grainger and each Program Participant utilizing KeepStock® Onsite will mutually agree on the hours of weekly performance by Grainger’s personnel. Such Program Participants will be required to accept licensing terms for software-based solutions, and a written service agreement between Grainger and such Program Participants is required to implement KeepStock® Secure.

(c) **Sourced Services** offering includes products and services offered by companies with whom Grainger has established formal partnership (“**Strategic Supplier Partners**”) to provide Services to Grainger customers, including Program Participants. Grainger value add and fee based services offered by various Strategic Supplier Partners. Pricing for service opportunities is either listed in Grainger’s catalog or is determined at the time a quote for a sourced Service is issued by Grainger.

(d) **Labor.** Certain Grainger Services may include the cost of labor. Strategic Supplier Partners will quote labor costs, whether at market rates, union rates, and/or prevailing wage, in accordance with applicable requirements in the locality(ies) where the labor is to be performed and at each Program Participant's request at the time of purchase.

(e) **Additional Sourced Service Terms and Conditions**

IN ADDITION TO THE STANDARD TERMS AND CONDITIONS FOR SOURCED PRODUCT, PERFORMANCE OF SOURCED SERVICES WILL BE GOVERNED BY THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS ("**ADDITIONAL SERVICE TERMS**"). SERVICES MAY BE PERFORMED BY: (i) GRAINGER, ITS SUBSIDIARIES, AFFILIATES, OR VENDORS; OR THIRD-PARTY SERVICE PROVIDERS ENGAGED BY GRAINGER ("**THIRD-PARTY PROVIDERS**"). FOR PURPOSES OF THIS **SECTION 6**, "**SERVICE PROVIDER**" REFERS TO EITHER GRAINGER OR A THIRD-PARTY PROVIDER DEPENDING UPON WHICH OF THEM IS PERFORMING SERVICES, AND "**SERVICE PROVIDER PERSONNEL**" REFERS TO PERSONNEL OF SUCH SERVICE PROVIDER.

THE TERMS AND CONDITIONS CONTAINED IN THIS **SECTION 6** ARE EXTENDED SOLELY BY THE SPECIFIC SERVICE PROVIDER PERFORMING SERVICES, AND ANY OBLIGATIONS CONTAINED IN THIS **SECTION 6** DO NOT APPLY TO ANY OTHER SERVICE PROVIDER REFERENCED IN THE FOREGOING PARAGRAPH. A THIRD-PARTY PROVIDER MAY REQUIRE PROGRAM PARTICIPANTS TO EXECUTE ADDITIONAL CONTRACTUAL DOCUMENTS PRIOR TO THE PERFORMANCE OF SERVICES, WHICH DOCUMENTS MAY MODIFY THE TERMS BETWEEN PROGRAM PARTICIPANT AND SUCH THIRD-PARTY PROVIDER AS SET FORTH IN THIS **SECTION 6**.

IN THE EVENT OF A CONFLICT BETWEEN THE STANDARD TERMS AND CONDITIONS FOR SOURCED PRODUCT AND THE ADDITIONAL SERVICE TERMS IN **SECTION 6**, THE ADDITIONAL SERVICE TERMS IN **SECTION 6** SHALL PREVAIL FOR THE PERFORMANCE OF SERVICES.

(f) **Limited Services Warranty**

ALL SERVICES WILL (i) BE PERFORMED IN A WORKMANLIKE MANNER; (ii) CONFORM TO THE SPECIFICATIONS (IF ANY) PROVIDED BY THE SERVICE PROVIDER IN A STATEMENT OF WORK; AND (iii) BE WARRANTED FOR A PERIOD OF NINETY (90) DAYS AFTER PERFORMANCE OF SERVICES ("**LIMITED WARRANTY PERIOD**"). IF SERVICES ARE IMPROPERLY PERFORMED AND PROGRAM PARTICIPANT NOTIFIES THE SERVICE PROVIDER OF THE IMPROPERLY PERFORMED SERVICE DURING THE LIMITED WARRANTY PERIOD, THEN THE SERVICE PROVIDER WILL RE-PERFORM THOSE SERVICES, IN WHOLE OR IN PART, AS NECESSARY TO CURE THE PARTICULAR BREACH, OR AT THE SERVICE PROVIDER'S SOLE OPTION, REFUND THE AMOUNT PAID BY PROGRAM PARTICIPANT FOR THE SERVICES DIRECTLY ATTRIBUTABLE TO THE PARTICULAR BREACH. THE SERVICE PROVIDER'S RE-PERFORMANCE OR REFUND OF AMOUNTS PAID BY PROGRAM PARTICIPANT FOR THE SERVICE DIRECTLY ATTRIBUTABLE TO THE PARTICULAR BREACH SHALL BE PROGRAM PARTICIPANT'S SOLE AND EXCLUSIVE REMEDY.

(g) **Warranty Disclaimer and Waiver for Services**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS **SECTION 6** FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND THE SERVICE PROVIDER DISCLAIMS, AND PROGRAM PARTICIPANT WAIVES, ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY. THE WARRANTIES SET FORTH IN THIS **SECTION 6** ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES FOR THEIR INTENDED PURPOSE AND SHALL NOT APPLY TO SERVICES WHICH HAVE BEEN SUBJECT TO MODIFICATION BY PROGRAM PARTICIPANT OR ANY THIRD PARTY.

(h) **Limitation of Liability**

GRAINGER AND THIRD-PARTY PROVIDERS EXPRESSLY DISCLAIM ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES IN THE PERFORMANCE OF SERVICES. THE LIABILITY OF GRAINGER OR ANY THIRD-PARTY PROVIDER PERFORMING SERVICES IN ALL CIRCUMSTANCES IS LIMITED TO, AND SHALL NOT EXCEED, THE PURCHASE PRICE FOR THE PERFORMANCE OF THE PORTION OF SERVICES THAT GIVES RISE TO ANY PARTICULAR LIABILITY.

7. Additional Pricing Programs

Grainger may choose to develop a new pricing model(s) for specific opportunities or market segments (each an “**Additional Program**”). For example, Grainger may develop a specialized Market Basket and/or Category Discounts specifically designed for i) certain market segments such as first responders, K-12 school districts, or geographies, or ii) individual Program Participants or certain groups of Program Participants. The overall Products & Services pricing for any Additional Programs shall be the same as or better than the pricing established in **Section 1** and **Section 2** of this **Appendix B**. Such Additional Programs may be defined in Customer Agreements established between Grainger and Program Participants.

8. Additional Incentives

Grainger may choose to develop additional incentive models for specific opportunities or market segments (each an “**Additional Incentive**”). For example, Grainger may develop incentives including, but not limited to, promoting: the sale of Green/sustainable Products & Services; utilization of Grainger’s eCommerce platform; sale of Products & Services produced by minority women-owned, and/or diverse enterprises (“**MWBE**”). These incentives may be specifically designed for i) certain market segments such as fire departments, K-12 school districts, or geographies, or ii) individual Program Participants or certain groups of Program Participant(s). Such Additional Incentives may be defined in Customer Agreements established between Grainger and Program Participants.

Agreement - Grainger and CCOG (Master) - 2021.03.01

Final Audit Report

2021-03-03

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