



STATE OF NEW YORK  
OFFICE OF GENERAL SERVICES  
DESIGN AND CONSTRUCTION GROUP  
THE GOVERNOR NELSON A. ROCKEFELLER  
EMPIRE STATE PLAZA  
ALBANY, NY 12242



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**ADDENDUM NO. 1 TO PROJECT NO. 44866**

**ELEVATOR WORK & ELECTRIC WORK  
REHABILITATE ELEVATORS  
FORENSIC SIDE, BUILDING 39  
CENTRAL NEW YORK PSYCHIATRIC CENTER  
RIVER ROAD  
MARCY, NY**

March 31, 2015

**NOTE:** This Addendum forms a part of the Contract Documents. Insert it in the Project Manual.  
Acknowledge receipt of this Addendum in the space provided on the Bid Form.

**TO CORRECT ERRORS IN THE EXISTING CONTRACT DOCUMENTS**

**BIDDING REQUIREMENTS**

1. DOCUMENT 001114 ADVERTISEMENT FOR BIDS: The last day for receipt of bids is changed from Wednesday, April 1, 2015, to Wednesday, **April 22, 2015**.
2. DOCUMENT 001114 ADVERTISEMENT FOR BIDS: The Site Visit is changed from March 19, 2015 to **April 9, 2015** at 10:00 AM. For assistance pertaining to the site visit only, please phone Judd Dean (315) 235-0668.
3. For the Elevator Trade, only - DOCUMENT 004166 Bid Form: Discard 004166 Bid Form (2 Pages in the Project Manual) and replace with attached 004166 Bid Form, Pages 1-4 ("Printed 3/31/15").

**CONTRACTING REQUIREMENTS**

4. For the Elevator Trade, only, DOCUMENT 008091 Elevator Warranty Maintenance Repair Services Agreement: ADD attached DOCUMENT 008091 Elevator Warranty Maintenance Repair Services Agreement to the Table of Contents and the Project Manual.

**END OF ADDENDUM**

Margaret F. Larkin  
Executive Director

## DETACH AND USE THIS FORM

BID FORM FOR: 44866-U

**ELEVATOR WORK  
REHABILITATE ELEVATORS, FORENSIC SIDE  
BUILDING 39  
CENTRAL NEW YORK PSYCHIATRIC CENTER  
RIVER ROAD  
MARCY, NY**

State of New York  
Office of General Services  
Design and Construction Group  
Division of Contract Administration  
35th Floor, Corning Tower  
The Gov. Nelson A. Rockefeller  
Empire State Plaza  
Albany, NY 12242

***THIS IS A 4 PAGE BID FORM. ALL PAGES MUST BE COMPLETED.***

THE STATE RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS. EACH BID FORM SHALL BE ACCOMPANIED BY BID SECURITY (AS DESCRIBED IN THE INSTRUCTIONS TO BIDDERS) IN THE AMOUNT STATED IN THE ADVERTISEMENT FOR BIDS.

The Undersigned agrees to complete the Work within the time stated in Section 011000 of the Specifications.

The Undersigned acknowledges his/her understanding of the social policy concerning minority and women business participation in the State building construction program, and pledges to cooperate with the State in the implementation of this policy, and further pledges to exert good faith efforts to achieve participation of minority and female employees.

The Undersigned certifies, as to each of the occupations listed in the Prevailing Rate Schedule applicable to this Project, the ability and willingness to exert good faith efforts to achieve the goal for minority and women workforce participation set forth in the Supplementary Conditions.

The Undersigned certifies the ability and willingness to exert good faith efforts to achieve the goal for Minority and Women-Owned Business Enterprise participation set forth in the Supplementary Conditions.

The Undersigned declares that the Bidding and Contract Documents have been carefully examined and that all things necessary for the completion of the Work shall be provided.

The Undersigned agrees that the bid security shall become the property of the State if this bid is accepted by the State and he/she does not submit executed copies of the Agreement within 10 days of receipt of a written request. A Performance Bond and a Labor and Material Bond, each in an amount equal to the contract sum, shall be supplied with the executed Agreement and shall be the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(4) This contract shall not cause or result in a violation of Section 73(4) of the Public Officers Law which states: "No officer or employee of a state agency, member of the legislature or legislative employee or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall sell any goods or services having a value in excess of twenty-five dollars to any state agency unless pursuant to an award or contract let after public notice and competitive bidding."

(5) This contract shall not cause or result in a violation of Section 74(3)(e) of the Public Officers Law which states: "No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the State with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties."

(6) The bidder recognizes New York State Finance Law §139-j and §139-k and understands and agrees to comply with all of its requirements and procedures.

(7) The bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law (NYS Iran Divestment Act of 2012). The list can be viewed at the following link: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

(8) Will New York State Business be used in the performance of this contract: \_\_\_\_\_ (refer to Document 007324).

\_\_\_\_\_ Yes \_\_\_\_\_ No

Addenda to the Contract Documents are available at: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>.

The Undersigned acknowledges receipt and review of all Addenda to the Contract Documents on the above website, listed by number in the space below:

\_\_\_\_\_  
\_\_\_\_\_

The Undersigned proposes to perform the Work required for this project in accordance with the Contract Documents for the following amount:

ITEMS 1, 2,3,4,5 & 6 (See Document 002214 - SUPPLEMENTARY INSTRUCTIONS TO BIDDERS - TOTAL BID)

Item 1: Furnish, coordinate and install in accordance with the Contract Documents and provide standard one-year warranty:

- a. All Item 1 Work except Allowance(s) \$ \_\_\_\_\_
- b. Allowance (as described in Section 012100) \$ 43,200.00
- Total Item 1 Amount (Sum of a. & b.)** \$ \_\_\_\_\_

Item 2: Provide interim maintenance/repair for existing Passenger Elevators Nos. 4 not under construction starting approximately 12 weeks after the Agreement is approved by the Comptroller and extending through acceptance of Elevator No. 3. Provide a per elevator, per month cost and compute total Item 2 amount for full service maintenance in accordance with the Warranty/Maintenance Agreement, Section 008091.

**Item 2 Amount (Per Elevator, Per Month \$ \_\_\_\_\_ x 1 Elevator x 6 Months)** \$ \_\_\_\_\_

Item 3: Provide a monthly cost and compute Item 3 amount for preventive maintenance contract services, in accordance with the Warranty/Maintenance Agreement, Section 008091 for a one-year period, which are not covered by the standard one-year warranty.

**Item 3 Amount (Per Elevator, Per Month \$ \_\_\_\_\_ x 2 Elevator x 12 Months)** \$ \_\_\_\_\_

Item 4: Provide an monthly cost and compute total Item 4 amount for Full Service Warranty Maintenance Service, in accordance with the Warranty/Maintenance Agreement, Section 008091, commencing on the second year.

Elevator #3

- a. February 1, 2017 – July 31, 2017      **Per Month \$** \_\_\_\_\_ **x 6 Months \$** \_\_\_\_\_
- b. August 1, 2017 – July 31, 2018      **Per Month \$** \_\_\_\_\_ **x 12 Months \$** \_\_\_\_\_
- c. August 1, 2018– July 31, 2019      **Per Month \$** \_\_\_\_\_ **x 12 Months \$** \_\_\_\_\_
- d. August 1, 2019 – July 31, 2020      **Per Month \$** \_\_\_\_\_ **x 12 Months \$** \_\_\_\_\_

Elevator #4

- e. August 1, 2018 – July 31, 2019      **Per Month \$** \_\_\_\_\_ **x 12 Months \$** \_\_\_\_\_
- f. August 1, 2019 – July 31, 2020      **Per Month \$** \_\_\_\_\_ **x 12 Months \$** \_\_\_\_\_

**Item 4 Amount (Sum of a. & b. & c. & d. & e. & f.)**      \$ \_\_\_\_\_

Item 5: Provide hourly rates for labor and repairs not covered by the Warranty/Maintenance Agreement and compute team rate and the total annual amount. With respect to labor and material for repairs not covered under the full maintenance warranty service (including emergency service), the labor rates below apply. The hours indicated below are estimates only; payment will be made on actual number of hours performed and materials used. For emergency service, CONTRACTOR is expected to respond within two hours of notification. The CONTRACTOR shall provide 24 hour notification contacts. **Material markup will be fixed at 10%.** Shipping costs are not to be included in the material markup. There is no reimbursement for travel time and/or travel expenses including mileage and fuel costs.

- a. Material Allowance \$3,000 per year x 5 years      **\$ \$15,000.00**
- b. Hourly Rate for Mechanic (as portion of team rate)      \$ \_\_\_\_\_
- c. Hourly Rate for Helper (as portion of team rate)      \$ \_\_\_\_\_
- d. Hourly Rate for Team (Sum of b. & c.)      \$ \_\_\_\_\_
- e. Multiply Team Rate \$ \_\_\_\_\_ per hour (d. above)  
x 30 hours per year x 5 years to determine labor Lump Sum Amount      \$ \_\_\_\_\_

**Item 5 Amount (Sum of 5a. & 5e.)**      \$ \_\_\_\_\_

**Item 6: Total Bid Amount (Sum of Items 1, 2, 3, 4, & 5)**      \$ \_\_\_\_\_

The term of this service warranty /maintenance contract will end July 31, 2020.

The selected low bidder will enter into a contract with the Office of General Services Design and Construction Group for Item 1, and the selected low bidder will enter into a contract with the Office of Mental Health for Items 2, 3, 4, and 5. All contracts will be mailed to the successful contractor simultaneously and the successful contractor's execution of all contracts which collectively cover all of Items 1, 2, 3, 4, and 5 shall be a condition precedent to the State's contract award for any item.

**Note:** Bid submitted must include a value for each Item amount listed on the Bid Form. Failure to do so will result in rejection of the Bid.

SIGN BID HERE \_\_\_\_\_

Authorized Signature

PRINT NAME \_\_\_\_\_

TITLE \_\_\_\_\_

OFFICIAL  
COMPANY NAME \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_  
Street

\_\_\_\_\_  
City State Zip Code

TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

008091Elevator Warranty Maintenance Repair Services Agreement

<u>STATE AGENCY:</u> Central New York Psychiatric Center P.O. Box 300 Marcy, NY 13403	<u>NYS COMPTROLLER'S NUMBER:</u> OMH01-C000109-3650270  <u>ORIGINATING AGENCY CODE:</u> OMH01
<u>CONTRACTOR:</u> Complete after bid award	<u>TYPE OF PROGRAM:</u> Full Service Warranty Elevator Maintenance – Building 39 Elevators 3 & 4
<u>CHARITIES REGISTRATION NUMBER:</u> Enter if applicable, or "N/A" <u>FEDERAL TAX IDENTIFICATION NUMBER:</u> Enter Tax ID # <u>VENDOR ID:</u> Enter ID Number	<u>CONTRACT PERIOD:</u> Complete after bid award  <u>CONTRACT AMOUNT FOR PERIOD:</u> (As per Appendix B) Enter contract amount
<u>STATUS:</u>  CONTRACTOR IS <input type="checkbox"/> IS NOT <input type="checkbox"/> A <u>SECTARIAN ENTITY</u>  CONTRACTOR IS <input type="checkbox"/> IS NOT <input type="checkbox"/> A <u>NOT-FOR-PROFIT ORGANIZATION</u>  CONTRACTOR IS <input type="checkbox"/> IS NOT <input type="checkbox"/> A <u>MUNICIPALITY</u>	<u>RENEWAL TERM:</u> N/A  FROM:  TO:
<u>APPENDICES ATTACHED OR REFERENCED AND PART OF THIS AGREEMENT:</u> (Applicable Appendixes must be checked [X])	
APPENDIX A APPENDIX A-1 APPENDIX A-2  APPENDIX B APPENDIX C APPENDIX D  APPENDIX F APPENDIX G APPENDIX H APPENDIX I APPENDIX J APPENDIX K APPENDIX X OTHER	<input checked="" type="checkbox"/> Standard Clauses as required by the Attorney General for all State contracts. <input checked="" type="checkbox"/> Agency-specific Clauses <input checked="" type="checkbox"/> MWBE and EEO Requirements <input type="checkbox"/> Exhibit 1: MWBE Utilization Plan <input type="checkbox"/> Exhibit 2: MWBE Application for Waiver (if applicable) <input type="checkbox"/> Exhibit 3: MWBE Certification of Good Faith Efforts (if applicable) <input type="checkbox"/> Exhibit 4: Quarterly MWBE Contractor's Compliance Report <input type="checkbox"/> Exhibit 5: EEO Workforce Utilization Report <input checked="" type="checkbox"/> Budget <input checked="" type="checkbox"/> Payment and Reporting Schedule <input checked="" type="checkbox"/> Program Work Plan <input checked="" type="checkbox"/> Exhibit A - Preventive Maintenance Tasks <input checked="" type="checkbox"/> Exhibit B - Equipment List <input checked="" type="checkbox"/> Exhibit C – Time and Material Proposal Form <input checked="" type="checkbox"/> HIPAA Confidentiality Agreement <input checked="" type="checkbox"/> Additional Insurance Requirements (where applicable) <input checked="" type="checkbox"/> FACILITY specific clauses (where applicable) <input type="checkbox"/> Consulting Disclosure Instructions and Form B – 2 pages (where applicable) <input checked="" type="checkbox"/> Invitation For Bid <input checked="" type="checkbox"/> Contractor's Proposal <input checked="" type="checkbox"/> Modification Agreement Form <input type="checkbox"/>

**CONTRACT SIGNATURE PAGE**

**Contract No. OMH01-C000109-3650270**

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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

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**CONTRACTOR:**

By: Printed Name: Title:

Signature: \_\_\_\_\_ Date:

**Must complete the Individual, Corporation, Partnership, or LLC Acknowledgement page and have it notarized**

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**STATE AGENCY: Central New York Psychiatric Center**

By: Printed Name: Title:

Signature: \_\_\_\_\_ Date:

**State Agency Certification**

In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract. No information that may negatively impact the contractor's responsibility has come to the agency's attention and OMH has reasonable assurance that the contractor continues to be responsible.

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**CIVIL SERVICE APPROVAL (If Required)**

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**ATTORNEY GENERAL'S SIGNATURE**

**STATE COMPTROLLER'S SIGNATURE**

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGEMENT

Contract No.: OMH01-C000109-3650270

STATE OF \_\_\_\_\_ )

SS:

County of \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_ 20\_\_\_, before me personally appeared \_\_\_\_\_, to me known and known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he/she resides at

\_\_\_\_\_ Town of \_\_\_\_\_,

County of \_\_\_\_\_

State of \_\_\_\_\_ and further that:

[CHECK ONE]

If an Individual: he/she executed the foregoing instrument in his/her name and on his/her own behalf.

If a Corporation: he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he/she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

If a Partnership: he/she is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, he/she is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

If a limited liability company: he/she is a duly authorized member of \_\_\_\_\_ LLC, the limited liability company described in said instrument; that, he/she is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

\_\_\_\_\_  
Notary Public

Registration Number: \_\_\_\_\_ State of \_\_\_\_\_

## STATE OF NEW YORK AGREEMENT

**This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.**

### WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT:

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

### **I. Conditions of Agreement**

- A.** This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X). Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.
- B.** Funding for the first PERIOD shall not exceed the contract amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix for that PERIOD.
- C.** This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- D.** For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (The attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT to modify the AGREEMENT within an existing PERIOD; the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.
- E.** The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Work plan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.
- F.** If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.
- G.** Conflicts between documents shall be resolved in the following order of precedence:
  - 1.** Appendix A (Standard Clauses for NYS Contracts).
  - 2.** Amendment(s) to this Agreement.
  - 3.** This Agreement (except Appendix A, Appendix J, and Appendix K).
  - 4.** The Invitation for Bid (Appendix J)
  - 5.** Contractor's Proposal (Appendix K).

In the event of a conflict among documents included in a category listed above, the document latest in time shall take precedence.

## STATE OF NEW YORK AGREEMENT (Cont.)

### II. Payment and Reporting

- A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE'S designated payment office (identified in Appendix C) all appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.
- B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR'S costs and services provided pursuant to This AGREEMENT.
- C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

### III. Terminations

- A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules regulations, policies or procedures affecting this AGREEMENT.
- C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.
- D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.
- E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.
- F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

### IV. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

### V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A1.

**STATE OF NEW YORK AGREEMENT (Cont.)**

**VI. Safeguards for Services and Confidentiality**

1. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
2. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.
3. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A1.

**THIS SECTION INTENTIONALLY LEFT BLANK**

**APPENDIX A**  
**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**January 2014**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**APPENDIX A**  
**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within

the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a

**APPENDIX A**  
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contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the

Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such

manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

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To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. **IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

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**I. GENERAL PROVISIONS**

- A.** If applicable, this agreement may be extended for an additional term as defined in the renewal term section on the cover page of the contract.
- B.** The OMH shall have the right to terminate this contract early for: (i) unavailability of funds; (ii) cause; or (iii) convenience. The OMH may invoke its right to terminate for convenience upon ninety days written notice to the CONTRACTOR of its intent to terminate the contract; except that, if some other provision of the contract gives the State a general right to terminate upon less than ninety (90) days prior notice, that provision of the contract shall govern and ninety (90) days notice shall not be required. If the contract is not terminated, prices may be adjusted only as defined in the bid specifications (when incorporated by reference) and APPENDIX B.
- C.** The OMH reserves the right to terminate this contract in the event it is found that the certification filed by the CONTRACTOR in accordance with the New York State Finance Law 139-k was intentionally false or intentionally incomplete. Upon such finding, the OMH may exercise its termination right by providing written notification to the CONTRACTOR.

**II. VENDOR RESPONSIBILITY**

- A.** CONTRACTOR covenants and represents that it has, to the best of its knowledge, truthfully and thoroughly completed CONTRACTOR's Vendor Responsibility Questionnaire (hereinafter "Responsibility Questionnaire") provided to CONTRACTOR by the STATE prior to execution of this Agreement. CONTRACTOR further covenants and represents that as of the date of execution of this Agreement, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Responsibility Questionnaire.
- B.** CONTRACTOR shall at all times during the term of this Agreement remain a responsible vendor.
- C.** CONTRACTOR shall provide to the STATE updates to the Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Responsibility Questionnaire becomes available.
- D.** In addition, CONTRACTOR shall promptly report to the STATE the initiation of any investigation by any governmental entity for an alleged violation of federal or state law by CONTRACTOR, its Key Employees (as identified on its Responsibility Questionnaire), its officers and/or directors in connection with matters involving, relating to or arising out of CONTRACTOR'S business. Such report shall be made within five business days following CONTRACTOR becoming aware of investigation and may, subject to the due process provided in Section (G) below, be considered by the STATE in making a Determination of Vendor Non-Responsibility pursuant to this section.
- E.** The STATE reserves the right, at its sole discretion, at any time during the term of this Agreement:
  - 1.** To require updates or clarifications to the Responsibility Questionnaire upon written request. To inquire about information included in or required information omitted from the Responsibility Questionnaire, and to require CONTRACTOR to provide such information to the STATE within a reasonable timeframe.
  - 2.** To require CONTRACTOR to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
  - 3.** To suspend any or all activities under this Agreement when the State discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, CONTRACTOR must comply with the terms of the suspension order. CONTRACTOR may resume activity under this Agreement at such time as the STATE issues a written notice authorizing a resumption of performance under the Agreement.

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- F.** The STATE reserves the right to make a final determination of non-responsibility (hereinafter “Determination of Non-Responsibility”) at any time during the term of this Agreement based on:
1. Any information provided in the Responsibility Questionnaire and/or in any updates, clarifications or amendments thereof; or
  2. The STATE’s discovery of any material information which pertains to CONTRACTOR’s responsibility.
- G.** Prior to making a final Determination of Non-Responsibility, the STATE shall provide written notice to CONTRACTOR that it has made a preliminary determination of non- responsibility. The STATE shall detail the reason(s) for the preliminary determination, and shall provide CONTRACTOR with a reasonable opportunity to be heard.
- H.** The STATE’s final Determination of Non-Responsibility shall be a basis for termination for cause under this Agreement at CONTRACTOR’s expense. In the event of a termination for cause under this, or any other provision of this Agreement, the STATE may complete the contractual requirements in any manner it deems advisable and pursue available legal or equitable remedies for breach.
- III.** If Section 5-a of the NYS Tax Law is applicable, the CONTRACTOR must submit the following forms as and when required: to the NYS Tax Department, a Contractor Certification Form ST-220-TD, and to OMH, a Contractor Certification to Covered Agency Form ST-220-CA.
- IV.** The OMH may order the CONTRACTOR, in writing, to suspend performance for a reasonable period of time. OMH shall have no obligation to reimburse CONTRACTOR’S expenses during the suspension period.
- V.** The CONTRACTOR warrants to the OMH that it has secured sufficient right, title and interest to ensure that OMH may use any design, device, material, source-code or process comprising all or part of the deliverables.
- VI.** In the event that CONTRACTOR is provided access to any electronic data or computer application maintained by OMH, OMH may request, and CONTRACTOR shall execute, such additional forms or agreements as OMH generally requires as a condition of such access (e.g., Data Exchange Agreement, Computer Application Sharing Agreement, Confidentiality and Non-Disclosure Agreement).If CONTRACTOR is provided such access, the CONTRACTOR is responsible for complying with New York State Policies, Standards and Guidelines, including those available at: <http://www.dhSES.ny.gov/ocs/resources/> and <http://its.ny.gov/tables/technologypolicyindex.htm> and those which may be provided by OMH or its representatives.
- VII.** If the deliverables for this Agreement include goods or services relating to computer software and/or hardware, such deliverables shall be provided in accordance with the Contractor’s specifications for the goods or services being purchased, in addition to any other applicable specifications (e.g., specifications set forth in the solicitation for such goods or services, Contractor’s proposal to supply such goods or services or other provisions of this Agreement).
- VIII.** Unless otherwise provided, the OMH has an irrevocable, royalty-free, non-exclusive and world-wide license to publish, reproduce, display, disclose or otherwise use any of the contract deliverables; provided, however, that if and to the extent that the contract deliverables require CONTRACTOR to create, write, develop or produce an original work which is or could be subject to protection under the laws governing intellectual property, including but not limited to the laws of copyright and patents (the “Work”), such Work shall be deemed to be a work made for hire and in the course of the services being rendered under this Agreement and shall belong exclusively to OMH, with OMH having the sole right to obtain, hold and renew in its own name, all copyrights or other appropriate protection. To the extent that any such Work may not be deemed to be a work made for hire, CONTRACTOR hereby irrevocably assigns to OMH all right, title and interest therein. CONTRACTOR shall ensure that all copies of the Work are marked with appropriate copyright notices and shall give OMH all reasonable assistance and execute all documents necessary to assist and/or enable OMH to perfect, preserve, register and/or record its rights in any Work. Upon termination, cancellation or expiration of this Agreement, CONTRACTOR shall turn over all Works to OMH, and upon request, any OMH documents or items furnished to CONTRACTOR during the performance of this Agreement.

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**AGENCY SPECIFIC CLAUSES**  
**(State Operations)**

**IX.** In the event that CONTRACTOR, in the course of performance hereunder, obtains access to information, data or records deemed confidential in accordance with the provisions of Mental Hygiene Law Section 33.13 and/or “protected health information” as such term is defined in 45 C.F.R. Parts 160, 164, then CONTRACTOR shall restrict its use of that information, data, records or protected health information for the limited purposes of this Agreement and if a “business associate” within the meaning of 45 CFR §164.103, in accordance with Appendix F of this Agreement and/or such other Business Associate Agreement as may govern the relationship between the parties. Any further dissemination or any use beyond that specifically authorized, of any such information, data, records or protected health information by CONTRACTOR, its subcontractors, agents, successors or associates shall constitute an unlawful disclosure of confidential information in violation of Mental Hygiene Law Section 33.13, and/or 45 C.F.R. Parts 160, 164, as applicable. CONTRACTOR acknowledges that it has an affirmative obligation to safeguard any such information, data, records or protected health information from unnecessary distribution amongst its employees, subcontractors and agents and to any third parties. CONTRACTOR specifically agrees to indemnify OMH from damages to third parties flowing from any breach of the confidentiality of such information, data, records or protected health information in the possession or control of CONTRACTOR or any expenses that OMH may be required by law to incur to remediate any such breach. Protected health information includes all information about an individual receiving services and, depending on specific content, may be protected by a variety of state and federal laws, including:

New York Mental Hygiene Law Article 33

New York Public Health Law Article 27-F and 18 N.Y.C.R.R. 36—81.

Federal Regulations and 42 C.F.R. Part 2

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule at 45 C.F.R. Parts 160 and 164

Please note that, as required by New York Public Health Law Section 2782(5), the following notice is provided to you and is applicable in the event you receive access to information, data, records, or protected health information containing AIDS/HIV related confidential information as defined in Section 2780(7) of the New York Public Health Law:

*“This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure.”*

**X.** In the event that CONTRACTOR, in the course of performance hereunder, obtains access to information, data or records deemed confidential by OMH (other than information, data or records which is already covered by paragraph IX above) (“Confidential Information”), CONTRACTOR shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without OMH’s written permission. CONTRACTOR further agrees to use such Confidential Information solely for the purpose of fulfilling its obligations under this Agreement. This obligation will not apply to information which:

- A.** Was known to CONTRACTOR prior to receipt from OMH as evidenced through written documentation;
- B.** Was or becomes a matter of public information or publicly available through no fault on the part of CONTRACTOR;
- C.** Is acquired from a third party entitled to disclose the information to CONTRACTOR;
- D.** Is developed independently by CONTRACTOR without the use of OMH’s Confidential Information; or
- E.** Is required to be disclosed pursuant to law, regulation or court order; provided, however, that in the event of a demand for such disclosure, CONTRACTOR shall not make such disclosure without prior written notice to OMH and an adequate opportunity for OMH to oppose such disclosure, including seeking an injunction as appropriate under the circumstances.

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**AGENCY SPECIFIC CLAUSES**  
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- XI.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, then notwithstanding, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken. The paragraph headings in this Agreement are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. This Agreement has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.
- XII.** In that purchases by the State of New York are not subject to sales tax, transportation tax and Federal excise tax, payment for such amounts may not be claimed, declared or allowed under this agreement. Exemption certificates will be provided upon request.
- XIII.** Federal law requires that OMH provide their Contractors with information about the Federal False Claims Act, the New York State False Claims Act and other federal and state laws that play a role in preventing and detecting fraud, waste and abuse in federal health care programs. This information must include the whistleblower protections that are in these laws. OMH must also provide its Contractors with information about OMH's own policies and procedures for detecting and preventing waste, fraud and abuse.

Detailed descriptions of these laws, their whistleblower protections and OMH's policies are at:  
<http://www.omh.ny.gov/omhweb/guidance/MFA/MedicaidFraudabuse.html>

Information can also be found at the New York State Medicaid Inspector General web site located at [www.omig.ny.gov](http://www.omig.ny.gov) to obtain information about these laws. CONTRACTORS having difficulty finding this information or wishing to request a paper copy may contact OMH Counsel's Office at (518) 474-1331 or [MedicaidPolicy@omh.ny.gov](mailto:MedicaidPolicy@omh.ny.gov).

All Contractors of OMH are required to participate in the reviews and audits described in the OMH policies, and to abide by these policies with respect to funding for OMH services. Contractors are required to make the information at the web site address listed above available to all their employees and to sub-contractors involved in performing work under the contract with OMH.

- XIV.** On April 26, 2008, Governor David A. Paterson signed Executive Order No. 4 – establishing a State Green Procurement and Agency Sustainability Program that will promote environmental sustainability and stewardship. These programs and policies will focus on reducing potential impacts on public health and the environment by supporting recycling, reducing or eliminating the use of toxic substances, pollution and waste, increasing energy efficiency and using renewable energy source.

Where feasible, contractors shall adhere to the NYS Executive Orders No. 4 (issued 04/26/08) which is referenced at the online web address of [http://www.ny.gov/governor/executive\\_orders/exeorders/eo\\_4.html](http://www.ny.gov/governor/executive_orders/exeorders/eo_4.html), and Executive Order No. 134 (issued 01/05/05 by former Governor George E. Pataki), which is referenced at the on-line address of <http://www.ogs.ny.gov/purchase/GreenPurchasing.asp>

- XV. Force Majeure:** Neither Party shall be responsible for any delay or failure of performance under this Agreement to the extent resulting from causes beyond its reasonable control and without its fault or negligence, including but not limited to acts of God, fire, flood, war, terrorism, labor disputes, strikes, lockouts, riot or civil commotion; provided that the party claiming non-responsibility hereunder shall give prompt notice to the other that a force majeure event has occurred and if requested, evidence thereof. Dates for the performance or completion of the work shall be extended by such delay of time as may be reasonably necessary to compensate for the delay.

**XVI. New York State Business Usage in Contract Performance**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

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AGENCY SPECIFIC CLAUSES  
(State Operations)**

Bidders need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders are reminded that they must continue to utilize small, minority and women-owned business, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

**XVII. NOTICES**

- A. All notices permitted or required hereunder shall be in writing and shall be transmitted by one of the following methods:
1. certified or registered United States mail, return receipt requested;
  2. facsimile transmission;
  3. personal delivery;
  4. expedited delivery service, or
  5. e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

**State of New York – Central New York Psychiatric Center**

**[Contractor Name]**

**Name:** Marcia Kessler

**Name:** \_\_\_\_\_

**Title:** Assistant Business Officer

**Title:** \_\_\_\_\_

**Address:** PO Box 300, Marcy, NY 13403

**Address:** \_\_\_\_\_

**Telephone Number:** (315) 765-3322

**Telephone Number:** \_\_\_\_\_

**Facsimile Number:** (315) 765-3329

**Facsimile Number:** \_\_\_\_\_

**E-Mail Address:** [marcia.kessler@omh.ny.gov](mailto:marcia.kessler@omh.ny.gov)

**E-Mail Address:** \_\_\_\_\_

- B. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- C. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

**APPENDIX A-1**  
**AGENCY SPECIFIC CLAUSES**  
**(State Operations)**

**XVIII. INSURANCE** Contractor shall secure and maintain insurance coverage as specified in the Bid Documents and Appendix G of this contract boilerplate and shall upon request promptly provide documentation of specified coverages at any point during the contract term.

**THIS SECTION INTENTIONALLY LEFT BLANK**

## APPENDIX A-2

# CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

## NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, OMH recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of OMH contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OMH establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

### Business Participation Opportunities for MWBEs

For purposes of this solicitation, OMH hereby establishes an overall goal **of 30% for MWBE participation, 16% for Minority-Owned Business Enterprises ("MBE") participation and 14% for Women-Owned Business Enterprises ("WBE") participation** (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that OMH may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: [Division of Minority & Women Business Development](#). For guidance on how OMH will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and OMH may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Attachment L with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OMH.
- B. OMH will review the submitted MWBE Utilization Plan and advise the Bidder of OMH acceptance or issue a notice of deficiency within 20 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OMH, a written remedy in response to the notice of deficiency. If the

## APPENDIX A-2

written remedy that is submitted is not timely or is found by OMH to be inadequate, OMH shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Attachment M, if not previously submitted with its Bid Proposal. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

D. OMH may disqualify a Bidder as being non-responsive under the following circumstances:

1. If a Bidder fails to submit a MWBE Utilization Plan;
2. If a Bidder fails to submit a written remedy to a notice of deficiency;
3. If a Bidder fails to submit a request for waiver in the event that MWBE participation goals set forth in this contract are not met; or
4. If OMH determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OMH, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Quarterly MWBE Contractor's Compliance Report set forth in Contract Appendix A-2, Exhibit 3, to the OMH, by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract. The schedule for submitting the Compliance Report is detailed in Appendix C: Payment and Reporting Schedule.

### Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan set forth in Attachment K-1 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the OMH, a workforce utilization report set forth in Appendix A-2, Exhibit 4, identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

**APPENDIX A-2  
EXHIBIT 1**

**Attach Final MWBE Utilization Plan (if applicable)**

**APPENDIX A-2  
EXHIBIT 2**

**Attach Request for Waiver (if applicable)**

**APPENDIX A-2  
EXHIBIT 3**

**Insert MWBE Certification of Good Faith Efforts (if applicable)**

**APPENDIX A-2  
EXHIBIT 4  
CONTRACTOR QUARTERLY COMPLIANCE REPORT**

**Beginning FIVE (5) DAYS following the end of the first calendar quarter after a contract is awarded; quarterly compliance reports will be due for the preceding quarter's activity.**

**Instructions:** List all M/WBEs used during the quarter, providing all requested information in appropriate columns. In the event that an M/WBE is used more than one time during the quarter, list the M/WBE only once for each expenditure category. Use the Expenditure Code below to indicate the category of expenditures for which the M/WBE was used.

<b>Expenditure Code:</b>		<b>C – Commodities</b>	<b>SC – Services</b>	<b>CC – Construction Consultants</b>	<b>CN – Construction</b>	
<b>Grants Expenditure Code:</b>		<b>GM – Materials/Equipment</b>		<b>GC – Construction</b>	<b>GS – Services/Consultants</b>	
<b>Contract Number:</b>			<b>Reporting Period:</b>		<b>M/WBE Goal:</b>	
			<input type="checkbox"/> Q1: April 1 – June 30 <input type="checkbox"/> Q3: Oct. 1 – Dec. 31		% MBE      % WBE	
<b>Contractor:</b>			<input type="checkbox"/> Q2: July 1 – Sept. 30 <input type="checkbox"/> Q4: Jan. 1 – March 30			
<b>A</b>		<b>B</b>			<b>C</b>	
Amount of Actual Expenditures in Reporting Period		MBE Subcontracting Expenditures in Reporting Period			WBE Subcontracting Expenditures in Reporting Period	
\$ (if none enter 0)		\$ (if none enter 0)			\$ (if none enter 0)	
<b>M/WBE FEIN/SFS VENDOR ID</b>	<b>M/WBE Vendor Name</b>	<b>Certification</b>	<b>Work Status This Report</b>	<b>Expenditure Code</b>	<b>Product Code</b>	<b>Amount</b>
FEIN: SFS ID:		<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Dual	<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete			\$
FEIN: SFS ID:		<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Dual	<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete			\$
FEIN: SFS ID:		<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Dual	<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete			\$
FEIN: SFS ID:		<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Dual	<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete			\$
<b>Total:</b>						\$
<b>Name and Title of Preparer (Print or Type):</b>			<b>Telephone No:</b>	<b>E-mail Address:</b>		
<b>Signature:</b>			<b>Date:</b>	<b>FOR AGENCY USE ONLY</b>		
				<b>Reviewed By:</b>		<b>Date:</b>
<b>Quarterly Reports should be submitted to: <a href="mailto:mwbe@omh.ny.gov">mwbe@omh.ny.gov</a></b>						
<b>Column A:</b>	<b>Total Amount of Actual Expenditures in Report Period:</b> Enter the amount (\$) expended in total for the Reporting Period.					
<b>Column B:</b>	<b>MBE Subcontracting Expenditures:</b> Enter the total amount (\$) of expenditures with certified Minority owned businesses made during the report period under the contract.					
<b>Column C:</b>	<b>WBE Subcontracting Expenditures:</b> Enter the total amount (\$) of expenditures with certified Women owned businesses made during the report period under the contract.					

**Expenditure:** An actual payment which is made by an agency, either through the Office of the State Comptroller or by the agency's finance office directly, including subcontractor/supplier payments made by a prime contractor and verified by the agency.

**Grants:** For the purposes of this report, grants are monies dispensed by a contracting governmental agency to a person or institution to accomplish a public purpose authorized by law. According to Article 15-A, grants are considered State contracts. For the purpose of compliance reporting, the recipient of the grant is considered to be the "contractor". These contracts are subject to M/WBE goals and reported in the same fashion as any other contractor.

**Not-for-Profit:** According to Article 15-A, Not-for-Profits entities are considered to be "contractors". These contracts are subject to M/WBE goals and reported in the same fashion as any other contractor.

**APPENDIX A-2**  
**EXHIBIT 4**  
**CONTRACTOR QUARTERLY COMPLIANCE REPORT**

Use the following codes in the Product Code column to indicate the category of work for which the M/WBE was utilized

**PRODUCT CODE KEY:**

A	Agriculture/Landscaping ( e.g., all forms of landscaping services)
B	Mining (e.g., Geological investigations)
C	Construction
C15	Building Construction – General Contractors
C16	Heavy Construction (e.g., highway, pipe laying)
C17	Special Trade Contractors (plumbing, heating, electrical, carpentry)
D	Manufacturing (production of goods)
E	Transportation, Communication, Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	Wholesale/Retail Goods (e.g. gravel, hospital supplies, food stores, computer stores, office supplies)
G52	Construction Materials (e.g., lumber, paint, lawn supplies)
H	Financial, Insurance and Real Estate Services
I	Services
I73	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services or equipment, computer programming, security services)
I80	Health Services
I81	Legal Services
I82	Educational Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
I83	Social Services (e.g., counselors, vocational training, child care)
I87	Engineering, architectural, accounting, research, management and related services

**APPENDIX A-2  
EXHIBIT 5  
EQUAL EMPLOYMENT OPPORTUNITY  
WORK FORCE EMPLOYMENT UTILIZATION/COMPLIANCE REPORT**

<b>Contract No.:</b>	<b>Reporting Entity:</b> <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	<b>Reporting Period:</b> <input type="checkbox"/> January 1, 20__ - March 31, 20__ <input type="checkbox"/> April 1, 20__ - June 30, 20__ <input type="checkbox"/> July 1, 20__ - September 30, 20__ <input type="checkbox"/> October 1, 20__ - December 31, 20__
<b>Offerer's Name:</b>		<b>Report includes:</b> <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
<b>Offerer's Address:</b>		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran			
		Male (M)	Female (F)	White		Black		Hispanic		Asian		Native American		(M)	(F)	(M)	(F)
				(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)				
Officials/Administrators																	
Professionals																	
Technicians																	
Service Maintenance Workers																	
Office/Clerical																	
Skilled Craft Workers																	
Paraprofessionals																	
Protective Service Workers																	
Totals																	

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b> <b>EMAIL ADDRESS:</b>	<b>DATE:</b>
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## **APPENDIX B BUDGET**

(To be completed after CONTRACTOR selection utilizing **Attachment “D”, Bid Quote Sheet** from the selected bid.)

**Travel:** There is no reimbursement for travel time and/or travel expenses including mileage and fuel costs.

**Escalation:** **No escalation of the prices that were bid is allowed.** All prices are fixed for the term of the contract.

**Subcontractors Costing:** The prices/rates quoted include all direct and indirect costs of any subcontractors, including those used to meet any stated M/WBE participation goals.

**APPENDIX C  
PAYMENT AND REPORTING SCHEDULE**

CONTRACTOR shall submit to the OMH one properly completed monthly invoice together with required supporting documentation, in a format satisfactory to the OMH. For purposes of this provision and Article 11A of the State Finance Law, the invoice shall be remitted to the following address:

NOTE: The e-mailing of invoices, along with all backup documentation will help expedite the payment process. Email invoices to: [Accountspayable@ogs.ny.gov](mailto:Accountspayable@ogs.ny.gov)

**Business Service Center  
P.O. Box 2117  
Albany, NY 12220-0117**

**REFERENCE CONTRACT #OMH01-C000109-3650270, Unit ID #3650004, NYS Vendor ID Number, and the current PO Number assigned to the Contract on all invoices and correspondence.**

**THE FOLLOWING INFORMATION MUST BE INCLUDED ON ALL INVOICES. FAILURE TO DO SO MAY RESULT IN DELAY OF PAYMENT AND/OR NON PAYMENT OF INVOICE UNTIL SUCH INFORMATION IS PROVIDED.**

- **PURCHASE ORDER NUMBER AND CONTRACT NUMBER**
- **VENDOR IDENTIFICATION NUMBER**
- **CONTRACTOR NAME & ADDRESS**
- **CONTACT PERSON NAME with PHONE NUMBER**
- **FAX NUMBER (if applicable)**
- **E-MAIL ADDRESS (if applicable)**

Payments to CONTRACTOR will be due thirty (30) days thereafter and shall be made in accordance with usual State practices. **However, no payments shall be due prior to the date upon which this Agreement was approved by the New York State Office of the State Comptroller.** Additionally, the OMH may at its discretion, withhold any payment due under this Agreement until such time as the CONTRACTOR has submitted to OMH all Deliverables, including reports, which are due prior to invoice submission. When applicable, this includes submission of **Consultant Disclosure Form B and MWBE Contractors Compliance Reports, all of which shall be considered required deliverables of this Agreement.**

**In order for payments to be processed under the terms of the current contract, reports must be submitted on time as follows:**

- **Quarterly MWBE Contractor's Compliance Reports must be submitted in accordance with the requirements of Appendix A-2. Quarterly reports shall be due no later than 10 days after the end of the reported quarter, based on the State's Fiscal Year, according to the following schedule, e-mailed in a PDF format to the mailbox [CBOProcurement@omh.ny.gov](mailto:CBOProcurement@omh.ny.gov) .**

<b>Quarterly Reporting Period</b>	<b>Quarterly Compliance Report Due Date</b>
<b>January 1 – March 31</b>	<b>April 10</b>
<b>April 1 – June 30</b>	<b>July 10</b>
<b>July 1 – September 30</b>	<b>October 10</b>
<b>October 1 – December 31</b>	<b>January 10</b>

**In addition to submitting their Quarterly Compliance Report on the schedule above, the Contractor shall also attach a copy of the Quarterly MWBE Contractor's Compliance Report with its invoice for services provided during the previous Reporting Period.**

- **Outstanding Quarterly MWBE Contractor's Compliance Reports will be due when submitting the invoice for the final month of services rendered under the contract.**

**APPENDIX C  
PAYMENT AND REPORTING SCHEDULE**

- **Form B must be received by the OMH by the defined due date of April 30th. For contracts that end prior to March 31 of any calendar year, the Form B will be due when submitting the invoice for the final month of services rendered under the contract.**

**Invoices:**

Payment of invoices may be withheld if reports or forms are not submitted as required. The invoice will not be considered complete unless reports or forms are submitted in a timely manner. **Incomplete Invoices are not eligible for interest payments. The CONTRACTOR cannot place the FACILITY on credit hold without first notifying the FACILITY in writing and providing the opportunity to address the matter.**

Submit only **ONE** monthly invoice (and **ONE** invoice number) for all elevator maintenance services rendered at the monthly warranty rate as defined in Appendix B. Invoices for approved Time and Material (T&M) Proposals shall be submitted on a monthly basis after the completion of the T&M repair(s); each approved T&M repair shall be invoiced separately. Labor for Time and Material work shall be billed at the hourly rates described in Appendix B. There is no reimbursement for travel time and/or travel expenses including mileage and fuel costs. All maintenance tasks as specified in Appendix D, Exhibit A for the equipment listed in Exhibit B must be completed in accordance with the Schedule Matrix (agreed to by the CONTRACTOR and FACILITY) before submitting an invoice. At the commencement of the contract, the FACILITY will distribute an Invoice Submission Checklist that will list all of the appropriate back up documentation as listed below or payment will not be made:

1. All invoices to reference the elevator and its monthly rate coincident with the prices quoted in Appendix B.
2. If the CONTRACTOR does not perform a required Preventive Maintenance Service, the following penalties must be applied to the invoice:
  - a. Weekly PM: 50% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - b. Monthly PM: 100% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - c. Bi-Monthly PM: 100% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - d. Quarterly PM: 200% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - e. Semi-Annual PM: 200% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - f. Fireman's Recall: 25% of Technician T&M Straight Time Hourly Rate will be deducted from the Monthly Maintenance rate per elevator
  - g. In the event that the penalties exceed the Monthly Maintenance Rate, a credit will be issued to the FACILITY.
  - h. If the FACILITY has taken the elevator out of service, these penalties do not apply.
3. Preventive Maintenance Checklists, if not previously provided to the facility, completed and signed by the service technician at the time of service/inspection.
4. Where the contract stipulates calibration, a calibration sheet, supplied by the CONTRACTOR, must be submitted for each analog point and device from the computer control system to the end device.
5. For Time and Material (T&M) projects: the completed FACILITY-approved T&M Proposal (reference Appendix D, Exhibit C); an invoice indicating actual number of labor hours charged to the T&M project and the hourly rate per Appendix B; FACILITY verification/signoff attesting to date(s) and time(s) worked; and price/proof of CONTRACTOR parts or subcontractor cost with the appropriate markup (reference Appendix B).
5. Where applicable, any Laboratory test reports with recommendations.
6. Shipping expenses will only be reimbursed at the actual cost. Overnight shipping expenses will not be reimbursed unless Facility granted prior authorization for expense.
7. At a minimum, payrolls must show the following information for each person employed on a public work project:
  - a. Name
  - b. Classification(s) in which the worker was employed
  - c. Hourly wage rate(s) paid
  - d. Supplements paid or provided
  - e. Daily and weekly number of hours worked in each classification.

**APPENDIX C**  
**PAYMENT AND REPORTING SCHEDULE**

**Note:** A sample of an acceptable payroll form (WH-347) can be obtained at the United States Department of Labor web site:  
<http://www.dol.gov/>

**The use of form WH-347 is not mandatory;** the form is available for the convenience of contractors/subcontractors that are required to submit payrolls.

In addition, the Commissioner of Labor may require contractors to furnish, within ten days of a request, payroll records sworn to as their validity and accuracy for public work and private work. Payroll records include, but are not limited to, time cards, work description sheets, proof that supplements were provided, cancelled payroll checks and payrolls. Failure to provide the requested information within the allotted ten days will result in the withholding of up to 25% of the contract, not to exceed one hundred thousand dollars. If the contractor or subcontractor does not maintain a place of business in New York State and the amount of the contract exceeds \$25,000, payroll records and certifications must be kept on the project worksite.

**Do not submit statements.**

**Non-Compliance:**

The CONTRACTOR shall provide complete and accurate billing invoices to OMH in order to receive payment. Billing invoices submitted to OMH must contain all information and supporting documentation required by the Contract, OMH, and the State Comptroller. In the event that the CONTRACTOR submits an inaccurate or incomplete invoice, OMH may refuse to pay the invoice and may return it to the CONTRACTOR with a written explanation for the decision to refuse payment. The CONTRACTOR must submit a corrected invoice within 30 days. OMH reserves the right to deem the CONTRACTOR non-compliant and to terminate the contract if, after having been giving notice and an opportunity to cure, the CONTRACTOR fails to submit accurate and complete invoices on more than 3 occasions during the term of the contract.

**Electronic Payment:**

The CONTRACTOR (OSC G-Bulletin G-240 <http://www.osc.state.ny.us/agencies/gbull/g240.htm> ) is required to participate in the Electronic Payment program offered by the NYS Office of the State Comptroller (OSC). For additional information and to apply for Electronic Payments, the CONTRACTOR is directed to the following web site:  
<http://www.osc.state.ny.us/epay/index.htm>

All correspondence relating to the OSC Electronic Payments program should be directed to:

**NYS Office of the State Comptroller**  
**Bureau of Accounting Operations**  
**Warrant & Payment Control Unit**  
**110 State Street – 9<sup>th</sup> Floor**  
**Albany, NY 12236**  
**Telephone: (518) 402-4067**  
**E-Mail: [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us)**

Payment for invoices submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper is expressly authorized by OMH's Office of Financial Management, at OMH's sole discretion, due to extenuating circumstances. Such electronic payment shall be in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. The CONTRACTOR acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where OMH's Office of Financial Management has expressly authorized payment by paper check as set forth above.

**Contractor Inquiry on Paid Invoices:**

The following OSC payment inquiry site can be used solely for the purpose of obtaining specific check/electronic payment information (the Contractor must have a payment check in hand). The information is limited to disclosure as to the specific invoice(s) applied to a particular check. The Contractor is required to enter its Federal ID # and the Electronic Payment # or

**APPENDIX C  
PAYMENT AND REPORTING SCHEDULE**

the Check # of the check received. The associated invoice #'s paid against the check will then be displayed.  
<https://www1.osc.state.ny.us/ach3/achpaf.cfm>

**Requirement for All Contracts When a Prevailing Wage Schedule Applies:**

**1) Submission of Certified Payroll:**

The CONTRACTOR and/or subcontractor must attach to **every invoice** a current transcript of the original payrolls that covers the time period on the submitted invoice, subscribed and affirmed as true under penalty of perjury. **This transcript is a required deliverable of this contract and is a condition of payment.** **Note:** Building Management System (BMS) Programming Services do not require the payment of prevailing wages and therefore do not require the submission of a certified payroll.

**OSHA 10 Compliance:** For contracts with a total value of \$250,000.00 or more the CONTRACTOR and/or subcontractor must comply with the OSHA 10 Compliance Law (Chapter 282 of the Laws of 2007, codified as Labor Law 220-h). Under this law every one of the CONTRACTOR'S and/or SUB-CONTRACTOR'S employees who will perform service under this contract must be certified as having completed an OSHA 10 safety training course before they can perform any work under this contract. When applicable, the CONTRACTOR and/or its SUB-CONTRACTORS must attach a copy of proof of completion of the OSHA 10 Course for each employee on the 1<sup>st</sup> certified payroll submitted to OMH and on each succeeding payroll where any new or additional employees are first listed. **If OSHA 10 Compliance applies than the above information is a deliverable of this contract and a condition of payment.**

**\*Proof of completion may include but is not limited to the following:**

- Copies of bona fide course completion card;
- Training roster, attendance record or other documentation from the certified trainer pending the issuance of the card;
- Other valid proof.

\*A certification by the employer attesting that all employees have completed such course is **not** sufficient proof that the course has been completed.

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NYS Department of Labor Prevailing wage rates apply to this contract. The Prevailing Rate Case (PRC#) number is: **2015001726**, requested on: February 25, 2015.

ALL PUBLIC WORKS AND BUILDING SERVICE CONTRACTS, REGARDLESS OF A DOLLAR VALUE, REQUIRE THE PAYMENT OF PREVAILING WAGES AND SUPPLEMENTS AS ESTABLISHED BY LAW BY THE DEPARTMENT OF LABOR.

A copy of the prevailing wage schedules that apply to this Contract is available at: <http://wpp.labor.state.ny.us/wpp/publicViewProject.do?method=showIt&id=1137222> and is hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein.

**Anticipated Schedule:**

<b>Elevators</b>	<b>Construction Period</b>	<b>Interim Full Service Maintenance Period</b>	<b>One Year Construction Warranty Period (PM only)</b>	<b>Full Service Maintenance</b>
#3	August 1, 2015 – January 31, 2016	n/a	February 1, 2016 – January 31, 2017	February 1, 2017 – July 31, 2020
#4	February 1, 2016 – July 31, 2017	August 1, 2015 – January 31, 2016	August 1, 2017 – July 31, 2018	August 1, 2018 – July 31, 2020

Note: One-year Construction Warranty begins for each elevator upon the provision of beneficial use to OMH as evidenced by the issuance of the QEI Certificate of Inspection for each elevator completed and turned over to OMH.

**CONTRACTOR, General Responsibilities**

1. The Contract provides for full maintenance warranty service for all equipment specified in the Equipment List (Exhibit B) and any component or accessory not specifically mentioned, which is essential for the proper operation and functioning of the elevators. **NOTE:** The full maintenance warranty service provisions of this Agreement do not apply during the one-year Construction Warranty Period for each elevator. During the Construction Warranty Period for each elevator, the elevators receive Preventive Maintenance and Time and Material Repair Services only under this Agreement. The full maintenance warranty service for equipment, as specified in Exhibit B, includes the furnishing of all material, labor, supervision, diagnostic tools, laptops, tools, supplies, weights, and other expenses necessary to provide full maintenance warranty service, and repairs of every description, including inspections, tests, witnessing of tests, adjustments, and replacement parts. Full maintenance warranty service includes all maintenance tasks (Exhibit A), including emergency call back service on an as-needed basis to perform systematic examinations, adjustments, lubrication, repair and replacement of system component parts. All maintenance, adjustments, tests, and repairs shall be in compliance with the latest adopted editions of ASME A17.1, Safety Code for Elevators and Escalators, A17.1, Special Applications, A17.2, Inspector’s Guide for Elevators and Escalators, and A17.3 Safety Code for Existing Elevators and Escalators (including supplements) hereinafter referred to as ASME A17.1. The safety practice and procedures in the “Elevator Industry Field Employees Safety Handbook” shall also be followed when performing maintenance and repairs.
2. The only circumstance where the CONTRACTOR shall not be obligated under this agreement to repair damage at no additional cost is where such damage was caused by fire or other act of God (except that which is caused by the CONTRACTOR) or by the willful destruction of the equipment by

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the FACILITY, clients, employees or visitors. With respect to repair for which the CONTRACTOR is not obligated under this section, the FACILITY will pay in arrears for any services at CONTRACTOR's standard time and material rates as listed in Appendix B, for any approved T&M proposals.

3. The maintenance tasks associated with the full maintenance warranty service are provided in Exhibit A. For reference purposes, a Time and Materials (T&M) Proposal Form (Exhibit C) to repair/replace materials that are not covered by the full maintenance warranty terms of the Agreement is provided. The CONTRACTOR shall present, within two (2) business days, a completed T&M Proposal Form along with an itemized quote for material and labor to the Plant Superintendent or designee for any additional work not covered under the terms of this contract. The FACILITY will decide how to proceed with all repairs. The FACILITY can implement the repairs using CONTRACTOR, FACILITY staff, or other contracted labor, without penalty. The FACILITY also maintains the right to supply materials directly to the CONTRACTOR without penalty or charge. No work should commence without the prior approval of the FACILITY. FACILITY review and approval (signature of the Business Office designee) are required for each item replaced/repaired/supplied under the T&M allowance. The FACILITY reserves the right to require that the CONTRACTOR submit a completed T&M form within two (2) business days upon request.
4. If the failed part, material, component, and/or equipment is identified as obsolete by the manufacturer and is no longer manufactured or supported, the CONTRACTOR shall provide a Time & Material (Exhibit D) proposal to replace the item with an updated replacement or an after-market equivalent for FACILITY approval. The proposed material cost shall be the incremental cost of the alternate replacement cost versus the cost of the obsolete part. In such cases, if the replacement or after-market component does not come with a full warranty, the CONTRACTOR must notify the FACILITY when submitting the T&M proposal. The FACILITY retains the right to purchase parts directly from an after-market vendor.
5. All systems, components, and equipment covered under this Contract shall be maintained at the highest level of efficiency compatible with current New York State Energy Conservation Code requirements and maintained at an acceptable level throughout the Contract period. An *acceptable level of maintenance* is defined as that level of maintenance that will preserve the equipment in unimpaired operating condition (i.e., above the point where deterioration will begin, thereby increasing the normal life expectancy of the equipment).
6. The CONTRACTOR shall provide 24-hour-a-day, 7 days-a-week, callback service, as part of the monthly maintenance fee and at no added cost to the FACILITY. The CONTRACTOR may only bill for callback service if the work performed is not the responsibility of the CONTRACTOR (e.g. repairs for vandalism, fire, acts of God, or by the willful destruction of the equipment by the FACILITY, clients, employees or visitors). In the event of callback service, a journeyman elevator mechanic will report to the site of the call when requested by the FACILITY, in accordance with the following schedule: (1) Within one (1) hour after receipt of request for any stalled elevator(s) containing a trapped passenger; (2) Within two (2) hours after receipt of request for any elevator(s) covered by the contract. The FACILITY reserves the right to schedule the callback service to the next regular working day.
7. CONTRACTOR will complete a Maintenance Checklist "in layman's terms" for each maintenance visit. These checklists replicate preventive maintenance work as defined in the Maintenance Tasks (Exhibit A) and the FACILITY will provide them to the CONTRACTOR upon contract award.

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8. Should it be identified that the quality of the full maintenance warranty services being performed is not satisfactory and that the requirements of this Agreement are not being met, the CONTRACTOR will be notified of these deficiencies in writing, and it shall be the CONTRACTOR'S responsibility to make the necessary corrections within ten (10) working days after receipt of such notice. The FACILITY has the right, at its sole discretion, to terminate the contract if the CONTRACTOR fails to meet these conditions. The CONTRACTOR will be deemed Non-Responsible by the FACILITY.
9. All parts, materials, components and equipment provided by the CONTRACTOR shall be new and of the same brand name and manufacturer as the item being replaced or repaired or with a FACILITY pre-approved equal. If a replacement part is no longer manufactured, then the CONTRACTOR shall provide new aftermarket parts that are accepted by the elevator industry as equal or better. These parts, materials, components and equipment shall be fully warranted [replacement material and replacement labor] by the CONTRACTOR to be free of defects (manufacturing and workmanship) for the duration of the contract. Any parts, materials, components and equipment provided by the CONTRACTOR during the final one-year contract period shall be fully warranted for a one-year period from the date of installation.
10. No guarantee of work is implied or given. FACILITY has the right to assume portions of the work at any time.
11. The CONTRACTOR is to report and recommend to the FACILITY any required repairs or replacements upon completion of each maintenance visit.
12. The FACILITY will have the elevators inspected at least twice a year at the expense of the FACILITY. The CONTRACTOR's technician/mechanic is required to attend these inspections at no additional cost to the FACILITY. All work required as a result of maintenance deficiencies noted as a result of testing/inspections shall be completed within thirty (30) working days of being notified by the FACILITY of the results of the testing/inspection. Within three (3) working days of said notification, CONTRACTOR shall provide the FACILITY a schedule which includes, but is not limited to: outlining the required scope of work and start and completion dates for the work. If the deficiencies are not corrected after thirty (30) working days, the FACILITY reserves the right to solicit offers from, and have deficiencies corrected by, other sources and deduct the cost of the corrections from money owed to the CONTRACTOR. These inspections do not absolve the CONTRACTOR of its responsibility to perform inspections or tests as required under ASME A17.1.
13. The CONTRACTOR shall be responsible for maintaining the lighting fixtures installed in the car, hoistway, pit, car top, and car emergency lighting. This will include all lighting fixture components such as ballasts, bulbs, lamps, and tubes. The CONTRACTOR shall be responsible for maintaining the car telephone or intercommunication systems from elevator to elevator controller. The following items of work are specifically not included as work which the CONTRACTOR is responsible to perform: 1. Refinishing of the elevator car interior walls, elevator car interior ceiling, and elevator car floor covering; 2. Elevator equipment room lighting ballasts and light fixtures (except bulb replacement is included); 3. Hoistway enclosure walls, and hoistway door frames and sills; 4. Telephone Company lines from the interface with the elevator (except elevator telephone or intercommunication systems are included); 5. Main line power switches, upstream of the equipment safety switches or local isolation switches; 6. Emergency power plants and associated supplies; 7. Replacing broken handrails.

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14. The FACILITY operates 24 hours a day / 7 days a week. If an elevator is continuously out-of-service for more than forty-eight (48) hours, then the FACILITY reserves the right to deduct 10% from the total amount from the next monthly maintenance invoice. If the downtime exceeds thirty (30) continuous days, then the FACILITY reserves the right to deduct the entire monthly maintenance fee for the elevator or 15% from the total amount of the next monthly maintenance invoice, whichever is greater. The length of time that an elevator is out-of-service shall be measured by the FACILITY; beginning at such time the FACILITY notifies the CONTRACTOR that the elevator is out-of-service or that an unsafe condition exists and ending at such time the elevator is safely placed back into service. The FACILITY may interrupt the total “downtime” duration.
15. As required by ASME A17.1, all elevators shall be appropriately inspected every six (6) months and tested annually, and additionally all traction and roped hydraulic elevators shall be tested every five (5) years. Reference the Equipment List (Exhibit B) for the complete inspection and testing schedule for each elevator included in this Agreement. In addition, the CONTRACTOR is responsible for completion of the Monthly Testing of Fireman’s Service as required under ASME A17.1. The CONTRACTOR shall provide any needed equipment to perform the pretest examinations and tests at no additional cost to the FACILITY. The CONTRACTOR shall provide all necessary weights and testing equipment, an adequate quantity of qualified journeyman elevator mechanics familiar with the equipment to perform tests and assist the inspector at no additional cost to the FACILITY. The CONTRACTOR shall periodically examine and test all safety devices, governors, oil buffers, etc. The CONTRACTOR shall make formal safety tests and inspections as required and outlined in the current adopted edition of ASME A17.1. These tests shall be conducted in the presence of a FACILITY-approved and qualified Independent Elevator Inspector. It is the CONTRACTOR’s responsibility to ensure the presence of the Independent Elevator Inspector at the Annual and Five-year tests, and the cost for the Independent Elevator Inspector to witness the Annual and Five-year tests shall be included as part of full warranty maintenance service the CONTRACTOR provides to the FACILITY. FACILITY must approve the CONTRACTOR’s selection for the Independent Elevator Inspector prior to performance of the Annual and Five-year tests. Tests performed on 1 and 5-year intervals will be scheduled to comply with the 1 and 5-year intervals specified in ASME A17.1 Appendix. The CONTRACTOR shall furnish test and condition reports after each test. After tests have been performed, all load weighing devices, etc. shall be checked and adjusted as required to meet manufacturer’s recommendations. ***Cars shall not be placed in service until all tests, checks and adjustments are completed and the elevators are in proper working condition.*** The CONTRACTOR will not be held responsible for any damage to the building and equipment (excluding elevator and related elevator equipment) caused by these tests, unless such damage is a result of negligence by the CONTRACTOR. Failure to follow correct procedures to prevent damages and failure to perform pretest examination shall be considered negligence by the CONTRACTOR. The CONTRACTOR shall furnish and install, at no additional cost to the FACILITY, any missing code data plates as required by ASME A17.1. If necessary, the FACILITY will assist the CONTRACTOR in obtaining the data for the replacement code data plates. If during the inspection/testing of a particular elevator, such elevator fails, CONTRACTOR shall continue the inspection/testing procedure with other elevators so as not to delay the overall inspection/testing process. CONTRACTOR shall provide a separate crew to repair deficiencies.
16. Sixty (60) days prior to the expiration of the agreement, the CONTRACTOR and FACILITY will make a complete examination of the elevators covered under the agreement. The CONTRACTOR shall coordinate and schedule the examination with the FACILITY. The FACILITY shall determine if such an examination is warranted. The FACILITY, at its own expense, reserves the right to contact an independent Elevator Inspector if such an examination is warranted. The FACILITY, with the

## **APPENDIX D PROGRAM WORK PLAN**

assistance of the State Elevator Inspector, will prepare an Existing Deficiency Report listing all deficiencies noted during the examination. The CONTRACTOR shall correct all deficiencies, as required by this contract, prior to the expiration of the contract or risk being deemed a Non-Responsible vendor for any future contracts.

17. The CONTRACTOR shall be completely responsible for their work, including any damages or breakdowns caused by their failure to take appropriate action.
18. The CONTRACTOR shall not make changes or alterations to the existing mechanical equipment, circuits, circuit wiring, or sequencing, and may not alter the original circuit or wiring design of the elevators unless authorized in writing by the FACILITY. The CONTRACTOR shall submit any such proposed change to the FACILITY for approval, and shall include complete legible drawings and wiring diagrams, as well as a complete description of the proposed change. Prior to submitting the proposed change, the CONTRACTOR shall, at its own cost and expense, obtain comments from the original equipment manufacturer concerning the overall effect of such changes on the system. If changes are made, the CONTRACTOR shall provide the FACILITY with three (3) exact copies of as-built drawings of the modifications including a complete description of the changes.
19. The CONTRACTOR shall maintain a complete set of current, legible schematic wiring diagrams in each elevator machine room for each elevator machine contained therein. If schematic wiring diagrams are present during the initial survey of the jobsite, but are missing during the effective contract start date, the FACILITY will assist in retrieving the schematic wiring diagrams from the previous contractor. To the extent that any of the required schematic wiring diagrams are not available at the time of the award of the contract, or cannot be retrieved from the previous contractor, it will be the responsibility of the CONTRACTOR to provide replacement diagrams at a cost to the FACILITY. The cost to provide replacement schematic wiring diagrams shall be considered a pre-maintenance cost. At the end of the contract term, any schematic diagrams provided by the CONTRACTOR will become the property of the FACILITY.
20. The CONTRACTOR shall maintain all elevator equipment in hoistways, pits, machine rooms, and pits and assigned elevator CONTRACTOR work space in a clean orderly condition, free of dirt, dust and debris, pits and machine spaces shall be kept dry and clean.
21. The CONTRACTOR shall not be responsible for upgrading equipment to meet changes in Code requirements as may be recommended or directed by insurance companies, Federal, State, Municipal, or other Governmental authorities. The CONTRACTOR is not responsible for hydraulic cylinders, plungers and piping which are buried and are not maintainable. The CONTRACTOR should report changes in Code requirements to the FACILITY or submit a T&M Proposal when the codes change and those changes affect the site specific equipment and/or conditions.
22. PERFORMANCE TIMES, LEVELING AND CONTRACT SPEED (ELEVATORS)

The control system shall be maintained to provide smooth acceleration and retardation. Contractor must maintain elevators in accordance with the original equipment manufacturer (O.E.M.) design performance specifications (including floor-to-floor times, door timing, rated speed, group supervisory system, etc.). The door close pressure must never exceed 30 pounds. The following performance schedule shall be adhered to:

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1. Contract Speed: The contract speed shall be provided for up direction travel with full-capacity load in the elevator car. The speed in either direction under any loading condition shall not vary more than 5% of the contract speed.
2. In accordance with the ASME A17.1 Code, the elevators shall be maintained and adjusted to safely lower, stop and hold the car with a load of 125% of the rated capacity.
3. Leveling Accuracy: The elevator shall be adjusted to provide accurate leveling within 1/4" ± of the floor level without re-leveling regardless of load.
4. Door Operating Times: Refer to Standards chart. All other times are as follows:
  - a. Door dwell time for hall calls: 5.0 seconds to 8.0 seconds.
  - b. Door dwell time for car calls: 3.0 seconds to 5.0 seconds.
  - c. Reduced non-interference dwell time: 1.0 seconds to 2.0 seconds.

<b>DOOR OPEN, DOOR CLOSE AND FLOOR TO FLOOR PERFORMANCE TIME STANDARDS</b>											
The following chart provides the standards (in seconds) for door opening, closing and floor to floor performance times.											
DOOR WIDTH		36"		42"		48"		54"		60"	
EFFICIENCIES		Acc.	Max Acc.								
SSCO	Door Open	0.9	1.1	1.1	1.3	1.3	1.5	1.4	1.7	1.6	1.9
	Door Close	1.9	2.3	2.2	2.6	2.5	3.0	2.8	3.4	3.1	3.8
	Perf. Time	8.3	9.4	8.8	9.9	9.3	10.5	9.7	11.1	10.2	11.7
2SCO	Door Open	1.0	1.2	1.2	1.4	1.4	1.6	1.5	1.8	1.7	2.0
	Door Close	2.0	2.4	2.3	2.7	2.6	3.1	2.9	3.5	3.2	3.9
	Perf. Time	8.5	9.6	9.0	10.1	9.5	10.7	9.9	11.3	10.4	11.9
SSSO	Door Open	1.9	2.3	2.2	2.6	2.5	3.0	2.8	3.4	3.1	3.8
	Door Close	3.8	4.5	4.5	5.3	5.0	6.0	5.6	6.8	6.3	7.5
	Perf. Time	11.2	12.8	12.1	13.9	13.0	15.0	13.9	16.2	14.9	17.3
2SSO	Door Open	2.0	2.4	2.3	2.7	2.6	3.1	2.9	3.5	3.2	3.9
	Door Close	3.9	4.6	4.5	5.4	5.1	6.1	5.7	6.9	6.4	7.6
	Perf. Time	11.4	13.0	12.3	14.1	13.2	15.2	14.1	16.4	15.1	17.5
SSCO = Single Speed Center Opening 2SCO = Two Speed Center Opening SSSO = Single Speed Side Opening 2SSO = Two Speed Side Opening											

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**GENERAL REQUIREMENTS FOR ALL SERVICE VISITS**

1. Perform all work in a safe, organized manner.
2. Repairs and maintenance are to be performed with equipment properly tagged and locked out. The equipment is to be disabled and all switch or switchgear surveyed and positioned to prevent shock hazards and the release of stored energy. Ensure that site personnel are aware of equipment status and potential hazard.
3. CONTRACTOR'S servicing technicians will be required to sign in and out in accordance with FACILITY established procedure.
4. All work under this contract shall be performed by skilled, competent, journeyman elevator mechanics directly employed and/or supervised by the CONTRACTOR. Elevator mechanic helpers and/or elevator mechanic apprentices may be used, provided that they are under the direct supervision of a journeyman elevator mechanic on site at all times. Direct supervision means working under constant guidance or simultaneously with a journeyman elevator mechanic. All journeyman elevator mechanics shall have a minimum of three (3) years of experience maintaining elevators. Technicians shall have training and experience with facility-specific elevator controls. Sufficient personnel shall be assigned to complete maintenance in a timely manner. The technicians will perform tests, checks, inspections, calibrations, adjustments, component replacements, repairs, and diagnostic assessment of the systems. The CONTRACTOR shall provide documentation to the FACILITY of the competency of the personnel assigned to provide this service. FACILITY reserves the right to review the CONTRACTOR'S technician qualifications and approve or reject all service providers based on their training and experience. FACILITY reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by CONTRACTOR and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work or change in security status or non-compliance with the FACILITY's security or other requirements. Such approval shall not relieve the CONTRACTOR of the obligation to perform all work in compliance with the Contract terms. The FACILITY reserves the right to reject and/or bar from the FACILITY for cause any employee, Subcontractor, or agents of the CONTRACTOR.
5. Report to the FACILITY any situations or observations which could adversely affect the safety of FACILITY staff, building occupants or the operation of the elevators.
6. Submit a completed Maintenance Checklist (all items initialed, including all recommendations) "in layman's terms" for each piece of equipment serviced at the end of each visit to the Plant Superintendent, or his assigned designee, for review prior to leaving the site. The Maintenance Checklist shall be provided to the CONTRACTOR by the FACILITY after contract award. Should both the Plant Superintendent and designee be unavailable prior to leaving the site, the CONTRACTOR shall mail the Maintenance Checklists to the Plant Superintendent, or his assigned designee, within 24 hours of leaving the site. The CONTRACTOR is responsible to provide the FACILITY with the original Maintenance Checklist and make any necessary photocopies of the checklists before they are submitted to the FACILITY. The technician must initial the Maintenance Checklist when each maintenance task is successfully completed. If a specific task is not applicable to a specific piece of equipment, note, "N/A" on the Checklist along with a written notation explaining the reason for the "N/A" entry. FACILITY assumes that all tasks not initialed, were not performed. The CONTRACTOR is required to provide written documentation describing why any task was not

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successfully performed. Successful completion and documentation or written documentation justifying non-performance for all tasks is required before invoices will be paid (reference Appendix C).

7. During the performance of Maintenance Tasks (Exhibit A), the CONTRACTOR shall note any repairs necessary and provide a T&M proposal (Exhibit C) via fax/email to the Plant Superintendent or his assigned designee for repairs or replacements not required by the full maintenance warranty terms of the Agreement.
  - a. The CONTRACTOR will develop and submit a “Not to Exceed” cost for repair, including labor and material. The FACILITY also maintains the right to request a T&M proposal for repairs and/or material during the term of the contract without penalty or charge. The CONTRACTOR may contact the FACILITY to discuss the repair before submitting the T&M proposal; however, the CONTRACTOR shall provide written justification if a “Not to Exceed” quote is not provided within two (2) business days. If the FACILITY approves the proposal, the CONTRACTOR will be given a notification to proceed with the work.
  - b. Should the FACILITY become aware of the need for any repairs and/or replacements that are outside the scope of the warranty definition, the FACILITY may request a T&M proposal from the CONTRACTOR, which the CONTRACTOR shall provide within two (2) business days or written justification if a T&M proposal is not provided within two (2) business days. If the CONTRACTOR does not provide a T&M proposal within two (2) business days or provide just cause to the FACILITY for any delay, the FACILITY reserves the right to deduct 10% from the total amount of all future maintenance invoices until the T&M proposal has been submitted to the FACILITY.
  - c. The CONTRACTOR shall perform the repairs/replacements within four (4) business days of receipt of the FACILITY approval unless otherwise directed by the FACILITY. If the repairs/replacements cannot be performed within four (4) business days, the CONTRACTOR must notify the FACILITY and provide just cause for any delay. Just cause may include work on obsolete equipment and proprietary systems manufactured by others. If the CONTRACTOR does not perform the repairs/replacements within four (4) business days or provide just cause to the FACILITY for any delay, the FACILITY reserves the right to deduct 10% from the total amount of all future maintenance invoices until the work has been performed.
  - d. Any incurred cost over the approved “Not to Exceed” amount will not be paid.
  - e. If the repair is of an urgent nature (if the failure of the equipment will impact client safety or comfort or will consequently cause extensive or expensive damage or loss to other equipment and/or furnishings), the CONTRACTOR is to notify the Plant Superintendent or Contract Compliance Officer (a FACILITY employee designated by the Plant Superintendent) immediately. If necessary, the FACILITY will direct the CONTRACTOR to perform tasks on an emergency basis. Subsequent to the emergency service, the CONTRACTOR will develop and submit, on the completed T&M Proposal Form, a description of the emergency work performed with actual hours and material charged to the emergency work. All backup documentation described above (Appendix C) is required to be submitted with the emergency T&M for payment. The Time and Material invoice shall include documentation providing:
    - i. The signed T&M proposal;
    - ii. An explanation and justification of the repair tasks;
    - iii. The actual labor hours and hourly labor rate, including repair service tickets;
    - iv. The actual material cost and markup, including material receipts;
    - v. The FACILITY’s sign-in/out log, indicating time on site applicable to the T&M project;
    - vi. Invoices from sub-contractors; and
    - vii. Lab test results and analyses, when necessary.

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8. Repair any and all damage caused by CONTRACTOR to the FACILITY's buildings or property, to the full satisfaction of the FACILITY.
9. Cooperate with FACILITY administrators and personnel to prevent the entrance and exit of all workmen and/or others whose presence is forbidden or undesirable and in bringing, storing or removing of all materials and equipment, to observe all rules and regulations in force on the grounds, to avoid unnecessary dust, or accumulated debris or the undue interference with the convenience, sanitation or routine of the FACILITY (and to prevent the loss of, or damage to property of FACILITY or its employees).
10. At the FACILITY'S request, the CONTRACTOR shall provide training in elevator operation as required under the T&M allowance. This training shall include emergency lowering of the elevators, routine inspection requirements, starting and operating procedures, response to alarms, and problem diagnostics (controls/mechanical). Training is to be provided on a T&M basis either on or off-site as agreed to by FACILITY. The hourly labor rate for training is provided in Appendix B.
11. Routine contract meetings, as scheduled by the FACILITY, will be held at the FACILITY with the CONTRACTOR to review issues such as recent work performed, quality of work, adherence to FACILITY requirements, past performance, outstanding deficiencies and outstanding T&M work. The CONTRACTOR will not receive additional compensation to attend these meetings.
12. The proper off-site disposal of all waste oil, empty containers and other waste material shall be the responsibility of the CONTRACTOR. CONTRACTOR is to provide to the FACILITY all required Federal, State and Local documentation required (waste manifests, bills of lading, etc.) for disposal of any hazardous and/or regulated waste.
13. Only one (1) elevator per bank shall be put out of service at any one (1) time for regular maintenance lubrication and servicing. The time of day that each elevator can be shut down for routine maintenance shall be scheduled with the FACILITY to minimize the disruption caused by the elevator down-time. The CONTRACTOR shall inform the FACILITY of the reason(s) the elevator should be out of service and the reason(s) why and what time the elevator is expected to be put back in service for proper and safe operation. When an elevator is taken out of service for maintenance, a sign shall be placed at each opening stating, "This elevator is out of service, please use elevator No. \_\_\_\_."
14. The CONTRACTOR shall evaluate each specific installation to determine the spare parts inventory needed to be maintained on site in order to prevent downtime for spare parts procurement. At a minimum, the CONTRACTOR shall maintain on site for each elevator, five (5) fuses of each size, type and current rating and an adequate supply of replacement lamps. The CONTRACTOR shall have and maintain on hand locally, a supply of spare parts sufficient for the full maintenance service and to expedient emergency repair of the elevator.
15. The CONTRACTOR shall not remove operating components from active elevators for the installation in non-functioning elevators for the purpose of troubleshooting, unless pre-approved by the FACILITY.

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**Exhibit A – Maintenance Tasks**

**Maintenance Specification – Traction Elevators**

**Full Service Maintenance**

1. The CONTRACTOR shall systematically examine, adjust, lubricate, clean, and when conditions warrant, repair or replace including, but not limited to, the following items and components thereof and all other mechanical or electrical equipment, including, but not limited to the following:
  - a. Entire machine, including housing, drive sheave, drive sheave shaft bearings, brake and brake assembly and component parts.
  - b. Hoist motor and motor generator including auxiliary rotating systems, motor windings, rotating elements, commutators and bearings, field windings.
  - c. All sheaves.
  - d. Controller: All components including all relays, contracts, solid state components resistors, condensers, transformers, contacts, leads, mechanical or electrical timing devices, computer devices.
  - e. Selector: All components including selector drive tape, wire or cable, hoistway vanes, magnets, inductors and all other mechanical and electrical drive components.
  - f. Motor, and motor generators brush and brush holders.
  - g. Hoistway door interlocks or locks and contacts; hoistway door hangers and tracks, bottom door gibbs, cams, rollers, and auxiliary door closing devices for power-operated doors. Chains, tracks, cams, interlocks, sheaves for vertical bi-parting doors. All up thrust rollers, (Eccentrics) broken arm closer assembly, retiring arm assemblies complete.
  - h. Hoistway limit switches, slowdown switches, leveling switches and associated cams and vanes.
  - i. Guide shoes including rollers or gib type assemblies complete.
  - j. Automatic power operated door operators, door protective devices, car hangers, tracks and car door contacts for both side slide and vertical bi-parting doors, photo eyes.
  - k. Traveling cables.
  - l. Elevator control wiring in hoistway and machine room.
  - m. Governor including governor sheave and shaft assembly bearings, contact jaw and governor tension assemblies.
  - n. Car and counterweight safety mechanism and load weighting equipment.
  - o. Hoist cables, governor cables, compensating cables and chains, including adjustment and shorting of same as required by code.
  - p. Buffers, oil or spring type.
  - q. Fixture contacts, push buttons, key switches and locks, lamps and sockets of button stations (car and hall), hall lanterns, position indicators (car and hall), direction indicators.
2. CONTRACTOR shall keep the guide rails free of rust where roller guides are used and properly lubricated when sliding guides are used. Renew guide shoe rollers and gibbs as required to insure smooth and satisfactory operation. CONTRACTOR shall also examine and make necessary adjustment or repair to the following accessory equipment including revamping of signal equipment: hall lanterns, car and corridor position indicators, car stations, traffic director station electric door operators, intercom system, interlocks, door hangers, safety edges, LED.
3. CONTRACTOR shall be responsible for keeping the exterior of the elevator machinery and any other parts of the equipment subject to rust, painted with heat resistant enamel and presentable at all times. The motor windings shall be treated as needed, with proper insulating compound as recommended by

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**PROGRAM WORK PLAN**  
**Exhibit A – Maintenance Tasks**

the motor manufacturer. Cleaning and refinishing interior of cars and exterior of hoistway doorframes are excluded from this contract.

**Monthly Firemen’s Recall Service**

1. The following ASME Code A17.1 test must be made monthly:
  - a. Phase 1- EMERGENCY RECALL OPERATION:
    - i. Initiate by inserting key in key switch at lobby or designated level. Turn key to “ON” position. Wait for all elevators to return to that floor and their doors to fully open. If test is for Phase I only, turn key to “OFF” position and remove.
  - b. Phase 2 - EMERGENCY IN CAR OPERATION:
    - i. Remove key from designated level key switch while still in the “ON” position. Push next floors car button. Push “Door Close” button and hold until doors are fully closed. When car stops at next floor, push “Door Open” button and hold until doors are fully opened. Return key to “OFF” position. Remove key, repeat for next elevator.
  - c. CLEAR: To clear Fireman’s Recall Test, insert key into designated level key switch. Turn to “OFF” position and remove key.

**Items of Preventive Maintenance Work**

The preventive maintenance specified herein is considered the minimum for all equipment. If specific equipment covered by this Contract requires additional preventive maintenance for safe, reliable operation, as specified by the manufacturer, the CONTRACTOR shall perform the required additional preventive maintenance without added cost to the State of New York.

**Weekly**

1. Perform general inspection of machinery, sheaves, worm and gear motor, brake, selector of floor controllers (when used). Lubricate as required.
2. Empty drip pans, discard oil in an approved manner and check reservoir oil level.
3. Observe brake operation and adjust or repair if required.
4. Inspect and lubricate machinery, contacts, linkage and gearing.
5. Clean and inspect brushes and commutator, perform needed repairs.
6. Clean and inspect controllers, selectors, relays, connectors, contacts, etc.
7. Ride car and observe operation of doors, leveling, reopening devices, pushbuttons, lights, etc.
8. If rails are lubricated, check conditions and lubrication Service lubricators.
9. Replace all burned out lamps in elevator cars, machine room, pit, hall lanterns, etc.
10. Remove litter, dust, oil, etc. from all machine room equipment.

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**Exhibit A – Maintenance Tasks**

11. Clean trash from pit and empty drip pans.
12. Check condition of car switch handle, replace emergency release glass if required.
13. Check governor and tape tension sheave lubrication.
14. Replacements for burned out lamps in all lanterns, push buttons, car and corridor position indicators, director stations, “this car up” signs and other signal fixtures shall be supplied and installed by the CONTRACTOR. Replacement for burned out lamps in elevator cars, machine rooms and pits shall be supplied by the FACILITY and installed by the CONTRACTOR.

**Bi-Monthly**

1. Observe operation of elevator throughout its full range of all floors it serves to test controls, safety devices, leveling, relieving, and other devices.
2. Check door operation, clean, lubricate and adjust brakes, checks, linkages, gears, wiring motors, check keys, set screw, contacts, chains, cams and door closer.
3. Check selector. Clean, adjust and lubricate brushes, dashpots, traveling cables, chain, pawl magnets, wiring, contacts, relays, tape drive and broken tape switch.
4. Check car. Clean, adjust and lubricate car door and gate tracks, pivots, hangers, car grill, side and top exits.
5. Inspect interior of cab. Test telephone or intercommunication system, normal and emergency lights, fan, emergency call system or alarm, car station. Make needed repairs.
6. Visually inspect controller, contacts and relays. Check adjustment and replace contacts as required.
7. Observe operation of signal and dispatching system. Inspect compensating hitches, buffers, rope clamps, slack cable switch, couplings, keyways and pulleys. Check load weighing device and dispatching time settings. Clean, adjust and lubricate as necessary.
8. Check oil level in car and counterweight oil buffers and add oil as required.
9. Check brushes and commutators. Inspect commutators for finish, grooving, eccentricity and mica level. If required, clean, turn or refinish commutator to provide proper commutation. Inspect brushes for tension seating and wear, replace or adjust as required.
10. Check and adjust:
  - a. Car Ventilation System.
  - b. Car position indicators.
  - c. Director stations.
  - d. Hall and car buttons.
  - e. Hall lanterns.
  - f. This Car Up signs.

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**Quarterly**

1. Check leveling operation. Clean and adjust leveling switches, hoistway vanes, magnets, and inductors. Repair and/or adjust for proper leveling.
2. Check hoistway doors. Clean, lubricate car door or gate tracks, hangers, and up thrust eccentrics, linkages gibbs and interlocks.
3. Clean, adjust and lubricate car door or gate tracks, pivots, hangers.
4. On hoistways doors, clean, lubricate and adjust tracks, hangers and eccentrics, linkages gibbs and interlocks.
5. Inspect all fastening and ropes for wear and lubrication. Clean both governors and hoist ropes and lubricate hoist ropes and lubricate hoist ropes if needed. Inspect all rope hitches and shackles and equalize rope tension.
6. Inspect hoist reduction gear brake and brake drum, drive sheave and motor, and any bearing wear.
7. In the car, test alarm bell system. Clean light fixtures, inspect, clean and adjust retiring cam devices, chain, dashpots, commentators, brushes, cam pivots, and fastenings. Test emergency switch (ground case, if necessary). Inspect safety parts, pivots, setscrew, switches, etc. Check adjustment of car and counterweight gibbs, shoe or roller guides, lubricate and adjust, if necessary.
8. In the pit, lubricate compensating sheave and inspect hitches. Inspect governor and tape tension sheave fastenings. Empty clean oil drip pans.
9. Clean all parts of safeties and lubricate moving parts to assure their proper operation. Check and adjust clearance between safety jaws and guide rails. Visually inspect all safety parts.
10. Clean and examine governor rope, replacing, if needed (do not lubricate governor rope).

**Semi-Annually**

1. Check Controller. Clean with blower, check alignment of switches, relays, timers, contacts, hinge pins, etc. adjust and lubricate. Check all resistance tubes and grids. Check oil in overload relays, settings and operation of overloads. Clean and inspect fuses and holders and all controller connections.
2. In hoistway examine guide rails, cams and fastenings. Inspect and test limit and terminals switches. Check and adjust car shoes, gibbs or roller guides. Adjust or replace as required.
3. Clean all overhead cams, sheaves, sills, bottom of platform, car tops, counterweights and hoistway walls.
4. Inspect sheaves to ensure they are tight on shafts. Sound spokes and rim with hammer for cracks.
5. Examine all hoist ropes for wear, lubrication, length and tension. Replace, lubricate and adjust as required to meet code requirements.

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**Exhibit A – Maintenance Tasks**

6. On tape drives, check hitches and broken tape switch.
7. Check car stile channels for bends or cracks; also car frame, cams, supports and car steadying plates.
8. Lubricate moving parts of vertical rising or collapsible car gates. Check pivot points, sheaves, guides and track wear.
9. Lubricate guide shoe stems.
10. Check governor and tape tension sheave fastenings.
11. For bi-parting doors, clean chains, tracks and sheaves, lubricate as required. Check door contacts.
12. Check fastenings and operation of door checks, interlocks clean and lubricate pivot points as required.

**Annually**

1. Thoroughly clean car and counterweight guide rails using a nonflammable or high flash point solvent to remove lint dust and excess lubricant. Vacuum down elevator shaft way.
2. Remove, clean and lubricate brake cores on brakes, clean linings, if necessary and inspect for wear. Correct excess wear and adjust.
3. Drain, flush and refill reservoirs on each hoisting motor and motor generator.
4. Check and reset, if necessary, all brushes for neutral settings, proper quartering and spacing on commentators.
5. Group supervisory control systems installed shall be checked out. The systems, dispatching scheduling and emergency servicing shall be tested and adjusted in accordance with manufacturer's literature. The CONTRACTOR shall prove to the satisfaction of the FACILITY that the system functions properly. All work shall be performed during other than normal working hours with no inconvenience to building occupants. A full report covering adjustment time intervals, dispatch times on various programs, door standing time and door opening and closing speeds shall be furnished to the FACILITY.

**Time and Material: Fire Alarm and/or Security System Installation**

**The following tasks are to be performed after FACILITY approval of a T&M proposal.**

1. As required and directed by the FACILITY, the CONTRACTOR shall coordinate with the FACILITY's Fire Alarm and/or Security System contractor during the installation of new fire alarm and/or security systems at the FACILITY. The CONTRACTOR shall perform the following under the Time and Material provisions of the Contract:
  2. The following tasks are required to be performed at the elevator machine rooms, elevator pits, elevator shafts, and elevator cabs:
    - a. Elevator CONTRACTOR to provide access to pit and top of shaft for demo and/or installation.

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- b. Elevator CONTRACTOR to provide mechanic to swing over primary recall to new system control relay.
- c. Elevator CONTRACTOR to provide mechanic to swing over alternate recall to new system control relay.
- d. Elevator CONTRACTOR to provide mechanic to swing over shunt relay to new system control relay system control relay.
- e. Elevator CONTRACTOR to provide mechanic to swing over shunt status to new system control relay.
- f. Elevator CONTRACTOR to provide mechanic to swing over alleviator room smoke relay to new system control relay.

**Note:** The existing fire alarm system may not currently provide a connection to the elevator controller for elevator machine room smoke. In addition, the existing elevator shunt controller may not provide a status to the existing system for shunt status.

- 3. Elevator CONTRACTOR to provide mechanic to swing over existing phone jack in cab and at elevator controller in order to connect to new system.
- 4. Elevator CONTRACTOR to provide mechanic to swing over existing speaker in cab and at elevator controller in order to connect to new system.

**Note:** Speaker may not currently exist inside elevator cars. In that case, a new dedicated feed will need to be provided by the elevator CONTRACTOR inside existing travel cable.

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EXHIBIT B – EQUIPMENT LIST**

<b>Bldg. #</b>	<b>Elevator #</b>	<b>Description</b>	<b>Type</b>	<b>Capacity (lbs.)</b>	<b>Speed (fpm)</b>	<b>Floors Served</b>	<b>Year Installed/ Upgraded</b>	<b>Controller</b>
39	3	Passenger	Gearless Traction	4,000	400	B, 1, 2, 3, 4, 5, 6	1956 / 1986	Relay
39	4	Passenger	Gearless Traction	4,000	400	B, 1, 2, 3, 4, 5, 6	1956 / 1986	Relay

**APPENDIX D - PROGRAM WORK PLAN  
Exhibit C - Time and Material Proposal Form**

**Directions:** Refer to page 2 of the T&M Proposal Form for detailed instructions on completing this form.

**Section I: T&M Identification and Contact Information**

CONTRACT NUMBER: <b>OMH01-C000109-3650270</b>	CONTRACTOR T&M PROPOSAL NUMBER:
	Check Box if EMERGENCY T&M: <input type="checkbox"/> Emergency T&M
CONTRACTOR NAME:	FACILITY NAME: Central New York Psychiatric Center
PHONE:	PHONE:
CONTACT PERSON:	CONTACT PERSON:
FAX / EMAIL: /	FAX / EMAIL: /

**Section II: FACILITY Health and Safety Justification:** (**FACILITY** to provide a justification that explains the critical nature of the request and how the request directly impacts the health and/or safety of the clients, employees, and/or visitors.)

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**Section III: T&M Repair Justification [min. 1 paragraph, 25 words]:** (**CONTRACTOR** to provide a detailed justification that explains the need for the repair.)

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**Section IV: T&M Repair Scope of Work [min. 1 paragraph, 25 words]:** (**CONTRACTOR** to provide a detailed description of the proposed scope of work. The following MUST be included in the description: 1) Building Number; 2) Equipment Description; and 3) Equipment Tag.)

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**Section V: T&M Not-to-Exceed Quote:**

**A. Labor**

Description (indicate technician classification per Appendix B)	Estimated Labor Hours	Contracted Hourly Labor Rate	Total Labor Quote
____ Technician Straight Time			
____ Technician Straight Time			
____ Technician Overtime			
____ Technician Overtime			
Explain Reason for Overtime:			
<b>Total Labor Quote:</b>			

**B. Material, Equipment and Specialized Subcontractor Costs**

Description of Major Components	Quantity	Total Estimated Cost	Material Markup (%)	Less Discounts Allowed	Total Material Quote
1.			%		
2.			%		
3.			%		
Misc. Materials	N/A		%		
Freight / Shipping and Handling	N/A		N/A		
<b>Total Material, Equipment and Specialized Subcontractor Quote:</b>					

**Total T&M Not-to-Exceed Quote for Scope of Work (A+B):** \_\_\_\_\_

**Central New York PC** accepts T&M proposal #Insert T&M Proposal Number for contract #OMH01-C000109-3650270 relating to scope of work and pricing. All other terms and conditions are as defined in Appendix D, Program Work Plan. Should there be a discrepancy between this T&M proposal and the service contract, the contract rates, terms and conditions will take precedence.

Facility Business Office (FBO) Designee: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Contractor Representative: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_

## APPENDIX D - PROGRAM WORK PLAN

### Exhibit C - Time and Material Proposal Form

#### Directions for Completing the OMH T&M Proposal Form

The CONTRACTOR shall complete Sections I, III, IV and V on page 1. In Section I, CONTRACTOR shall provide a T&M identification number and indicate if this proposal is for an Emergency T&M response. OMH will not consider approval of this T&M if any sections or fields are omitted by the CONTRACTOR. CONTRACTOR shall sign the proposal at the time it is submitted to the FACILITY for approval; the FBO designee shall sign the proposal after it has been approved by the Administrative Support Services Group (ASSG). Please expand any sections and/or use additional pages as necessary to provide the required detailed T&M repair information. OMH reserves the right to alter the T&M Proposal Form as necessary.

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#### Summary of T&M Protocol

**Step 1:** During the performance of Preventive Maintenance tasks, the **Contractor** shall note any repairs necessary and provide a T&M proposal within two (2) business days via fax/email to the **Facility Plant Superintendent (FPS)** for repairs or replacements. The T&M proposal could also be initiated when the **FPS** identifies a need. Once the T&M proposal is received from the Contractor, the **FPS** determines if the work can be performed by internal staff. If the work cannot be performed internally, the **FPS** shall request ASSG-approval of the T&M “Not-to-Exceed” proposal developed by the **Contractor**, following the subsequent steps outlined below.

**Step 2:** **FPS**, with assistance of the **FBO** (if needed), reviews the T&M proposal to ensure that it meets the terms/rates under the contract. The **FPS** must also review and ensure that the proposal meets the following three (3) criteria for approval: 1) The facility staff is unable to perform the required repair and the contractor’s services are therefore needed; 2) The scope of work is acceptable; and 3) The price quote is reasonable.

**Step 3:** **FPS or FBO** forwards completed, Contractor-signed (electronic signature is acceptable) T&M Proposal Form and any related documentation via e-mail to [mailto: maintenancecontracts@omh.ny.gov](mailto:maintenancecontracts@omh.ny.gov).

**Step 4:** **ASSG** will e-mail the proposal to the appropriate **Consultant** to complete the review and evaluation of the T&M proposal. **Consultant** will respond with a summary of the T&M review and a recommendation for approval or disapproval, or the **Consultant** may request that additional information be provided to ASSG by the Contractor or Facility in order to complete the T&M review process.

**Step 5:** **ASSG** will review the T&M proposal along with the Consultant evaluation. **ASSG** will send an e-mail to the Facility T&M distribution listing approving or disapproving the T&M proposal.

**Step 6:** If approved, the **FBO** designee signs the T&M proposal form and forwards the signed T&M proposal to the **FPS**. The **FPS** notifies the **Contractor** to proceed and provides the signed T&M proposal.

**Step 7:** **Contractor** performs T&M work.

**Step 8:** **FPS** ensures that the work has been performed to his or her satisfaction and notifies the **FBO**.

**Step 9:** **Contractor** submits invoice, with a copy of the ASSG-approved T&M Proposal Form, repair service tickets, material cost supporting documentation/receipts, and invoices from sub-contractors (if utilized), to the **FBO**.

**Step 10:** **FPS and FBO** review the invoice to ensure that: 1) the actual hours worked and documented in the invoice and service ticket(s) is accurate as compared to the labor hours logged by the Contractor in the facility sign-in/out log book; 2) the materials billed match the costs indicated in the material cost supporting documentation; and 3) the Contractor billed at the correct labor rate(s) and applied the correct material markup as stated in Appendix B Budget. If the invoice is acceptable, **FPS** will authorize payment and the **FBO** shall submit the invoice to the **Consolidated Business Office** along with a copy of the T&M Proposal Form, all supporting T&M documentation, and the ASSG-approval email notification.

#### Emergency T&M Post-audit Review and Approval Process:

This process follows the T&M Protocol with the following deviations:

- The **FPS** will immediately call in the **Contractor** to perform the repair rather than waiting for the Contractor to submit a T&M Proposal for the repair. **Contractor** will then perform the necessary repair.
- After the Emergency T&M repair is complete, the **Contractor** shall then submit the related invoice to the **FBO** along with a completed ASSG T&M Proposal Form and a copy of all applicable service ticket(s) and material cost supporting documentation. The Section V: T&M Not-to-Exceed Quote section of the T&M Proposal Form shall reflect the actual costs associated with the Emergency T&M repair as detailed in the invoice submitted.
- In Step 3, the **FPS or FBO** forwards the completed, Contractor and Facility-signed T&M Proposal Form, the applicable service ticket(s) and material cost supporting documentation, and a copy of the facility sign-in/out log book for the applicable date(s) of service via e-mail to [mailto: maintenancecontracts@omh.ny.gov](mailto:maintenancecontracts@omh.ny.gov)

**APPENDIX F**  
**BUSINESS ASSOCIATE AGREEMENT**

**Updated September 6, 2013**

1. The terms and conditions of this document entitled “*Appendix F, Business Associate Agreement*” (“Business Associate Agreement”), and attached to and incorporated in the Agreement, shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of Contractor’s performance of the Agreement, and pursuant to which Contractor may be considered a “business associate” of the New York State Office of Mental Health as such term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including all pertinent regulations (45 CFR Parts 160 and 164) issued by the U.S. Department of Health and Human Services, as amended.
2. For purposes of this Business Associate Agreement, the term “Contractor” shall mean and include the term “Business Associate” as such term is defined in 45 CFR §164.103.
3. **Definitions:** Terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in 45 CFR §§160.103, 164.103, and 164.501.
  - a. *Breach* shall have the same meaning as the term “Breach” in §13400 of the HITECH Act and guidance issued by the Department of Health and Human Services, and shall include the unauthorized acquisition, use, or disclosure of Protected Health Information that compromises the privacy or security of such information.
  - b. *Covered Entity* shall mean the New York State Office of Mental Health.
  - c. *Data aggregation* shall mean, with respect to protected health information created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such protected health information by the business associate with the protected health information received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
  - d. *Designated Record Set* shall have the same meaning as the term “Designated Record Set” in 45 CFR §164.501.
  - e. *HIPAA Rules* shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.
  - f. *HITECH Act* shall mean the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 226 (Feb. 17, 2009), codified at 42 U.S.C. §§300jj *et seq.*, §§17901 *et seq.*
  - g. *Individual* shall have the same meaning as the term “Individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
  - h. *Protected Health Information.* Shall have the same meaning as the term “Protected Health Information” in 45 CFR §160.103, but is limited to the protected health information created or received by Contractor from, for or on behalf of Covered Entity in connection with or in the course of Contractor’s performance of the Agreement.
  - i. *Required by Law* shall have the same meaning as the term “Required by Law” in 45 CFR §164.103.
  - j. *Secretary* shall mean the Secretary of the Federal Department of Health and Human Services or his/her designee.
  - k. *Security Incident* shall have the same meaning as the term “Security Incident” in 45 CFR §164.304.
  - l. *Security Rule* shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, subparts A and C.
  - m. *Unsecured Protected Health Information* shall mean Protected Health Information that is not secured through the use of a technology or methodology specified by the Secretary in guidance, or as otherwise defined in §13402(h) of the HITECH Act.

**APPENDIX F**  
**BUSINESS ASSOCIATE AGREEMENT**

**4. Obligations and Activities of Contractor:**

- a. Contractor agrees not to use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- b. Contractor agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the Agreement, and to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity pursuant to this Agreement. Contractor agrees to fully comply with the responsibilities of Business Associates as set forth in §13401 of the HITECH Act.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of the Agreement.
- d. Contractor agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by the Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 CFR §164.410, and any Security Incident of which it becomes aware. In the event of a Breach of Unsecured Protected Health Information:
  - (1) Contractor shall promptly notify Covered Entity of the Breach when it is discovered, but no later than 30 days from the discovery of the Breach. A Breach is considered discovered on the first day on which Contractor knows or should have known of such Breach. Such notification shall identify the Individuals whose Unsecured Protected Health Information has, or is reasonably believed to have, been the subject of the Breach, and their contact information.
  - (2) Covered Entity shall promptly notify Individuals about a Breach of their Unsecured Protected Health Information as soon as possible, but not later than 60 calendar days after discovery of the Breach, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Notification shall meet the requirements of §13402 of the HITECH Act.
- e. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, Contractor agrees to ensure that any agent or subcontractor of Contractor to whom Contractor provides Protected Health Information received from, or created or received by Contractor on behalf of Covered Entity pursuant to the Agreement agrees to at least the same restrictions and conditions that apply through this Business Associate Agreement to Contractor with respect to such Protected Health Information. Contractor will ensure that Business Associate Agreements are executed with all subcontractors that will perform functions or activities on behalf of Contractor that involve the use or disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, Covered Entity.
- f. To the extent that the information made available to Contractor under the Agreement includes Protected Health Information in a Designated Record Set, Contractor agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.
- g. To the extent that the information made available to Contractor in connection with or in the course of Contractor's performance of the Agreement includes Protected Health Information in a Designated Record Set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- h. Contractor agrees to document such disclosures of Protected Health Information under the Agreement and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- i. Contractor agrees to provide to Covered Entity or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with paragraph (i) of Section 4 of this Business Associate Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528. If Contractor assists Covered Entity in maintaining an electronic health record (EHR), Contractor shall support Covered Entity in providing, upon the request of the Individual, an accounting of disclosures of Protected Health Information in the EHR within the prior three years, as well as an electronic copy of Protected Health Information that is part of an EHR.

**APPENDIX F**  
**BUSINESS ASSOCIATE AGREEMENT**

j. To the extent Contractor is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations; and shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent that Covered Entity is responsible for compliance with such rule.

k. Contractor agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of Covered Entity pursuant to the Agreement, available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner as designated by the Covered Entity, for purposes of the Secretary's determining Covered Entity's compliance with the HIPAA Rules.

l. Contractor shall make its internal practices, books, and records available to the Secretary for purposes of determining its compliance with the HIPAA Rules.

**5. Permitted Uses and Disclosures by Contractor**

Except as otherwise limited in the Agreement and this Business Associate Agreement, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

**6. Specific Use and Disclosure Provisions**

a. Except as otherwise limited in the Agreement or this Business Associate Agreement, Contractor may use Protected Health Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

b. Except as otherwise limited in the Agreement and this Business Associate Agreement, Contractor may disclose Protected Health Information for the proper management and administration of the Contractor, provided that disclosures are Required by Law, or Contractor obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that it will remain confidential and shall be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality obligations under this Business Associate Agreement have been breached.

c. Except as otherwise limited in the Agreement and this Business Associate Agreement, Contractor may use Protected Health Information to provide Data Aggregation services relating to the health care operations of Covered Entity as permitted in 45 CFR §164.504(e)(2)(i)(B).

d. Contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with New York State Mental Hygiene Law and 45 CFR §164.502(j)(1).

**7. Obligations of Covered Entity**

a. Covered Entity shall notify Contractor of any limitation(s) in its Notice of Privacy Practices produced in accordance with 45 CFR §164.520, to the extent that such limitation may affect Contractor's use or disclosure of Protected Health Information.

b. Covered Entity shall notify Contractor of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Contractor's permitted or required uses and disclosures.

c. Covered Entity shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Contractor's use or disclosure of Protected Health Information.

**8. Permissible Requests by Covered Entity**

Covered Entity shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity. Covered Entity may permit Contractor to use or disclose Protected

**APPENDIX F**  
**BUSINESS ASSOCIATE AGREEMENT**

Health Information for Data Aggregation or management and administrative activities of Contractor, if the Agreement includes provisions for same.

**9. Remedies in Event of Breach/Indemnification**

- a. In the event of breach by Contractor of any of the covenants and assurances contained in this Business Associate Agreement, Contractor hereby agrees that immediate and irreparable harm may result to Covered Entity, and to the business of Covered Entity, which harm would not be adequately compensated by monetary damages. As such, in the event of breach of any of the covenants and assurances contained in Sections 4, 5, or 6 above, Covered Entity shall be entitled to enjoin and restrain Contractor from any continued violation of such Sections.
- b. Contractor shall defend, indemnify and hold Covered Entity harmless against all claims, losses, liability, costs and other expenses (including reasonable attorneys' fees), without limitation (collectively, "Liability"), resulting from or arising out of the acts or omissions of Contractor in the performance of its duties and obligations under this Business Associate Agreement, except to the extent that such Liability results from or arises out of the acts or omissions of Covered Entity. Contractor's Liability under the foregoing provision shall include responsibility to pay, or where appropriate, to reimburse Covered Entity, for all costs associated with notification required by HIPAA or HITECH due to a Breach within the meaning of this Business Associate Agreement, except to the extent that such Liability results from or arises out of the acts or omissions of Covered Entity. Contractor shall be fully liable for the actions of its agents, employees and subcontractors.
- c. The terms of this Section 9 shall survive expiration or termination of the Agreement.

**10. Consideration**

Contractor acknowledges that the promises it has made in this Business Associate Agreement shall, henceforth, be relied upon by Covered Entity in choosing to continue or commence a business relationship with Contractor.

**11. Interpretation of this Business Associate Agreement in Relation to Other Contracts Between the Parties**

Should there be any conflict between the language of this Business Associate Agreement and any other contract or agreement entered into between the Parties (either prior or subsequent to the date of this Business Associate Agreement), the language and provisions of this Business Associate Agreement shall control and prevail unless, in a subsequent written agreement, the Parties specifically refer to this Business Associate Agreement by its title and date, and specifically state that the provisions of the later written agreement shall control over this Business Associate Agreement; except that in the event of a conflict with Appendix A (Standard Terms and Conditions of New York State Contracts) in any agreement to which such Appendix A applies (either prior or subsequent to the date of this Business Associate Agreement), Appendix A shall govern.

**12. Term and Termination**

- a. Term. The provisions of this Business Associate Agreement shall be effective as of the effective date of the Agreement and shall survive termination of the Agreement and shall not terminate unless and until all Protected Health Information is destroyed, or returned to Covered Entity or, if it is infeasible to return or destroy Protected Health Information, in accordance with the termination provisions in Section (c)(2) of this Section, in which case Contractor's obligations hereunder shall continue for so long as Contractor maintains the Protected Health Information.
- b. Termination for Cause. A breach of this Business Associate Agreement by either party shall be considered a material breach of the Agreement and may be grounds for termination of the Agreement for cause.
- c. Effect of Termination.
  - (1) Except as provided in subparagraph (2) of this paragraph, upon termination of the Agreement for any reason, Contractor shall return to Covered Entity or destroy all Protected Health Information received from Covered Entity, or created or received by Contractor on behalf of Covered Entity. This provision shall apply to all Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information. Upon request by Covered Entity, Contractor shall certify in writing to Covered Entity that all Protected Health Information has been returned or destroyed as required by this section.
  - (2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to Covered Entity notification of the conditions that make return or destruction

**APPENDIX F**  
**BUSINESS ASSOCIATE AGREEMENT**

infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Business Associate Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information. Upon request by Covered Entity, Contractor shall certify in writing to Covered Entity that it has taken all the steps required by this section to protect Protected Health Information which could not feasibly be returned or destroyed.

**13. Miscellaneous**

- a. Regulatory References. A reference in this Business Associate Agreement to the HIPAA Rules means the rules as in effect or amended, and for which compliance by a Covered Entity and/or Business Associate is required.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- c. Survival. The respective rights and obligations of Contractor under Section 9 of this Business Associate Agreement shall survive the termination of this Business Associate Agreement.
- d. Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits compliance with the HIPAA Rules.

**APPENDIX G**  
**ADDITIONAL INSURANCE REQUIREMENTS**

**Additional Insurance Requirement:**

**Insuring Requirements**

Prior to the start of work the **Contractor** shall procure at its sole cost and expense, and shall maintain in force at all times **during the term of this Agreement**, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York with an A.M. Best Company rating of “A- “or better. The OMH may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the OMH to accept insurance placed with a non-authorized carrier under any circumstances.

The **Contractor** shall deliver to OMH evidence of such policies in a form acceptable to the OMH. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

**General Conditions**

**A.Conditions Applicable to Insurance.** All policies of insurance required by this agreement must meet the following requirements:

1. **Coverage Types and Policy Limits.** The types of coverage and policy limits required from the **Contractor** are specified herein.
2. **Policy Forms.** Except as may be otherwise specifically provided herein or agreed in writing by OMH, policies must be written on an **occurrence** basis. Under certain circumstances, the OMH may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the Contract. If the policy is cancelled or not renewed during that time, the Contractor must purchase at its sole expense Discovery Clause coverage sufficient to complete the 3-year period after completion of the Contract. Written proof of this extended reporting period must be provided to the OMH prior to the policy’s expiration or cancellation.
3. **Certificates of Insurance/Notices.** **Contractor** shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the OMH, before commencing any work under this contract. Certificates shall reference the Contract Number. Certificates shall be mailed to the:

*Contract and Procurement Services  
NYS Office of Mental Health  
Consolidated Business Office  
Contract & Procurement Services – Unit N Upper  
75 New Scotland Avenue  
Albany, NY 12208*

Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to the OMH, Attn: NYS Office of Mental Health, 75 New Scotland Avenue, Albany, NY 12208. In addition, if required by the OMH, the **Contractor** shall deliver to the OMH within forty-five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete.

Certificates of Insurance shall:

- a. Be in the form approved by OMH.
- b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract.

**APPENDIX G**  
**ADDITIONAL INSURANCE REQUIREMENTS**

- c. Specify the Additional Insureds and Named Insureds as required herein.
- d. Refer to this Contract by number, the Supplemental Certificate, and any other attachments on the face of the certificate,
- e. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit, and
- f. Be signed by an authorized representative of the insurance carrier or producer.

Originals, copies, faxed, and electronic documents (Certificates of Insurance, Supplemental Insurance Certificates and other attachments) will be accepted.

4. **Primary Coverage:** All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the OMH for any claim arising from the **Contractor's** Work under this contract, or as a result of the **Contractor's** activities. Any other insurance maintained by the OMH shall be excess of and shall not contribute with the **Contractor's** insurance regardless of the —other insurance clause contained in the OMH's own policy of insurance.
5. **Policy Renewal/Expiration:** At least two (2) weeks prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the OMH than the expiring policies shall be delivered to the OMH in the manner required for service of notice in Paragraph A.3. *Certificates of Insurance/Notices* above. If, at any time during the term of this contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the Contract or proof thereof is not provided to the OMH, the **Contractor** shall immediately cease Work on the Project. The **Contractor** shall not resume Work on the Project until authorized to do so by the OMH. Any delay, time lost, or additional cost incurred as a result of the **Contractor** not having insurance required by the Contract or not providing proof of same in a form acceptable to the OMH, shall not give rise to a delay claim or any other claim against the OMH. Should the **Contractor** fail to provide or maintain any insurance required by this contract, or proof thereof is not provided to the OMH, the OMH may withhold further contract payments, treat such failure as a breach or default of the contract, and/or, after providing written notice to the **Contractor**, require the Surety, if any, to secure appropriate coverage and/or purchase insurance complying with the Contract and charge back such purchase to the **Contractor**.
6. **Self-Insured Retention/Deductibles:** Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. For Construction contracts – General, Environmental, and/or Builders' Risk deductibles or self-insured retentions above \$100,000 are subject to approval from the OMH. Additional surety/security may be required in certain circumstances. The **Contractor** shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.
7. **Subcontractors:** Should the **Contractor** engage a Subcontractor, the **Contractor** shall endeavor to impose the insurance requirements of this document on the Subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to the OMH.

**Types of Insurance:**

**1. General Liability**

Commercial General Liability Insurance, (CGL) covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this contract. The limits under such policy shall not be less than the following:

- Each Occurrence limit - \$2,000,000
- General Aggregate – \$2,000,000

**APPENDIX G**  
**ADDITIONAL INSURANCE REQUIREMENTS**

- Products/Completed Operations - \$2,000,000
- Personal Advertising Injury – \$1,000,000
- Damage to Rented Premises - \$50,000
- Medical Expense – \$50,000

Coverage shall include, but not be limited to, the following:

- premises liability,
- independent contractors, blanket contractual liability, including tort liability of another assumed in a contract,
- defense and/or indemnification obligations, including obligations assumed under this contract,
- cross liability for additional insureds
- products/completed operations for a term of no less than 3 years, commencing upon acceptance of the work, as required by the contract
- explosion, collapse, and underground hazards,
- contractor means and methods
- liability resulting from Section 240 or Section 241 of the New York State Labor Law.

The following ISO forms must be endorsed to the policy:

- a. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- b. CG 20 10 11 85, or, an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B)
- c. CG 25 03 11 85 or, an equivalent - Designated Construction Project(s) general aggregate limit (only required for construction contracts).

Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

Policies shall name NYS Office of Mental Health as Additional Insureds, and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term.

The CGL policy, and any umbrella/excess policies used to meet the — Each Occurrence limits specified above, must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to, and non-contributing with, any other insurance maintained by the OMH. Any other insurance maintained by the OMH shall be excess of and shall not contribute with the Contractor's or Subcontractor's insurance, regardless of the other insurance clause contained in either party's policy of insurance.

## **2. Workers' Compensation**

For work to be performed in NYS, the Contractor shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the NYS Workers' Compensation Law.

If the Agreement involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act and/or Jones Acts policy as applicable must be provided. Any waiver of this requirement must be approved by the OMH and will only be granted in unique or unusual circumstances.

**APPENDIX G**  
**ADDITIONAL INSURANCE REQUIREMENTS**

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) C-105.2 (September 2007, or most current version) – Certificate of Workers' Compensation Insurance
- (2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund
- (3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance.

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier.

**3. Disability Benefits**

For work to be performed in NYS, the Contractor shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the NYS Disability Benefits Law. Any waiver of this requirement must be approved by the OMH and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) DB-120.1(May 2006 or most current version) – Certificate of Insurance Coverage under the NYS Disability Benefits Law.
- (2) DB-155 – Certificate of Disability Self Insurance.
- (3) CE-200 – Certificate of Attestation of Exemption. [Note: This form will only be accepted as evidence of an exemption from providing Disability Benefits insurance as required by Law. The Agency will not accept this as an exemption from providing Workers' Compensation Insurance].

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier

**4. Business Automobile Liability**

Commercial Auto Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least one million dollars and shall name NYS Office of Mental Health as additional insured. The limits may be provided through a combination of primary and umbrella/excess liability policies. If the contract involves the removal of hazardous waste from the project site or otherwise transporting hazardous materials, pollution liability coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached.

**5. Environmental Liability**

If the work involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which includes but are not limited to, petroleum, petroleum product, hazardous material or substance including asbestos, lead, fungus and those as defined by applicable State and federal laws and regulations, the Contractor shall procure, or otherwise obtain through an approved subcontractor, and maintain in full force and effect throughout the term of the contract, and for two years after completion hereof, pollution legal liability insurance with limits of not less than \$2,000,000 per occurrence, providing coverage for bodily

**APPENDIX G  
ADDITIONAL INSURANCE REQUIREMENTS**

injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the OMH arising from Contractor's work.

The State of New York and the NYS Office of Mental Health shall be named as additional insured and coverage shall be primary.

This requirement applies to mold as well, if excluded in the commercial general liability policy.

If automobiles are to be used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48 03 06 or CA 00 12 03 06) as well as proof of MCS 90.

**6. Umbrella and Excess Liability**

When the limits of the CGL, Auto, and/or Employers Liability policies procured are insufficient to meet the limits specified, the Contractor shall procure and maintain Commercial Umbrella and/or Excess Liability policies with limits in excess of the primary; provided, however, that the total amount of insurance coverage is at least equal to the requirements set forth above. Such policies shall follow the same form as the primary. Any insurance maintained by the OMH or any additional insured shall be considered excess of and shall not contribute with any other insurance procured and maintained by the Contractor including primary, umbrella and excess liability regardless of the "other insurance" clause contained in either parties policy.

**THIS SECTION INTENTIONALLY LEFT BLANK**

**APPENDIX H**  
**Facility Specific Clauses**

**Central New York Psychiatric Center**

1. Speed limit on institution grounds is 15 miles per hour.
2. Contractor's employees are prohibited from entering Facility buildings except on Official business:
  - a. In each case, the immediate supervisor must be notified.
  - b. Contractor's employees shall be required to wear identification cards at all times while working at the Facility.
  - c. In each case, when entering patient occupied areas, the supervisor in charge of that area must be notified.
  - d. Unless otherwise arranged, contractors will be responsible for unlocking and relocking of all doors located in their access route, storage or work location. All windows, screens and doors must be kept locked at all times for the safety of the patients.
3. Contractor's employees will park vehicles only in those areas designated by Facility authorities. All vehicles parked on State property must be locked when unattended.
4. Access to and from the pick-up/delivery sites will be over those routes laid out by Facility authorities.
5. No firearms, weapons, alcohol, or illegal substances are permitted on the Facility grounds.
6. Smoking is prohibited in all Facility buildings and is allowed only in designated areas.
7. Contractor's employees should be watchful for any Facility patient in or near their work area where safety hazards may be present. Facility staff or the Safety/Security Department should be notified, if necessary, to remove any patients from the immediate work area.
8. Mistreatment in the form of physical, verbal or psychological abuse of patients or staff will not be tolerated under any circumstances. Even at their invitation, any form of sexual relations with a patient is felony statutory rape.
9. Contractor's employees should not receive or give items to patients such as cigarettes, money, food, lighters, glass, sharp objects, medication, etc. No unauthorized person will mail letters or packages for patients or deliver same to them. There will be no financial transactions allowed.
10. Cameras are not permitted to be used on Facility grounds unless approved by the proper Facility authority.
11. All fires and emergency situations of any nature or size should be reported to the Facility's Safety/Security Department immediately. Contractor's employees must participate in the Facility fire drills when they are conducted in the area where Contractor's employees are present.
12. Key deposit: A \$250 deposit will be required for each set of keys issued by the Facility. Deposits will be kept in a non-interest bearing account and refunded upon termination of services. Contractor employees' will sign out and sign in, on a daily basis, all keys and identification cards as required, from the Facility's Safety Department. Keys must be kept on the contractor's employees person at all times.  
Keys are not to be removed from Facility grounds.
13. Adhere to all Facility rules of conduct.
14. Use of cell phones is prohibited on facility grounds.

**FACILITY PHONE NUMBERS**

Facility Main Number/Switchboard.....(315) 765-3600  
Work Control Center.....ext. 3420  
Safety Department.....ext. 3131  
Fire/Emergency (**FOR EMERGENCY USE ONLY**).....ext. 2100

**APPENDIX X**

Agency Code \_\_\_\_\_ Contract No. \_\_\_\_\_ Amendment # \_\_\_\_\_

Entire Contract Period \_\_\_\_\_ Entire Contract Amount for Period \_\_\_\_\_ (As per Appendix B)

Amendment Period \_\_\_\_\_ Amendment Amount for Period \_\_\_\_\_ (As per Appendix B)

This is an AGREEMENT between The State of New York, acting by and through \_\_\_\_\_, having its principal office at \_\_\_\_\_ (hereinafter referred to as the STATE), \_\_\_\_\_ (hereinafter referred to as the CONTRACTOR), for modification of Contract Number \_\_\_\_\_, as amended in attached Appendix (ices) \_\_\_\_\_ and

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

**CONTRACTOR:** \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Must complete the Individual, Corporation, Partnership, or LLC Acknowledgement page and have it notarized**

**STATE AGENCY** \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**State Agency Certification**

“In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.”

“No information that may negatively impact the contractor’s responsibility has come to the agency’s attention and OMH has reasonable assurance that the contractor continues to be responsible

**CIVIL SERVICE APPROVAL (If Required)**

**ATTORNEY GENERAL’S SIGNATURE**

**STATE COMPTROLLER’S SIGNATURE**

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Contract Number: \_\_\_\_\_

**INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS:

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known and known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he/she resides at \_\_\_\_\_, Town of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_; and further that:

**[CHECK ONE]**

**If an Individual**): he/she executed the foregoing instrument in his/her name and on his/her own behalf.

**If a Corporation**): he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he/she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

**If a Partnership**): he/she is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, he/she is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

**If a Limited Liability company**): he/she is a duly authorized member of \_\_\_\_\_ LLC, the limited liability company described in said instrument; that, he/she is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

\_\_\_\_\_  
Notary Public

**Registration Number:** \_\_\_\_\_ **State of** \_\_\_\_\_